

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
November 06, 2019

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday November 06, 2019, at 7:00 p.m. The meeting was called to order by President Dale “Woody” Emmons all were asked to stand for the Pledge of Allegiance.



Roll Call.

Present: Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.

Absent: Mr. Compton.

Clerk Block read the following appeal and petition to the council who referred them to the Board of Zoning Appeals and the City Plan Commission for their recommendation.

APPEAL NO. 2019-48 Use Variance to allow Two Family Dwelling in R-1
Single Family District 815 N. Main St.

PETITION NO. 2019-16 Rezone from C-1 to R-1 2228 LWW

Clerk Block read the following proposed ordinances by title and was set for public hearing at the next meeting.

PROPOSED ORDINANCE NO. 2019-35

**AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 2019
(TF- Police Dept. \$67,600)
(Assigned to Budget and Finance Committee)**

Clerk Block read the following proposed ordinances by title and were opened for public hearing.

PROPOSED ORDINANCE NO. 2019-27

**AN ORDINANCE TRANSFERRING FUNDS FROM THE
MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE
CITY OF MISHAWAKA TO THE LOCAL ROAD & BRIDGE
MATCHING GRANT FUND OF THE CITY OF MISHAWAKA
FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2019
AND AN ORDINANCE APPROPRIATING ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2019
(App Local Road and Bridge Funding - \$1,145,700)**

(Assigned to Budget Finance Committee)

Mr. Hixenbaugh reported the Budget and Finance Committee recommended this proposed ordinance should be adopted. This is signed by the majority of the committee upon a second by Mr. Banicki motion carried.

Rebecca Miller, City Controller explained this ordinance would satisfy a number of state statutes. She continued to say it required to deposit 50% of motor vehicle highway revenue from the state into the MVH Restricted Fund. Ms. Miller said to fund the Community Crossings Grant, they had to have 50% matching to be transferred from MVH Restricted Fund. She continued to explain once the funds were transferred, they needed to appropriate both the State Community Crossings Award and the transfer which was the 1-million-dollar figure.

Question was called for 7:06 P.M. for **PROPOSED ORDINANCE NO. 2019-27**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.** Thus, it becomes **ORDINANCE NO. 5669**

PROPOSED ORDINANCE NO. 2019-28

**AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2019**

(Add Funds Controller \$56,000 - Fire \$215,000)

(Assigned to Budget and Finance Committee)

Mr. Hixenbaugh reported the Budget and Finance Committee recommended this proposed ordinance should be adopted. This is signed by the majority of the committee upon a second by Mr. Banicki motion carried.

Rebecca Miller, City Controller said the \$56,000 in additional funds in the controller's budget was for the increase in the Human Society Animal Control Contract. She said she found out about the increase after the budget was set. Ms. Miller said the \$56,000 would pay the rest of the balance for the contract for this year.

Mr. Mammolenti asked if the Human Society gave any justification for the increase. Ms. Miller explained it was the increase cost of operation in Mishawaka. She mentioned there was also significant increases for 2020 and 2021. Mr. Mammolenti asked the total for the contract for 2019. Ms. Miller said the total was \$230,863.55.

Mr. Tanner asked was the contracts aligned with the calendar year. Ms. Miller replied yes, they went to the Law Department to discuss the changes, it did not come to her attention. Mr. Tanner asked were these changes agreed to in a past decision making process for the year of 2019. Ms. Miller said the changes came in 2018 for 2019, she found out about the changes after the budget was set in the fall.

Bryon Woodward, Fire Chief said they had a bad year in some aspects. He continued to say the last few weeks four firefighters were out on extend injuries, three were back to work. Chief Woodward said the other part the expense was the investment of their people with their EMS system. He said they have had five people pass the paramedic class, they had three in the class at this time. Chief Woodward continued to say they currently had four members in an advanced EMT class to be finished this month. He mentioned they also hired five new firefighters, four would be starting on shift, with the new just hired yesterday. Chief Woodward said this money would cover the rest of the year.

