

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

November 4, 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 Wednesday, November 4, 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 to remember the lives lost due to COVID-19.



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 October 19, 2020 were approved as received from the Clerk's Office.

Clerk Block read the following appeals and petitions to the council who referred them to the Board of Zoning Appeals and the City Plan Commission for their recommendations.

<u>APPEAL NO. 2020-50</u>	Use Variance to maintain a Duplex in R-1 Single Family Residential – 509 E. Lawrence
<u>APPEAL NO. 2020-51</u>	Conditional Use for Sand Mining – 1032 E. Twelfth St.
<u>APPEAL NO. 2020-21</u>	Rezone from C-1 District to C-10 District to allow Convenience Store with gas pumps – Part of 2754 Lincoln Way East – Existing Parking Area for Mishawaka INN
<u>PETITION NO. 2020-22</u>	Rezone from C-1 District to R-1 District for a Residential Use – 2316 Lincoln Way West
<u>PETITION NO. 2020-23</u>	Rezone from C-7 & R-1 District to C-10 District to allow a Convenience Store with gas pumps

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

PROPOSED ORDINANCE NO. 2020-39

A PROPOSED ORDINANCE FROM THE CITY OF MISHAWAKA AUTHORIZING THE ISSUANCE OF WATERWORKS REVENUE BONDS FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF CERTAIN ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE MUNICIPAL WATERWORKS OF SAID CITY,

**PROVIDING FOR THE SAFEGUARDING OF THE INTERESTS OF THE OWNERS
OF SAID BONDS, OTHER MATTERS CONNECTED THEREWITH, INCLUDING THE
ISSUANCE OF NOTES IN ANTICIPATION OF BONDS, AND REPEALING
ORDINANCES INCONSISTENT HERewith**

**Mishawaka Waterworks Bond Ordinance
(Assigned to Budget & Finance Committee)**

PROPOSED ORDINANCE NO. 2020-40

**AN ORDINANCE ADOPTING REVISED RATES AND CHARGES FOR WATER
SERVICES FURNISHED BY THE CITY OF MISHAWAKA'S MUNICIPAL WATER
UTILITY**

**Adopting Revised Rates and Charges for Water
(Assigned to Budget and Finance Committee)**

PROPOSED ORDINANCE NO. 2020-41

**AN ORDINANCE OF THE CITY OF MISHAWAKA AUTHORIZING THE ISSUANCE
OF ELECTRIC UTILITY REVENUE BONDS FOR THE PURPOSE OF PROVIDING
FUNDS TO APPLY ON THE COST OF THE CONSTRUCTION OF CERTAIN
ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE MUNICIPAL
ELECTRIC UTILITY OF SAID CITY AND IMPROVEMENTS TO BUILDING SPACE
FOR THE UTILITY PROVIDING FOR THE SAFEGUARDING OF THE INTEREST
OF THE OWNERS OF SAID BONDS, OTHER MATTERS CONNECTED THEREWITH
INCLUDING THE ISSUANCE OF NOTES AND ANTICIPATION OF BONDS AND
REVEALING ORDINANCES INCONSISTENT HERewith**

**Mishawaka Electric Bond Ordinance
(Assigned to Budget and Finance Committee)**

PROPOSED ORDINANCE NO. 2020-42

**AN ORDINANCE ESTABLISHING A SCHEDULE OF RATES AND CHARGES FOR
ELECTRIC ENERGY AND SERVICES RENDERED BY THE MISHAWAKA
UTILITIES ELECTRIC DEPARTMENT**

**Adopting Revised Rates and Charges for Electric
(Assigned to Budget and Finance Committee)**

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

PROPOSED ORDINANCE NO. 2020-37

**AN ORDINANCE DECLARING AN EMERGENCY IN TRANSFERRING AND
REAPPROPRIATING FUNDS WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 2020**

Transfer Funds – Motor Vehicle Highway Fund - \$10,000.00

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

Tim Ryan, Director of Central Services, spoke in favor of **PROPOSED ORDINANCE NO. 2020-37**. Mr. Ryan asked for the council's favorable vote and stated this ordinance would bring their uniform rental lines back up to get them through the end of the year. Mr. Ryan concluded thanking the council for their considerations.

Question was called for at 7:09PM for **PROPOSED ORDINANCE NO. 2020-37**  **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. 5717.**

PROPOSED ORDINANCE NO. 2020-38

**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 an Elevated Water Storage System Tank not to exceed 150' in
height**

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

Mr. Prince, City Planner, spoke in favor of **PROPOSED ORDINANCE NO. 2020-38** and presented as the President of the Mishawaka Utilities Board. Mr. Prince began stating they are requesting the city north well field plan unit development be amended to allow for the construction of an elevated water tank not to be exceed '50' in height. Mr. Prince introduced Dave Majewski, Manager of Mishawaka Utilities water division and Jaime Percheki, Design Engineer and Project Manager for DLZ and Andy Lembaris, Vice President of DLZ. Mr. Prince stated the Planning Commission considered the request on October 13th and there was no remonstrance at that public hearing. He continued to say the Plan Commission passed on a unanimous recommendation for the request. Mr. Prince stated the planning led to this request

