

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

June 1, 2020

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall and via telephone on Monday, June 1, 2020 at 7:00PM. The meeting was called to order by President Gregg Hixenbaugh all were asked to stand for the Pledge of Allegiance, followed by a moment of silence remembering those who have been lost to the COVID-19 virus.



Roll Call.

Present: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

Others Present: Mike Trippel, Council Attorney and Clerk Block.

Minutes for the Regular meeting of May 18, 2020 were approved as received from the Clerk's Office.

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

<u>APPEAL NO. 2020-21</u>	Use Variance to allow Pet Grooming & Office Use 623 E. 4 th Street
<u>PETITION NO. 2020-10</u>	Rezone from I-2 Heavy Industrial to R-1 Single Family Residential to allow addition to Garage on property with an existing Single-Family House – 3706 York Street
<u>PETITION NO. 2020-11</u>	Annex & Zone to C-1 General Commercial for Future Medical Office – 16813 Douglas Road
<u>PETITION NO. 2020-12</u>	PUD Amendment to allow for Mixed Use Development to allow Residential, Commercial, and Industrial Use – Vacant Land S. of Vistula Road & W. of Cedar Road.

Presentation of Encumbered Funds

Clerk Block read the following proposed ordinances by title and assigned committee.

PROPOSED ORDINANCE 2020-17

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, 2020 AND AN ORDINANCE
APPROPRIATING ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31,
2020**

**Transfer of Funds and Additional Appropriation Motor Vehicle Highway Restricted Fund
\$427,150.00 to: Local Bridge and Road Matching Grant Fund; Additional Appropriation
of Funds to: Local Bridge and Road Matching Grant Fund \$854,300.00
(Assigned to Budget & Finance Committee)**

PROPOSED ORDINANCE 2020-18

**AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE
EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31,
2020**

**Additional Appropriation to various Departments in the amount of \$117,208.00
(Assigned to Budget & Finance Committee)**

Clerk Block read the following resolution by title and opened the public hearing.

RESOLUTION NO. 2020-11

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, ESTABLISHING A REVOLVING FUND PURSUANT TO INDIANA CODE 5-
1-14-14, AUTHORIZING A COVID-19 LOAN PROGRAM UNDER SUCH REVOLVING
FUND, AND CERTAIN RELATED MATTERS**

Ken Prince, City Planner, spoke in favor of **RESOLUTION NO. 2020-11**. Mr. Prince began stating he has been asked to lead recovery efforts for the city and there were three programs constructed for the city to help with the recovery from COVID-19. He stated the first program involved the Community Development Block Grant Program receiving \$282,000 of federal funds. Mr. Prince explained the federal government waived the requirement of the funds, (maximum of 15% of the funds can go to sub recipients) now all of the funds can go to sub recipients. He continued to explain a large portion has gone to low income individuals who could not handle the expenses of the crisis, including the Food Pantry, YWCA, and School City. Mr. Prince went on to state the second program was the Small Business Loan program. He explained the plan was worth \$500,000 of money for loans, capping at \$10,000 as a maximum per business. Mr. Prince listed the terms of this plan; the first 6 months require no payment and the remaining balance of the loan would need to be paid within 18 months. Mr. Prince also added Lake City Bank has provided input for the program and they were handling administrative side of the program while asking for the cap of 3%. Mr. Prince concluded listing the eligibility requirements for this program were; business must be in Mishawaka, they must certify the need for the loan based on the COVID-19 crisis, they must identify these funds will help keep business running, they must have been in business by 2/15/2020, the maximum annual revenue of the business cannot exceed \$2 million to qualify as a small business, they must exceed Small Business Association requirements, charitable organizations, not-for-profit service clubs, lodges or fraternal organizations were eligible if they own a business address, own a commercial store front and were open to the public. He stated the applicant must indicate if they received money

from Payment Protection Program or Economic Disaster Loan Program and the business' credit score must be of 620 or higher.

Mr. Emmons asked what would happen if a reoccurrence of the virus surfaced, would be an extension for the payment. Mr. Prince answered stating the issue would have to be approached at that time.