Mr. Emmons questioned the new hires shifts. Chief Woodward explained there would be two on two different shift and one on third shift.

Question was called for at 7:12 P.M. for **PROPOSED ORDINANCE NO. 2019-28**  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons. Thus, it becomes **ORDINANCE NO. 5670**

PROPOSED ORDINANCE NO. 2019-29

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2019

(Add Funds – Sidewalk & Curb Repair \$16,161)
(Assigned to Budget and Finance Committee)

Mr. Bellovich reported the Budget and Finance Committee recommended this proposed ordinance should be adopted. This is signed by the majority upon a second by Mr. Banicki motion carried.

Rebecca Miller, City Controller said this ordinance would appropriate the additional funds in the Street Sewer Sidewalk and Curb Fund. She continued to explain this was the 50% contributions from the citizens to pay for their sidewalk, the city payed their 50%, this would appropriate the money to pay the bills.

Question was called for at 7:14 P.M. for **PROPOSED ORDINANCE NO. 2019-29**  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons. Thus, it becomes **ORDINANCE NO. 5671**

PROPOSED ORDINANCE NO. 2019-30

**AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL
CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME
AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF
THE CITY OF MISHAWAKA, INDIANA.**

(Rez from C-1 to C-4 Car Wash Facility – 410 W. McKinley Ave.)

(Assigned to Land Use Planning Committee)

Mr. Banicki reported the Land Use Planning Committee recommended this proposed ordinance should be presented as a whole. This was signed by the entire upon a second by Mr. Tanner motion carried.

Daryl Knip, Abonmarche Consultants said they were requesting to rezone the northwest corner of Grape Road and McKinley to C-4 in front of the old Kmart store which was now BIG Lots. He said this project would be on the corner where Rally's currently sits and it would expand north 75 feet and 15 feet to the west. Mr. Knip provided the council an ariel map of the proposed site. He said the project would include 4800 square foot automatic car wash with self-service vacuum stations on the east side of the building. Mr. Knip continued to say they worked with the city and developers to refine the site plan. He mentioned as a part of refining the site plan, they tried to allow additional green space along the Grape Road corridor to provide additional land in case there was ever a road widening project. Mr. Knip said the Plan Commission unanimously supported the proposed car wash.

Mr. Tanner thanked Mr. Knip for the materials he provided. He went on to say the city proactively introduced a pedestrian or multi use pathway along Grape Road along on the west side. Mr. Tanner said one of the issues the city had with the current status on the southern portion was a temporary asphalt. He asked for clarity the proposed widen right of way would accommodate a wider and potentially a concrete path. Mr. Knipp replied yes, the project would dedicate the right of way to allow for it to happen.

Mr. Banicki questioned the plan for reusing and recycling the water from the car wash. Mr. Knip said there would be a recycling tank underneath the equipment room. He went on to explain the tanks were 6 feet deep and would be a couple feet under the slab. Mr. Knip said the bottom of the tanks would be 8 feet below grade. He said they were proposing to elevate the site to help with drainage and help bring the tanks up. Mr. Knip continued to say the current water table in the spring was 8 to 9 feet deep. He said they were comfortable the water table would not be an issue for the tanks. Mr. Banicki mentioned he lived couple blocks away, the year they had the horrendous snow melt and rain his basement floor cracked. He said he did have some concern but being that this car wash was not as close to the creek it was not as big of an issue but there was still some environmental issue because the water had to go somewhere. Mr. Knip explained the tanks were more structurally designed than basements and they were thicker. He said in working with the city Engineering Department they were checking the water table to see where the sewer depths would be on the project. Mr. Banicki also mentioned the concern with the rendering being moved to the north and traffic backing up especially during the day when the Transpo bus stops at the corner in the turn lane for pedestrians riding the bus. He asked did the