goes back to 2015 and at that time they made a decision to look for a replacement wellfield site to replace the current Gumwood Road wellfield. Mr. Prince stated the city since acquired property including the Juday Creek Golf Course where a new wellfield is planned and where they hope to start construction next year. Mr. Prince stated the Gumwood wellfield was proposed to be closed because of the small size of the property, the high manganese content in the water and the water production capacity did not meet the needs of the projected long term growth of the city. The wellfield itself was recently annexed in the city in 2015 and at the time contained 23.5 acres. Mr. Prince stated at the time of the annexation, the range of uses in addition to the wellfield use was proof for the wellfield site, including both residential and commercial uses. At the time, desire was expressed by the adjacent subdivision and county that no internal connection be made to the property and the wellfield was zoned as an extension of the Grandview planned unit development. As part of the planning associated with the creation of the new city wellfield, Mishawaka Utilities also looked at other system wide deficiencies. Mr. Prince stated the reason for the new tower is twofold. Mr. Prince stated as the city has grown there is a greater demand for water and the current tower is 1 million gallons with the proposed tower being 1.5 million gallons. Mr. Prince stated pressure is the second reason for a new tower and the elevation of the current tank is not tall enough to create as much pressure as needed for the city. Mr. Prince stated the new tower will raise the average pressure by approximately 15 PSI while also providing more storage and greater ability for fire protection. Mr. Prince stated the proposed tank is intended to replace the existing tank and as part of the design process, their consulting engineer reviewed the potential of keeping the existing tank and adding a new location. They also looked at varying options for new locations and because of the need to increase pressure; the existing tank did not work. Mr. Prince stated in regards to identifying a new tower site, they asked DLZ to look at multiple sites including the intersection of Capital and the Indiana Toll Road. Mr. Prince stated that location would not address the needs as far as pressure deficiencies and would also require a significant amount of new pipe infrastructure. Mr. Prince stated the location at Gumwood wellfield would address the pressure deficiencies but also added the benefit for minimizing installment of underground piping. They then looked specifically at the placement of the tower on the site. Mr. Prince stated there is no real traffic generated or developing concerns to be addressed and they do not feel the water tower is a negative impact on the landscape, but they do understand it changes the area in an appearance standpoint. As such, the proposed location is in the far southeast corner of the wellfield and would place the tower site 400 feet from the single family home properties in the area. Mr. Prince stated they felt this location was ideal and would allow for the new development to be constructed around the tower. Mr. Prince stated if approved, they would hope to begin construction in the spring of 2021 and would take two construction seasons to build the tank which would have it online by late 2022. Mr. Prince concluded stating answers to a couple of questions they had received. They were asked if the tower and proposed construction would have impact on the private wells located in the adjacent subdivision to the west. Mr. Prince stated it would not have any effect on the private wells and the wells on the site where the new tower will be constructed will be abandoned and sealed after the completion of their new wellfield. Mr. Prince stated the new wellfield is located over a mile away from the site. Mr. Prince stated they were also asked if the tower would affect property values. Mr. Prince stated the opinions on what impacts property values is subjective but they do not believe so. Mr. Prince stated they also had discussions with Great Lakes Capital and they have worked with them to make sure the proposed water tower site is not just utilitarian, but it

can be an amenity. Mr. Prince stated they had not expressed any concerns and they feel the tower will fit in the landscape appropriately as a landmark.

Mr. Compton stated he was not opposed to the development of the water tower, but asked Mr. Prince if the location they are proposing is the best place to construct it and if it would be better to find another place which could be nice tax producing development. Mr. Prince stated any place they put the water tower is going to remove that tax and the infrastructure provides value to the city in terms of not building the additional piping. Mr. Prince stated that financial benefit outweighs looking at moving it to another property to where they may have to buy additional property along with counting on selling the current property. Mr. Prince stated they are only taking a small portion of land off the market, 1.5 acres, and they feel it is as good of a location as any. Mr. Compton stated he felt security around a water storage tank would be something they would be highly concerned about. Mr. Compton asked if that was part of the process now. Mr. Prince stated it is an issue and the tank on the south side off of Ireland Trail has razor coil around it, but they think there is benefit to having the development around the tower because it has eyes on it. Mr. Prince stated the security fencing is some of the best security fencing they can provide. Mr. Prince stated you also could not cut the fencing and feel it would be stronger from that perspective. Mr. Prince stated the water division installs video cameras on all of the locations as well.

Mrs. Voelker stated she thought they would receive a presentation from the engineer and wanted to ask them questions. Mr. Hixenbaugh thanked them for their cooperation as far as the capacity in the council chambers. Jaime Cocheke, DLZ Indiana 2211 E Jefferson Blvd, answered questions. Mrs. Cocheke stated the tank is a composite style tank and the design is meant to mimic the Blair Hills tower location on the south side of town. Mrs. Voelker stated she looked at the Bittersweet tower and it was not very appealing. Mrs. Voelker stated this new design is much better than the Bittersweet tower and she appreciated the picture they gave out.

Dave Majeski, Water Division Manager, spoke in favor of the ordinance. Mr. Majeski stated when the Gumwood tank was built there was only a car lot and the mall out in that area. Mr. Majeski stated now they have three hospitals, multiple residential cancer centers, etc. and that growth keeps expanding. Mr. Majeski stated this will not only help them out there, but they will be able to utilize the tower to be able to pressurize the future growth in that area. Mr. Majeski stated they appreciated the council's support.

Mr. Hixenbaugh appreciated the work everyone involved had done not just to address the needs of the city, but the wants and needs of the surrounding homeowners as well.