Mr. Bellovich asked were businesses allowed to request less than the \$10,000. Mr. Prince answered yes.

Mr. Mammolenti asked could companies request more than the \$10,000. Mr. Prince replied no, they cannot, the cap was set at \$10,000. Mr. Mammolenti also asked when the funds would be available. Mr. Prince answered they should be available by mid-June and more will be advertised when a certain date was approved. Mr. Mammolenti concluded asking what would be of a business with a credit score of 800 prior to COVID-19 but now has a credit score below 620. Mr. Prince stated the business would be deemed unworthy and would not receive the loan.

Mrs. Voelker asked if the business must have a business address by 2/15/2020 to qualify. Mr. Prince answered stating that was not identified, but will be looked into properly.

Mr. Hixenbaugh thanked Mr. Prince, Mayor Wood, City Controller Rebecca Miller, and others for the work they have done under difficult circumstances. Mr. Hixenbaugh also asked if the relationship between this program and the CARES Act funds to be received would intersect. Mr. Prince answered these funds would be eligible to be reimbursed but requires more investigation.

Mr. Hazen thanked all involved for their efforts in a limited amount of time.

Question was called for at 7:25PM for **RESOLUTION NO. 2020-11**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

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

PROPOSED ORDINANCE NO. 2020-12

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.

Rezone from C-1 General Commercial, C-5 Neighborhood Commercial and I-2 Heavy Industrial to R-3 Multi-Family Residential – 1215 & 1225 E. Jefferson

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

Greg Sharen, Danch Harner Associates, represented Mark and Debra Kamm who were requesting the rezoning. Mr. Sharen stated the petitioners intend to sell the property to the VFW and put 7 small residential units in the area for veterans. The housing units would be approximately 400 to 500 square feet and nicely constructed homes.

Jim Metherd, President of Get Wet for a Vet, spoke in favor of **PROPOSED ORDINANCE NO. 2020-12**. Mr. Metherd stated his main goal was to provide a sense of personal accomplishment and ownership to veterans in need of help. He said the space west of VFW will have 6 to 8 tiny homes, an area for a garden, and a gathering area for the veterans surrounded by a fire pit and service flags. Mr. Metherd also stated they will allow community members to sponsor bricks to sustain revenue needed. Mr. Metherd concluded stating there will be a group to help with the project and many community businesses were very excited for this opportunity.

Mrs. Voelker asked about the timeline for this project. Mr. Metherd said the goal was to announce it at the first Get Wet Event on August 1st. He added the trees should be down, buildings be removed to break ground by next spring. Mrs. Voelker also asked what services would be available for the veterans. Mr. Metherd said they had many plans to assist vets including wellness checks, weekly house calls and a possible appointment of a caretaker for the property.

Mr. Mammolenti asked how a veteran would become eligible. Mr. Metherd explained they were waiting for the Board of Directors to be established. Mr. Metherd continued explaining he wants veterans to be able to provide for themselves but did not have a clear answer right now. Mr. Mammolenti also asked if they contacted similar programs around the country. Mr. Metherd answered he has not looked into those programs, because they had not yet been approved.

Mr. Hixenbaugh asked how someone in close proximity of the neighborhood could be sure that this will be a positive addition to the neighborhood. Mr. Metherd stated there will be criteria established to ensure the individuals living in these homes are appropriate to be in close proximity with others. Mr. Hixenbaugh also asked for clarification of the oversight with VFW so problems don't occur as result of the development. Mr. Metherd stated they have received a verbal agreement from the VFW and they will task members to do wellness checks on a weekly basis. Mr. Hixenbaugh asked if there would be adequate funding available to maintain the property over time. Mr. Metherd stated a specific nonprofit will be constructed so there will be funding available with a treasurer.

Mrs. DeMaegd asked would it be single residents, and will it be for men and women. Mr. Metherd answered both will be allowed.