drive entrance have to be near the bus stop. Mr. Knip said with the amount of traffic generated from a shopping center of that size they would be hesitant to close any of the drives. He said there were two entrances on McKinley and Grape Road, it was very desirable from a business stand point for business from McKinley and they wanted to be careful not to direct more traffic in front of the BIG Lots store, they recommend the entrances stayed. Mr. Knip mentioned they were moving the entrance north a little more than 75 feet to line up with the east west drive through the shopping center to give separation from the McKinley intersection. He said they understood their concerns regarding traffic back up. Mr. Banicki asked could they speak with Transpo of possibly moving the stop closet to the corner of the intersection on McKinley. Mr. Knip said they would be happy to have a discussion with Transpo. Mr. Banicki asked would the entrance/exit have one in and two outs going left and right between the car lot and proposed car wash. Mr. Knipp replied yes, the existing drive was 50 feet wide drive, they were proposing 37 feet with a left and right out and one way in.

Mr. Mammolenti questioned the recycling process. Mr. Knipp explained the was went through a separation process separating dirt, oil and sediment and then vacuumed out of the tank.

Mrs. Voelker and Mr. Tanner thanked the Mr. Wyant, the owner and developer of the car wash for continuing to find a place in Mishawaka. Mr. Tanner mentioned he and Mr. Bellovich had the chance to visit one of Mr. Wyants properties in Nappanee, it seemed he ran an outstanding clean business. He also thanked him for finding a site amenable to the council's consideration.

Mr. Banicki thanked Mr. Wyant for making this work and Mr. Knip for meeting with him over the last weeks going over concerns. He said he was confident the entrance/exist going through the shopping center would keep traffic from backing up on McKinley and Grape Road. Mr. Banicki expressed his support.

Question was called for at 7:28 P.M. for **PROPOSED ORDINANCE NO. 2019-30**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.** Thus, it becomes **ORDINANCE NO. 5672**

PROPOSED ORDINANCE NO. 2019-31

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

(Rez from I-1 to R-1 935 E. Fifth Street)
(Assigned to Land Use Planning Committee)

Mr. Banicki reported the Land Use Planning Committee recommended this proposed ordinance should be adopted. This is signed by the entire committee upon a second by Mr. Tanner motion carried.

Szabolcs Szemethy, owner of the building said he owned the building since 1992, it was where he ran his business. He continued to say he could not afford his other property, so he moved in to the 935 E. Fifth street property. Mr. Szemethy said Code Enforcement informed him he needed to make the proper zoning change to reside on the property. He said he felt it would be better to convert it to residential.

Mrs. Voelker asked was the building metal. Mr. Szemethy replied yes, it was an old storage building. He said he began building rooms within the building for his business. Mr. Szemethy said he could not afford his other properties, so he decided to move in after getting ideas from movies he seen with people living in industrial buildings.

Mr. Mammolenti asked was there working water, electricity, heating and air condition and carpeting. Mr. Szemethy replied yes, he had a full kitchen, windows and carpeting, it was completely finished. He said he had everything he needed.

Ms. Petko Reisdorf expressed she applauded Mr. Szemethy creativity.

Mrs. Voelker asked were the neighbors comfortable with Mr. Szemethy living at the property. Mr. Szemethy replied yes, his neighbors were his friend and they were very supportive.

Question was called for at 7:36 P.M. for **PROPOSED ORDINANCE NO. 2019-31**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.** Thus, it becomes **ORDINANCE NO. 5673**

PROPOSED ORDINANCE NO. 2019-32

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA.

(PUD Amd add Helipad as permitted use- 3220 Beacon Parkway)
(Assigned to Land Use Planning Committee)

Mr. Banicki reported the Land Use Planning Committee recommended this proposed ordinance should be adopted. This is signed by the entire committee upon a second by Mr. Banicki motion carried.

Phil Panzica, Panzica Building Corporation explained in early planning was decided not to have a helipad and they would not use it for any inbound or to transport patients to Memorial Hospital trauma center, it was decided ambulances would be provided. Mr. Panzica said they facility was a full hospital with vertical assessment, 15 emergency exam rooms, full trauma room for surgeries, a imaging facility, aid-inpatient beds and all other support services necessary for a hospital. He said later on it was decided there may be a need for patients brought to the hospital in need to go outside the community such as burn victims needing to be sent to Fort Wayne or

Michigan. Mr. Panzica said the helipad was decided to be put in; it was a 60x60 pad to transfer patients outside the community. He went on to say they had an AFAA consultant involved in the project, they studied the site and came up with two primary routes for approaching and leaving the facility without bothering residential areas. Mr. Panzica went on to say the use and frequency of the pad was unknown at this time.