Question was called for at 7:26PM for PROPOSED ORDINANCE 2020-38  **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. 5718.**

UNFINISHED BUSINESS

Clerk Block read the following proposed ordinance and opened the public hearing.

PROPOSED ORDINANCE NO. 2020-24

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 for mixed Use Development to allow Residential, Commercial, and Industrial Uses – Vacant land S. of Vistula Rd. & W. of Cedar Rd.

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

Mike Danch, Danch, Harner & Associates, spoke in favor of **PROPOSED ORDINANCE NO. 2020-24**. Mr. Danch stated there have been additional changes that he will go over with council on the site plan. Mr. Danch stated he sent a preliminary site plans to Clerk Block. Mr. Danch stated this was done back in the 1970s where there was an overall development plan approved by the Mishawaka City Council at that time. Mr. Danch stated over time there have been several parcels around that have been developed and per Mr. Prince, there was concern that it was decided that anything that happens in the PUD should come before the public hearing procedure to ask for an amendment. Mr. Danch stated the big portion of the project was the apartment complex. Mr. Danch stated when it was originally done, they had just submitted an amended PUD just for the complex and there had been a preliminary site plan for that apartment complex with issues such as whether they had met with the neighborhood and addressed concerns. Mr. Danch stated that did not happen and as of a result, the plan was pulled before it ever got to the council. Mr. Danch stated he and Jeff Johnson would then ask to take over the project and see if they could go ahead and proceed in getting it approved and up to date. Mr. Danch stated they met with Ken Prince and it was decided that it made more sense to bring in the rest of the property with about 56 acres of ground that had not been developed. Mr. Prince had suggested instead of getting the apartment complex approved to bring the whole thing in and that ended up amending the entire ordinance and nail down the uses. Mr. Danch stated that would give assurances to the residents in the area that are adjacent to the property, some consistency and some satisfaction in what could happen on the property. Mr. Danch stated the original PUD had a lot of uses to it such as multi-family and densities up to 15 units per acre that were fronting on Vistula Road which became an issue. Mr. Danch stated they worked with Mr. Prince and met with the residents on a couple of occasions to address their concerns and their issues on the standpoint of the apartment complex. Mr. Danch stated the second factor was how the rest of the property would be developed and whether those remaining parcels could also have some concerns for the single family development on the north side Vistula Road. Mr. Danch stated they tried to narrow down the particular uses that would be allowed on the rest of the property and submitted a plan

with an apartment complex, but there were still major issues with residents. Mr. Danch stated several residents didn't want any apartment complex and would prefer the land to remain as is or only have single family development. Mr. Danch stated the planning staff was in favor of what they were proposing for this particular use and the residents believed the original 20 acres was extending too far to the east and too close to the existing single family homes on the north side of Vistula Road. Mr. Danch stated there was a concept given to them that would change to complex from a rectangular shape to more of an L shape and that particular plan is what he had given to the council. Mr. Danch stated they essentially had shifted everything over, increased the width of the property along the industrial common boundary and the driveway opening is closer to Bittersweet Road. Mr. Danch stated also the buildings were pushed farther back so they were not fronting on Vistula Road. Mr. Danch stated the closest building on this particular plan is over 670 feet from the closest single family property on Vistula Road. Mr. Danch stated they went through a public hearing with the Plan Commission and Chris Jamrose, City Engineer, was fine with the issues and the way they developed the site. Mr. Danch stated another issue that came up was the secondary access point and they provided that access point to the apartment complex. Mr. Danch stated the point goes into Parcel C, which would have commercial uses and industrial uses in it. Mr. Danch stated the issues with drainage will all be handled on site and there will be no water issues to adjacent properties. Mr. Danch stated there will also be additional landscaping along Vistula Road and along their eastern borders. Mr. Danch stated one of the last things that occurred in the past 48 hours was to take a look at Parcel B which contains 17.4 acres which is the main contention residents had. Mr. Danch stated the eastern portion of Parcel B, approximately 8-9 acres, would only have single family development and no other uses would be allowed. Mr. Danch stated the western portion of 17.44 acres against the parcel complex of Parcel B would strictly be for uses that are allowed under the R-1 category for the city of Mishawaka. Mr. Danch stated they would commit there would be no access between Parcel B, Parcel C, or Parcel A which means Parcel B would only have access to Vistula Road and there would not be a connection point between Parcel B and Parcel C. Mr. Danch hoped this would give assurance policies to the residents there that the 8 or 9 acres will only be used for single family development and if they would want to do something different they would have to come before the council to get approval.

Mr. Compton thanked Mr. Danch for his clear description. Mr. Compton asked about the ponds causing concerns and stated he did not like seeing the possibility of having them that close to the road. Mr. Compton asked for clarification on the ponds as far as a safety hazard. Mr. Danch stated usually the mounding would end up being either a 3 to 1 or 4 to 1 slope and will put landscaping trees on top of that along with shrubbery to stop a potential vehicle before reaching the retention area.

Mr. Mammolenti thanked Mr. Danch for the thorough explanation and brief history of the project. Mr. Mammolenti how deep the ponds will be. Mr. Danch stated it would be 4 to 5 feet deep and they also have to make a determination if that will be the full size, because for the capacity of drainage you will certainly want the pond to drain in the event of rain. Mr. Danch stated in this particular case they would have more of an issue trying to keep water in them because of the sand area. Mr. Mammolenti asked if the berms would be only along Vistula Road. Mr. Danch stated they could be on Vistula and also come along the eastern portion, because they may want some kind of separation between the higher density multi-families to the single family

development. Mr. Danch stated they would rap the berming around the east portion of the site plan. Mr. Mammolenti asked if it would be very difficult, if not impossible, for a vehicle traveling east or west to get into the pond. Mr. Danch stated it would be.