Mike Klotz, 1226 E Stanley, spoke in opposition of the **PROPOSED ORDINANCE NO. 2020-12**. Mr. Klotz asked will there be a wall built to reduce water runoff in the area and where it will

be in association with the alley. Mr. Hixenbaugh stated they will ask the architect directly. Mr. Klotz also stated he has been in the area forty years.

Mr. Compton stated this could be a great opportunity to eliminate all past problems and start fresh in terms of housing.

Greg Sharen stated the next stage will be the site plan stage to keep all the water on site. Mr. Sharen continued stating there will be no retention pond with underground storage and the buildings will be approximately 15 feet from the property line and alley.

Mr. Hixenbaugh stated this will be an exciting project and the VFW has been a great partner in Mishawaka for many years. Mr. Hixenbaugh also asked Mr. Metherd, and everybody involved to be good neighbors to those surrounding the area and further explaining of this project could result in a win-win for all.

Question was called for at 7:51PM for **PROPOSED ORDINANCE NO. 2020-12**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. Thus, it becomes **ORDINANCE NO. 5693**

PROPOSED ORDINANCE NO. 2020-13

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 Amendment to allow Quick Service Oil Changes as a use and Reduction of Parking Spaces, Setbacks and Landscaping – 317 W. Indian Ridge Blvd. (Petitioner Requesting Postponement to June 15th meeting)

Clerk Block read a letter from the petitioner requesting postponement until June 15, 2020.

Mr. Hixenbaugh made a motion to postpone hearing for **PROPOSED ORDINANCE NO. 2020-13** to June 15th meeting upon a second by Mr. Emmons  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).** **Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.**

PROPOSED ORDINANCE NO. 2020-14

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION THEREFORE

Annex and Rezone to C-1 General Commercial – 52921, 52861, 52885, & 52841 Fir Rd.

PUBLIC HEARING-NO VOTE

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

Greg Sharen, Danch Harner Associates, spoke in favor of **PROPOSED ORDINANCE NO. 2020-14**. Mr. Sharen stated there were currently 4 properties along Fir Road with 4 residents. He continued to explain the plan was to take down 3 of the properties to develop a medical facility south of the site and a proposed retail facility developed north of the site. Mr. Sharen said the remaining residence will be kept for the foreseeable future. He continued explaining the project will be done in phases, beginning with the medical facility. Mr. Sharen concluded stating they will go through the site plan review process to meet all the city standards.

Mrs. Voelker asked if there will be a health care business interested in the site. Mr. Sharen stated he believes a dental facility is interested.

The Public hearing was closed at 7:56PM.

PROPOSED ORDINANCE NO. 2020-15

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.

Rezone from I-1 Light Industrial to C-3 City Center Commercial – 407 W. Fourth St.

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

Mr. Compton made a motion to postpone **PROPOSED ORDINANCE NO. 2020-15** indefinitely until a petitioner comes forward with a second by Mr. Banicki.

PROPOSED ORDINANCE NO. 2020-16

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, TRANSFERRING AND APPROPRIATING FIVE HUNDRED AND FIFTEEN THOUSAND DOLLARS (\$515,000.00) FROM THE CREDIT FUND TO THE CREDIT REVOLVING LOAN FUND AND AUTHORIZING THE USE OF SAID FUNDS FOR THE PURPOSE OF MAKING LOANS UNDER THE COVID-19 EMERGENCY LOAN PROGRAM

Amendment Required

Clerk Block stated once the amendment takes place, there must be a re-advertisement due to the dollar amount being more than the previous advertisement.

Mrs. Voelker made a motion to amend **PROPOSED ORDINANCE NO. 2020-16** with a second from Mr. Emmons the motion carried.

Question was called for at 8:02PM  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

Mr. Hixenbaugh also entertained a motion to postpone the public hearing to allow for re-advertisement. Mrs. Voelker made a motion with a second from Mr. Banicki the motion carried.

Mr. Compton made a motion to add **PROPOSED ORDINANCE NO. 2020-15** back to the agenda for second reading because Paul Mead became able to electronically attend the meeting. Upon a second from Mr. Bellovich, motion carried. The public hearing was once again open for the proposed ordinance.