Mr. Tanner questioned why the helipad was not included in the original design. Mr. Panzica explained it was initially thought there would not be inbound trauma patients. He continued to say if a patient was in a helicopter, they would automatically take the patient to Memorial Hospital which was a level two trauma center, which meant there would not be any incoming. Mr. Panzica said the facility could handle over 90% of patients which would handle in the facility. He went on to say the facility would have two transfer ambulance at the facility to transfer patients they could not handle. Mr. Panzica said later on in the project the discussion was what would happen if there were patients brought to the facility such a burn victim who needed to be transported out of the community the quickest. He said it was then decided to spend the money to put in the helipad.

Mr. Mammolenti asked where they would primarily base the helicopters and if it was determined at the scene of an accident the person was severely burned would the patient be directly sent to a trauma burn center. Mr. Panzica said the helicopter were based out of Michiana Regional Airport. He went on to say if a helicopter picked up a burn victim anywhere in the community, the helicopter would transport the victim straight to the level two trauma center which was Memorial. Mr. Panzica stated the helipad would only be used for outbound.

Mr. Hixenbaugh asked why they were now asking for approval for a helipad that was already constructed. Mr. Panzica explained it was decided very late to include it. He continued to say drawings were prepared and sent to Engineer and Planning Department for review prior to install. Mr. Panzica said during the process it was recommended by the Planning Department to go through to amend the PUD to add the element. He said it was decided in the construction operation with the review of the drawings, the 60 x 60-foot pad was installed for sequence of work to get it completed. Mr. Panzica went on to say if by chance the PUD amendment for the pad was not approved, the pad would not be used. He said there was no intent to do anything unfair, it was decided to build it to get it in the ground, seeded, grated and drained all at one time.

Mr. Hixenbaugh appreciated the clarification. He said he assigned no ulterior motives to the integrity of Beacon, Beacon was a fine corporate citizen as well as Panzica Building Corp. Mr. Hixenbaugh continued to say the fact remains it was out of sequence with the process. He said at this time it puts the council body in an awkward position when an admirable use like this was already constructed; it really hamstrung their decision-making ability under the law. Mr. Panzica gave his apologies.

Question was called for at 7:49 P.M. for **PROPOSED ORDINANCE NO. 2019-32**  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8). **Yes:** Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons. Thus, it becomes **ORDINANCE NO. 5674**

PROPOSED ORDINANCE NO. 2019-33

**AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL
CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME
AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF
THE CITY OF MISHAWAKA, INDIANA.**

(Vaca 20 ft. strip or Right-of-Way – Beacon Health Systems Inc.)
(Assigned to Land Use Planning Committee)

Mr. Tanner reported the Land Use Planning Committee recommended this proposed ordinance should be adopted. This is signed by the entire committee upon a second by Mr. Banicki motion carried.

Phil Panzica, Panzica Building Corporation represented Beacon Health Systems explained this vacation of the 20 foot sliver of land was for the cleanup of the access right of way that existed. He said this was on the east side of the Beacon property fronting on Capital Avenue. Mr. Panzica explained originally Evergreen Road came along the Indiana Toll Road then took a 45 degree turn heading northeast. He continued to say Evergreen Road was a pioneer road, meaning it was a farm road then eventually graded and oiled and the county started plowing and paved it. Mr. Panzica said it was never a dedicated piece of land, it was a right of way by prescription, no one disagreed with it, so it became a right of way. He said the property owners never deeded the land. Mr. Panzica went on to say the county went on to build on the north end of Capital Avenue, there was a right turn out made. He said the Indiana Toll Road purchased a sliver of land 20 x 70 feet. Mr. Panzica said when Beacon was built Evergreen Road was not needed, so it was vacated. He said it was vacated where the Beacon land ends. Mr. Panzica continued to say it was identified early in the project for the hospital to clean the problem. He said INDOT had rules regarding purchasing access right of way no longer needed. Mr. Panzica explained since Evergreen Road was vacated and no longer needed, INDOT worked with their organization for Beacon Health to transfer the INDOT land to sell to Beacon. He said Beacon purchased the piece of land from the county and INDOT required the piece of land to be cleaned up by vacating it. Mr. Panzica said once it was vacated it would clean up the property line to make everything correct.