Mrs. Voelker asked was it their intention to extend the sidewalk all along to Cedar Road. Mr. Danch stated it will not be all along Parcel B, because they are only purchasing Parcel A. Mr. Danch stated part of the approval of the amended PUD is they will be required to extend the sidewalk. Mrs. Voelker asked was the parcel being purchased currently is only Parcel A and also how they can guarantee what will happen with Parcel B and C. Mr. Danch stated that is what they make the amended PUD for and they are approving what is being required. Mr. Danch stated they are trying to give residents the policy and are creating a zoning to ensure all of the conditions. Mrs. Voelker stated she did not understand these conditions are being put on pieces of property that are not being purchased and she thought it would make it difficult to sell the other pieces of property, because the restrictions are so specific. Mrs. Voelker stated she was thinking about the connector road between Parcels B and C and that would put a lot of specific restrictions on the property and wondered if it would make it more difficult for the family to sell the rest of the property. Mr. Danch stated the owners understand and have asked them to make that part of the approval for the amended PUD. Mr. Danch also stated that road is not going to go in and they agreed to the restrictions and know that it is part of the process.

Mr. Bellovich thanked Mr. Danch for his explanation and asked will there only be restriction development to single family units along Vistula Road. Mr. Danch stated that was correct and on the eastern portion of the 17.44 acres in Parcel B can only be single family development. Mr. Danch also stated on the western portion, the remaining 8 acres, is only for uses allowed under R-1. Mr. Danch stated he is trying to address concerns of the residents who have single family homes and that they will also be looking at only single family homes.

Mr. Mammolenti asked why all of the Vistula frontage would not be single family. Mr. Danch stated it is a question that could be looked at and if they had that issue, they could certainly revise it.

Mr. Hazen stated he was under the impression after the last meeting they would go back to assess the secondary access point and make it possible for townhomes to the west and residential R-1 to the east. Mr. Danch stated they are doing more restrictions on the portion Mr. Hazen referred to, and instead of only doing R-1 in the east, they will only do single family development. Mr. Danch stated the eastern 8-9 acres was only for single family development to comply with the residents' request. Mr. Danch stated as far as the secondary access point, they are doing the emergency access but will let his colleague explain about it and how it will be made possible. Mr. Hazen stated there is some confusion with the neighbors as far as owner occupied villas and townhomes and then he received something late stating nursing homes and churches in the parcel. Mr. Danch stated he took that out of there so it is only on the eastern portion to give the residents that insurance policy to only see single family homes. Mr. Hazen stated a concern with Parcel B not solely being R-1. Mr. Danch stated if that were an issue they could readdress that at the rebuttal stage.

Mr. Hixenbaugh thanked Mr. Danch and Mr. Johnson for the work they put into the project to address concerns and make adjustments. Mr. Hixenbaugh stated he had concerns with Parcel B and if Mr. Hazen is confused then he is as well. Mr. Hixenbaugh stated they would defer on that issue to a certain extent until they hear from the neighbors. Mr. Hixenbaugh asked for a clarification on the 8-9 acres on the eastern portion and where that would approximate in that parcel. Mr. Danch stated the very eastern portion of the apartment complex would be the line of demarcation between the eastern portion of Parcel B and western portion of Parcel B. Mr. Hixenbaugh asked if tonight, the ordinance were approved, there would be only single family residential uses only and if there were a desire to amend it that would be a step a developer would take. Mr. Danch stated they would be willing to agree to that and they would come before the council once again to adjust Parcel B. Mr. Hixenbaugh stated he would like to hear for others and will have a question for their legal counsel regarding the restriction of only single family on the eastern portion and another use on the western portion and since it is not embedded on the ordinance, they would have to rely on the group of representation. Mr. Hixenbaugh stated they had run into projects in the past where representation had not been fulfilled by the user of the property and the last thing they would want to do is chase someone down and ask them to keep the commitments that were previously made. Mr. Danch stated Parcel B would simply be amended to single family only if necessary and the council would approve that amendment to the PUD request. Mr. Hixenbaugh thanked Mr. Danch for his patience.

Mike Stackage, owner of Reflection Apartments adjacent to site, spoke in favor of the ordinance. Mr. Stackage stated they were there to propose 188 apartment units in 24 buildings with the buildings being 7 or 8 units in size. Mr. Stackage the 7 unit building has a 3 car garage in the building and close to 1 for 1 garage ratio on the site. Mr. Stackage the unit mix would consist of 1, 2 and 3 bedroom units ranging from 800 to 1350 square feet. Rent would vary to \$1100 to \$2000 a month based on floor plan and timing. Mr. Stackage stated they propose a club house, pool, fitness center, and dog park. Mr. Stackage stated they currently have the sister property completed in Burns Harbor and purpose to do a little bit more luxurious version by adding brick to the front alleviations. Mr. Stackage stated this particular development is in a single family subdivision of which they are part of the Homeowners Association. Mr. Stackage stated they were asked to build this in the particular community to complement the single family. Mr. Stackage stated they believe this will be a couple year project by the time it is complete and with approval they would like to get started in the spring. Mr. Stackage concluded stating they presented to the council two and a half years ago with the exact same project, but with different site plans and worked with homeowners and the land owner along the way.