PROPOSED ORDINANCE NO. 2020-15

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.

Rezone from I-1 Light Industrial to C-3 City Center Commercial – 407 W. Fourth

Paul Mead, M Group (owner of the building), spoke in favor of **PROPOSED ORDINANCE NO. 2020-15**. Mr. Mead began stating the building has been used as 4 apartments as far back as 1982. He said they are requesting to rezone the property to C-3 City Center Commercial, which would be more suitable for the area.

Mrs. Voelker asked what brought Mr. Mead to come to the council to ask for this rezoning. Mr. Mead stated they went to refinance the property and the rezoning did not match; they were looking to get it corrected.

Question was called for at 8:07PM for **PROPOSED ORDINANCE NO. 2020-15**  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 9). **Yes:** Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. Thus, it becomes **ORDINANCE NO. 5694**

PRIVILEGE OF THE FLOOR – NON AGENDA ITEMS

Mr. Prince spoke about the distribution of plans for the new municipal services building the previous Liberty Mutual building. Mr. Prince announced they have discontinued the contract with Cressy and marketing of building, it will officially be a municipal services building.

Mr. Hixenbaugh asked were there any offers for the property through Cressy. Mr. Prince stated there were two inquiries with one being not near appropriate and the other being too expensive of an endeavor to act on.

NEW BUSINESS

Mr. Compton asked Mayor Wood if there were any updates on being included with St. Joseph Hospital emails. Mayor Wood stated he is not included on email list and levels of the virus have been consistent. Mayor Wood stated he checked to see if the numbers of COVID-19 by zip code were available, he did not receive them from the Health Department but has been receiving numbers of how many people out of 100,000 would be positive in a particular area. Mayor Wood continued in his update stating there was not a particular spike in numbers and an internal group had been put together. Mayor Wood also stated there will be people who will test positive and there was a plan to help those and their families affected .

Mr. Mammolenti asked if any city employees have tested positive. Mayor Wood answered they anticipate we now have city employees who have tested positive and that they are working with the clinic to get those results.

Mr. Hixenbaugh asked if Mayor Wood could share a formalized plan with the council if a city employee were to test positive. Mayor Wood stated if it were in a Public Safety Department, there would be specific protocols and will see if they can be shared. Mayor Wood went on to state the Merrifield Pool will be closed for the entire season and the splash pads will open June 14th.

Mr. Emmons asked how social distancing, disinfecting, and procedures will be enforced for the splash pads. Mayor Wood answered stating the CDC rules say disinfecting of playgrounds is not recommended, because of the amount of times they will be touched and it is not practical. He continued to say splash pads will follow under the same procedures and will not be disinfected. Mayor Wood also stated they are relying on the public to continue to social distance and heed the recommendations made to keep others safe. Mayor Wood also mentioned they are not sure the use of fireworks will be safe during the season, but a final decision has not been made.

Mr. Hixenbaugh agreed with Mayor Wood on closing the Merrifield Pool, as tough as that decision may be. Mr. Hixenbaugh also stated he participated in the last zoom meeting with the hospital and asked for the invitation to be extended to the rest of the council for their next meeting so they will be able to receive the great information shared. Mr. Hixenbaugh also asked if there will be any preparations made due to the unrest going on across the country. Mayor Wood stated Mishawaka prepared the best they can be, and we will be relying on State Police and other neighboring agencies if needed. Mayor Wood concluded they are continuing to monitor social media and local stores to ensure businesses are not being harmed and no curfew had been instituted.

Mrs. DeMaegd thanked Mrs. Voelker for taking her time to work the polls.

Mr. Mammolenti stated the first neighborhood watch zoom meeting was very successful and also announced there will be another zoom neighborhood watch meeting for Twin Branch on 6/17 at 7PM.

Mr. Hixenbaugh encouraged all to contact the Mishawaka High School athletic department to purchase masks and aid with fundraising.

ADJOURNMENT 8:32PM

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

Gregg A. Hixenbaugh /s/
Gregg A. Hixenbaugh, President