Question was called for at 7:54 P.M. for **PROPOSED ORDINANCE NO. 2019-33**  **Vote:**
Motion carried by unanimous roll call vote (summary: Yes = 8).Yes: Mrs. Voelker, Mr.
Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr.
Hixenbaugh, Mr. Emmons.Thus, it becomes **ORDINANCE NO. 5675**

PROPOSED ORDINANCE NO. 2019-34

**AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2019**

(Transfer Funds – MVH \$6,500)

(Assigned to Budget and Finance Committee)

Mr. Tanner reported the Budget and Finance Committee recommended this proposed ordinance should be adopted. This is signed by the majority upon a second by Mr. Banicki motion carried.

Tim Ryan, Street Commissioner said this transfer would keep the uniform rental and telephone communications lines up for the remainder of the year.

Mr. Tanner asked were the traffic supplies putting the department in a pinch for anything they needed for activities for the rest of the year. Mr. Ryan replied no, once they went through it he sat down with the traffic crew to see what they needed ordered for the remainder of the year.

Mr. Mammolenti thanked Mr. Ryan and his team for helping with his request for some street repairs. Mr. Ryan said his employee were a great group, they took pride in what they did.

Question was called for at 7:58 P.M. for **PROPOSED ORDINANCE NO. 2019-34**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.** Thus, it becomes **ORDINANCE NO. 5676**

UNFINISHED BUSINESS

PROPOSED ORDINANCE NO. 2019-22AA

**AN ORDINANCE THE FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY
OF MISHAWAKA EXCEPT, MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND
THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA,
FOR THE YEAR BEGINNING JANUARY 1, 2020.**

(City Employee Salary Ord)

(Assigned to the Budget and Finance Committee)

Ms. Petko Reisdorf made a motion to override the mayor's veto for **ORDINANCE NO. 5666AA upon** a second by Mr. Hixenbaugh.

Mr. Emmons requested a roll call vote.

Clerk Blocks roll call showed:  **Vote: Motion passed (summary: Yes = 7, No = 1, Abstain = 0). Yes: Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mrs. Petko Reisdorf, Mr. Bellovich, Mr. Hixenbaugh, Mr. Emmons.**
No: Mrs. Voelker

The motion carried with a vote of 7-1 with Mrs. Voelker voting no.

NEW BUSINESS

Mr. Mammolenti announced the Twin Branch neighborhood meeting at Twin Branch School would be held on November 20th at 7PM with guest speaker School City Superintendent Wayne Barker.

Mr. Hixenbaugh said he had the privilege of attending the public meeting held Castle Manor regarding the proposed improvements to Crawford Park. He congratulated the mayor and his staff for making the presentation as it was the best attended public meeting he has seen in a long time.

Woody Emmons announced 1st District neighborhood meeting would be held on November 21st at 7PM at St. Bavo's with guest speaker School City Superintendent Wayne Barker.

Mayor Wood announced Monday November 11th the Veteran's Day Flag Raising Ceremony would be held at Battell Park from 3:30P.M.-5P.M. for the flag raising, ribbon cutting, and opening of the time capsule.

Rick Simbeck, Street Department said he has been on the department for 23 years. He expressed it was unfair all city employees were not receiving the 3.5% raise.

ADJOURNMENT 8:06 P.M.

Deborah S. Block _____/s/
Deborah S. Block, IAMC, MMC, City Clerk

Dale "Woody" Emmons _____/s/
Dale "Woody" Emmons, President