Mr. Banicki asked if the two are going to build the complex themselves or will they hire local workers and will they be compensated well with benefits. Mr. Stackage stated they have a builder and plan to go local. Mr. Stackage stated legally they won't be working for them, but he will be on site nearly every day and will have 100 percent control of management and construction. Mr. Banicki asked if they will be working for the contractor themselves. Mr. Stackage stated they will hire plumbers, concrete workers, excavators, etc. Mr. Stackage stated they have a specialized builder and he knows the industry.

Mr. Emmons asked how many bedrooms will be in the units. Mr. Stackage stated some units are 1 and 2 bedrooms and the other is 2 and 3 bedrooms. Mr. Emmons asked if the total units are 185

or 188, because they had it listed as both. Mr. Stockage stated most of their stuff is lower in density and reflections are 116 units, but they try to build under 200 units, because of the control and the easier it is to manage. Mr. Emmons asked will all units be rentals. Mr. Stockage stated that was correct.

Mrs. Voelker asked why they feel putting apartments in their community would be a good idea with there so many already present. Mr. Stockage stated his background was he was a cofounding broker in Chicago and parlayed that into Northern Indiana, so he created the database for apartment communities throughout Northern Indiana before he went private. Mr. Stockage stated his job was to know every asset and the owners. Mr. Stockage stated they know Northern Indiana probably better than anyone. Mr. Stockage stated they wanted to do this project, because they believe there are 188 families who want to live in this part of town compared to the mall. Mr. Stockage stated they own 116 units and added another property to complement Reflections at a higher level. Mrs. Voelker asked if they are now at market rate. Mr. Stockage stated it was government subsidized and they believed the location along with real estate was worthy to convert the development to conventional. Mrs. Voelker asked what the rents in the complex next door are. Mr. Stockage stated they are closing in on \$1000. Mr. Stockage stated there are One hundred 2-bedrooms and Sixteen 3-bedrooms without any 1 bedrooms.

Mr. Mammolenti complemented Mr. Stockage on the upgrade and rehab of the property. Mr. Stockage stated it is because they are running it and they have not sell this place in recent years. Mr. Stockage stated they have only sold 2 properties and still own almost everything they have purchased and built.

Mr. Hixenbaugh asked what else he will do as an owner to try to ensure there would not be any spillage of a security related issue out into surrounding neighborhoods. Mr. Stockage stated they do not have a security officer at Reflections but they prefer to have at least one curtesy officer at every location at every demographic. Mr. Stockage stated that is a deterrent as well as they tend to handle anything that happens on the property. Mr. Stockage stated for Reflections they would do the same at the new property and currently they are adding companywide at every location, because they want to be ahead of the curve as far as high tech security cameras in the common areas. Mr. Stockage stated they are very serious about security. Mr. Hixenbaugh asked if he were a resident of the neighborhood and had gone through the meetings and heard the presentations, one of his concerns would be that he would not be present at the establishment and asked what type of outreach Mr. Stockage does with his current facilities to try to facilitate that communication. Mr. Stockage stated he handed out his business card to those who wanted his information with his cell phone number and personal address on it. Mr. Stockage stated on their website they have individuals email them directly also if there are any conflicts with a bad manager or a bad employ, for example. Mr. Hixenbaugh asked what their total investment would be. Mr. Stockage stated it would be \$35 million dollars.

Mrs. DeMaegd asked if there will be a site manager present for the construction of the 188 units. Mr. Stockage stated they will have 5 employees who are full time plus a regional manager who will oversee Reflections. Mr. Stockage stated the two owners will be there at least once a week as well.

Jon Piraccini, 633 Windy Cove Ct., spoke in opposition of **PROPOSED ORDINANCE 2020-24**. Mr. Piraccini stated they have been dealing with them for 3 years and the reason why they have gotten to this point is because they have been forced to. Mr. Piraccini stated he did not know why it has taken 3 years to convince them to compromise. Mr. Piraccini stated he liked Mike Danch but he believed the PUD should be amended and be looked at. Mr. Piraccini's proposal stated he wanted owner occupied and not rentals which in their plan, it contains rentals. Mr. Piraccini stated he was disappointed in the owners and they were a friend of his and it was unbelievable to him. Mr. Piraccini stated he did not think this was going to fly until the last changes came right before the council meeting. Mr. Piraccini stated he did not think the city deserved that. Mr. Piraccini thought they were close and not far away from making the project work because it is a fair compromise. Mr. Piraccini stated the zoning on Vistula Road did not make any sense to him at least right now. Mr. Piraccini did not think it was a bad project and it could be a benefit if built right, but he is hoping they can take a long look at the proposals. Mr. Piraccini stated the land owners are not budging very much and are trying to work with the neighbors to get this done. Mr. Piraccini thought if they could get close with the plan, he will be alright with it.

Mr. Mammolenti asked what Mr. Piraccini meant by they are getting close and if he was referring to Parcel B being entire single family. Mr. Piraccini stated the 1-A in Parcel B is what he is concerned with. Mr. Piraccini stated since it is a PUD, if they do come up with a bite on a nursing home, then they could bring it to the council and take a lot at it once more. Mr. Piraccini stated he was confident it would work.

Mr. Compton stated what Mr. Piraccini is suggesting is to cut up the entrance piece a bit more and divide it up into 1-A and 1-B. Mr. Piraccini stated that was correct and to leave the apartments the way they are. Mr. Compton stated he was prepared to make an amendment for Parcel B to be all single family in the PUD and if something comes along, whatever that may be, they amend the PUD at that time with specific guidelines to control what goes in there. Mr. Compton further stated it would then be open to what R-1 is and they do not think the neighbors would like that. Mr. Compton stated he would support that and Mr. Piraccini would as well.

Michael Matski, 5305 Breezewood Dr., also spoke in opposition of **PROPOSED ORDINANCE 2020-24**. Mr. Matski stated fundamentally he is against apartments on Vistula. Mr. Matski stated he moved to the area about 4 and a half years ago with his family and found this nice community nestled against the agricultural land and thought it was a done deal. Mr. Matski stated this proposal is surprising to him and he was not disgusted with what he had heard. As written, Mr. Matski did not support the plan and he asked if the verbal concessions are binding with respect to eliminating the road from Parcel A to Parcel B and Parcel B to Parcel C access and looking to amend it to be all residential single family in Parcel B completely. Mr. Hixenbaugh stated what is in front of them was the land use issue and not the site plan to where the road will be. Mr. Hixenbaugh stated they were there to decide if the existing PUD should be amended so the use is enforceable. Mr. Hixenbaugh stated that was the question he was asking to Mr. Danch and they would all feel more comfortable if it were embedded in the ordinance that would be passed and have no hesitation in enforcing it.

Mr. Prince, City Planner, stated the difference with this petition is it is a plan unit development and plan unit developments are tied to a site plan. Regarding the road connections, Mr. Prince stated it should be identified in the conditions and if it is not graphically shown, it should be verbally shown.

Mr. Matski stated he liked the L shape on the plan submitted prior to the meeting and he assumed Parcel C would be anything up to light industrial uses, but he was not as concerned with that piece of the PUD. Mr. Matski stated this is a plan he could live with and did not think it would be a net positive for the community, but believed it would be very net neutral.

Mr. Emmons asked if Mr. Matski agreed with the plan Mr. Piraccini presented. Mr. Matski stated he agreed with the plan Mr. Danch presented with no connected road and single family in Parcel B. Mr. Matski stated he would also like to see sidewalk all the way along Parcel B, as it would be a huge plus for the community. Mr. Emmons stated he understood part 1-B, but stated Mr. Piraccini brought up Part 1-A being villas, townhomes, and owner occupied. Mr. Matski stated he thought that would be okay but the better plan would be that the entire Parcel B be changed to all single family.

James Bell, 645 Windy Cove Ct., spoke in opposition to **PROPOSED ORDINANCE 2020-24**. Mr. Bell asked the council to proceed with caution and the reason he says that is because the council had been deceived by the developer and seller along with the neighbors. Mr. Bell stated 2 and half years ago, they tried to bring the proposal to the council before talking to the neighbors and packed the Fire Station on 12th Street for a meeting. Mr. Bell stated they brought it back this summer and Mr. Emmons asked if they met with the neighbors in the community and the developer was not present at the meeting to address the neighbor's concerns. Mr. Bell stated they brought a petition to another set meeting with 75 signatures of individuals in the neighborhood opposing the plan. Mr. Bell stated they discussed this and at the meeting and stated there was no confusion, because they believed Parcel B would be made all single family. Mr. Bell asked the council once again to exercise extreme caution and mentioned they are concerned about the safety of their neighborhood. Mr. Bell stated he is still opposed, but they are making concessions and they dropped the plan at 4:30 last Friday and were told a meeting was set the day after the election. Mr. Bell stated they did not give them time to prepare and get together and had not seen the final plan prior to it coming before the council. Mr. Bell stated they have been deceived and so have the council for that matter.

Mr. Mammolenti asked Mr. Bell if Parcel B in its entirety were to be amended to single family if he would agree. Mr. Bell stated he would barely.

Mr. Emmons asked what all of his concerns are. Mr. Bell stated in today's market, he found it difficult that the whole acreage on Vistula couldn't find a buyer to develop into single family homes. Mr. Bell stated he would like all of Parcel B to be single family. Mr. Emmons stated his philosophy in Mishawaka is they are getting more and more rental apartments and you cannot build immunity when you have transit people. Mr. Emmons stated the more apartments you have, the more problems you inherit in his opinion. Mr. Bell stated he agreed with that completely.

Mrs. Voelker asked if the 75 people don't want any apartment frontage on Vistula and if the plan makes sense to him. Mr. Bell stated when you pull out of the subdivision you will see apartment complexes no matter what. Mrs. Voelker asked him if he understood the property was already zoned for apartments. Mr. Bell asked if they were able to develop the land without permission of the council, wouldn't they be doing it already? Mrs. Voelker stated if there was a buyer for it then they would be doing it. Mrs. Voelker stated the buyer wants some changes and it seems to her that there have been lots of concessions and changes from 2017 done for the neighbors. Mrs. Voelker stated they are in a situation where they have exercised control to what is going in and she believed people had worked so hard to meet the wants and needs of the community living across the street. Mrs. Voelker asked if it were single family homes in Parcel B, if he would be comfortable with it. Mr. Bell stated he would not favor it, but he would live with it. Mr. Bell stated they also had made concessions on their side as well and he had been in the room multiple times over the last couple of years. Mrs. Voelker stated there had been negotiation and a lot of work and because of the work they have done, the changes had been made in the negotiation process.

Patrick Kramer, 639 Windy Cove Ct., spoke in opposition **PROPOSED ORDINANCE 2020-24**. Mr. Kramer stated he was against the project from the beginning and appreciated all of the compromises. Mr. Kramer stated it would be inevitable that the apartment complex would go in and was very concerned about what the rest of the use is for the property. Mr. Kramer stated he would agree if the 17.44 acres were designated single family.

Debbie Fox, 5117 Breezewood Dr., spoke in opposition of **PROPOSED ORDINANCE 2020-24**. Mrs. Fox stated lots and lots of apartment complexes have vacancies in Mishawaka and she did not feel like they needed another apartment complex in the city. Mrs. Fox stated there is a demand for villas and condos, but they do not need more apartments.

Dominic Ball, 732 River Pointe Place, spoke in opposition of **PROPOSED ORDINANCE 2020-24**. Mr. Ball stated he is concerned with traffic and he comes out of River Pointe estates and it is getting harder to pull out of there. Mr. Ball stated with the 188 apartments, there could be an addition of around 400 cars in the area which is a considerable amount. Mr. Ball stated when they leave to turn left out of the complex; it would be more dangerous to exit. Mr. Ball stated he has a solution in which the apartments would be moved to Parcel C, that way they could exit on McKinley to go to South Bend or turn right on Bittersweet to head north. Mr. Ball stated he believed the residents would fully support that concept and there could be an exact onto Cedar Road as well.

Linda Clements, 629 Misty Harbor Ct., spoke in opposition of **PROPOSED ORDINANCE 2020-24**. Mrs. Clements stated she is concerned about the traffic and asked who owns Cedar Road and that the road is very narrow. Mrs. Clements also stated the traffic on Vistula has really picked up with all of the single family homes built in Osceola. Mrs. Clements stated she did not know what the occupancy rate of the Mill is and if it is booked, the apartments by the Toll Road if they are full, and she also asked if Reflections were 100 percent full. Mrs. Clements stated she did not know why there couldn't be single family residences. Mrs. Clements concluded stating she did not believe they needed more apartments.

Beth Barrett, 741 River Pointe Place, spoke in opposition of **PROPOSED ORDINANCE 2020-24**. Mrs. Barrett asked the council to keep in mind how lovely their neighborhood is and they would like to protect all of the investments in it. Mrs. Barrett stated they should have the road widened, Cedar Rd specifically, before all of the cars and bicycles and whatnot are in the neighborhood. Mrs. Barrett also stated they trust the council to protect their safety and asked for the Street Department look at this before the development starts.

The council took a recess at 9:25PM and reconvened at 9:42PM.

Mr. Hixenbaugh thanked everyone for their indulgence. Mr. Hixenbaugh stated there is an individual who tried to participate technologically and they are having the individual text the council to address their concern.

Mr. Mammolenti received a text message from a neighbor and read the following message.

Rachel Jun, River Pointe Estates, said the following. "I have been listening this whole time, I agree with my neighbor about the traffic concerns. Before any new development is considered in the structure such as Vistula and Cedar needs work. Cedar is dangerous as it is now. Unfortunately I am unable to voice my opposition remotely during the meeting, because I am caring for an infant at home."

Mrs. Voelker stated she spoke with Mr. Prince during the break and Cedar Road up near Vistula is not a Mishawaka road and is a county road. Mrs. Voelker asked about the connector road and if there was anything they could tell the council about the road. Mr. Danch stated the way they are showing the diagram, it has a preliminary layout and was an emergency access point. Mrs. Voelker stated if that could be used as a traffic point. Mr. Danch stated it is not an actual street; it is just for emergency access if the access point on Vistula Road would be blocked. Mrs. Voelker asked why they would be putting any roads in if there was nobody developing Parcel B and Parcel C. Mr. Danch stated it is a preliminary site plan, so they are showing the concept of how that development would occur. Mr. Danch stated it may not be in the exact spot or that the road will look exactly like that, because they would first work with the purchaser and developer for the final site plan approval.

Noah Davey, NAI Cressy, stated he realized this has not been an easy process for everyone involved and appreciated all the time the neighbors have put into this. Mr. Davey stated he worked on behalf of the Lung Family Trust for 4 years and the land has been available for \$40,000 an acre with no single family interest. Mr. Davey stated they spoke with Ken Prince to upgrade the PUD set up in the 1970s. Mr. Davey stated there have been a lot of meetings and time sacrificed during the process and for the Lung family and Dorothy Lung, who is Davey's client, and through attorney Tom Walls, they are looking out for Dorothy to make sound decisions. Mr. Davey stated he called Tom Wells and it took multiple days to make any progress with the Lung Family with the new plan and that is why it did not come until Friday at 4:30. Mr. Davey stated they gave up 587 units and compromised even when the neighbors stated there was no compromise. Mr. Davey stated in the spirit of compromise, he received authority to agree to the plan that Mr. Piraccini proposed with 1-A and 1-B could be committed to the uses explained earlier. Mr. Davey stated he hoped on behalf of the neighbors and Lungs, they appreciate that the

developer made multiple concessions and that they went through the public process to meet the neighbor's needs.

Mr. Hazen asked if they were referring to the 1-A west part of the parcel would include villas, townhomes, and single family to the west and 1-B would be solely single family. Mr. Hazen asked if they were talking about taking the 17 acres and dividing it right down the middle. Mr. Davey stated that was correct.

Mr. Hixenbaugh asked Mr. Trippel if he believed that the combination of the two constitutes enough of a record for them to be able to move forward with an approval if in fact there were a motion to amend the ordinance in front of them to reflect those comments or would they need to make a different type of record. Mr. Trippel stated if that is confirmed and if there were a written commitment it would work. Mr. Hixenbaugh clarified if there were a motion and a second approved by the council to amend the ordinance to reflect the compromise, that it could be approved that evening subject to the submission on the part of the petitioners of an appropriate written commitment. Mrs. Voelker stated she believed the connector road would be needed also in the ordinance if it were important. Mr. Danch stated they could make that part of the amendment with an access road that goes to Cedar Road and Lincoln way. Mrs. Voelker asked if there were no connection between Parcel B and Parcel C. Mr. Danch stated they would basically just need a written commitment one describing land use for Parcel B laid out with an exhibit and the second one would be no connection between Parcel B and Parcel C or Parcel A.

Mr. Hixenbaugh restated that subject to the subsequent submission of a written commitment reflect certain amendments to the preliminary PUD that **PROPOSED ORDINANCE NO. 2020-24** would be amended in two parts. The first would be to consider Parcel 1-A as being treated in two equivalent subsets; the western most to be limited to single family residences, townhomes and villas that would all be occupied and Parcel 1-B would be limited to single families only. Mr. Danch stated that would be corrected. Mr. Hixenbaugh continued stating the second subpart would be that there would not be any internal connection between Parcel C that connected directly to Vistula, but rather there would continue to be internal connections to Cedar Road and Lincoln way. Mr. Danch stated he would send that to Mr. Trippel as well to review.

Mr. Compton made a motion with a second from Mr. Banicki to amend **PROPOSED ORDINANCE NO. 2020-24** as stated by Mr. Danch and restated by Mr. Hixenbaugh.

Mr. Hazen thanked the neighbors for their involvement in the project.

Mr. Emmons stated he will go ahead and vote in favor of the ordinance even though he did not like the idea of apartments and believed they were flooding the area way too fast on apartments. Mr. Emmons stated they should focus on building homes and a stable community and not a transit community.

Mr. Compton thanked the residents for their efforts. Mr. Compton also stated he believed a diverse community is a better community and having people who live in an area that are not alike helps them all in the future and gives others a better understand of what they go through.

Mr. Compton concluded stating having a neighborhood of diverse people, incomes and housing is good for a community.

Mrs. Voelker thanked the neighbors and stated she knew they were concerned about their homes and quality of life and it showed in the devotion they have to the particular development. Mrs. Voelker also stated the properties on the website all look very nice, but she noticed In Good Company received the Indiana Apartment Association Management Company of the Year Award, top rated status in nearly every community and green certified new communities. Mrs. Voelker stated she believed they are making a solid investment in Mishawaka and she appreciates that.

Mr. Bellovich thanked the residents who attended the meeting voicing their concerns. Mr. Bellovich stated what they worked out is a win for the city of Mishawaka and he appreciated the fact they will be using local scaled labor for this project. Mr. Bellovich stated the apartments 670 feet from the nearest residence is a long way and will not impact property values. Mr. Bellovich concluded stating he believe this is a win for the city, residents and the local economy.

Clerk Block polled the council on the amendment (Parcel B only amendment 1-A; West part of parcel Villas, Townhomes, Single Family and 1-B Single Family; East Part of Parcel)  **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. The Amendment passes 9-0

Mr. Hixenbaugh read comments submitted on behalf of a resident of the neighborhood.

Mr. Hixenbaugh thanked the neighbors for their participation in the process and the developer and their various representatives for their willingness to listen to them and arrive to a compromise. Mr. Hixenbaugh stated it is important what is in the best interest of the neighborhood and the community as a whole. Mr. Hixenbaugh acknowledged the work Mr. Hazen did on the project and believed it was a better outcome for the time and effort everyone put into it. Mr. Hixenbaugh stated he would be voting in favor of the ordinance and amendment.

Mr. Mammolenti extended a sincere thanks to the developers and neighbors. Mr. Mammolenti stated this is what city government is about or should be about and they have a voice to speak their concerns with the council and it was greatly appreciated. Mr. Mammolenti also thanked Mr. Hazen and Mr. Hixenbaugh for their works and efforts and all of the others who attended meetings.

Mrs. DeMaged thanked the residents for making a little noise and believed it was healthy and thanked them for getting this done in a great way and hoped everyone was happy.

Question was called for at 10:19PM for **PROPOSED ORDINANCE NO. 2020-24**  **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. 5719.**

NEW BUSINESS

Mr. Compton thanked the council members that participated in the police contract negotiations, Mr. Hazen, Mr. Mammolenti, Mr. Hixenbaugh, Mr. Bellovich, and everyone involved. Mr. Compton also thanked Pat Hinkle, Corporation Counsel and Becky Miller, City Controller who were a big help in getting this done. Mr. Compton stated a week from Tuesday 11/10 they would be meeting with the Fire Department and it is an Executive Session to the council.

Mr. Mammolenti thanked all of the negotiating team for their outstanding job. Mr. Mammolenti also announced their last neighborhood watch meeting of 2020 for Twin Branch will be November 18th at 7PM via zoom. Mr. Hazen will remind the public at their next meeting and unveil the guest speaker.

ADJOURNMENT 10:23PM

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

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