

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

January 18, 2021

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, January 18, 2021 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 January 04, 2021 were approved and received from the Clerk's Office.

Clerk Block read letters from the Board of Zoning Appeals and the City Plan Commission regarding their recommendations from their January 12, 2021 meeting.

APPEAL #20-58 An appeal submitted by Bokhart Properties, LLC, requesting a Use Variance for 403 and 411 South Main Street to allow tattoo, piercing, and art gallery in the I-1 Light Industrial zoning and a Developmental Variance for reduction of parking spaces.

The Board, with a vote of 3-0, recommended approval subject to the following conditions:

1. Submission of a site plan addressing new parking and traffic flow.
2. Proposed parking area shall be brought up to current standards with storm water management.
3. The gravel access between 403 and 411 South Main Street shall be hard surface. Gravel is not allowed anywhere there will be vehicular traffic.

PETITION #20-24 A petition submitted by GW Mishawaka II, LLC requesting a rezoning of 5505 and 5603 Grape Road from C-1 General Commercial District to C-7 Automobile Oriented Restaurant Commercial District.

The Commission, with a vote of 7-0, recommended approval.

PETITION #20-25 A petition submitted by Family Video Movie Club, Inc. to amend the Bercado Planned Unit Development for property at 520 Bittersweet Road to allow fuel pumps and convenience store and allow a parking reduction.

The Commission, with a vote of 6-1, recommended approval subject to the following conditions:

1. Permitted uses shall be amended to include a convenience store with fuel pumps.

C-2 Shopping Center Commercial uses shall continue to be permitted.

2. A minimum of twenty-four (24) parking spaces shall be provided.

3. A minimum 15' parking setback shall be provided along Bittersweet Road.

4. A 5' high steel or aluminum picket fence with an adjacent 36" minimum height solid hedgerow shall be provided along the east property line.

5. Freestanding off-premise signs shall not be permitted.

6. Except as noted above, the site shall comply with all other C-10 Filling Station / Car Wash area, height, and development regulations.

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

PROPOSED ORDINANCE NO. 2021-01

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 Two Parcels Total of 1.81 acres from C-1 General Commercial to C-7 Automobile Oriented Restaurant Commercial – 5055 & 5603 Grape Rd
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2021-02

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 Fuel Pumps & Convenience Store with parking reduction – 520 Bittersweet – SE. Corner of Bittersweet & Vistula
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2021-03

**AN ORDINANCE APPROVING AN AMENDED AGREEMENT BETWEEN THE CITY
OF MISHAWAKA AND THE MISHAWAKA PATERNAL ORDER OF POLICE
LODGE 91 – 1-01-2021 THRU 12-31-2022
(Requesting Second Reading)**

The chair entertained a motion to suspend regular council rules and hold first and second reading of **PROPOSED ORDINANCE NO. 2021-03** that evening. The motion was moved by Mr. Compton and seconded by Mr. Emmons, thus a council vote was held.



Roll Call.

Present: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The motion passed 9-0.

Chief Ken Witkowski, Police Chief of the City of Mishawaka, spoke in favor of **PROPOSED ORDINANCE NO. 2021-03**. Chief Witkowski stated he apologized for being late in the game last year with the certain unexpected reasoning with COVID and hoped it does not happen again in the future. Chief Witkowski stated most of these changes were ways to make the contract easier to navigate for members of the police department. Chief Witkowski stated he was in favor in the change of the language. Chief Witkowski stated the probationary officers were able to get them to count earlier in shift strength. Chief Witkowski stated they had been short 8-9 officers are of last year and this would help them out with future dates when issues arise when counting shift strength. Chief Witkowski stated they made the uniform captains more consistent with the other captains on the department. Chief Witkowski allowed them to change vacation days into random days and take one day at a time if they choose. Chief Witkowski stated also if they were to choose to come in on vacation, the officer will get double pay and get that day back as vacation. Lastly, the rest of the contract regarded changing language and cleanup.

Mr. Bellovich asked where they were at with staffing level. Chief Witkowski stated they are on full level and the police department recently hired 5 people. Chief Witkowski stated they began having conversations with South Bend and the Academy and they will be having a regional academy planned sometime in April. Chief Witkowski concluded stating they are full currently, but there will be a retirement in February and August.

Mr. Emmons asked what their number is when Chief stated they were fully staffed. Chief Witkowski stated the department is at 108.

Mr. Hazen stated he had been contacted by a couple of officers and even though they are at full staffing level, the ship strength stayed the same for the last 20 years because there was so many. Chief Witkowski stated that is a true statement and when they try and pass that through the contract it is turned down. Chief stated it comes down to if they want days off or shift strength and they prefer to have more shift strength.

Mr. Mammolenti extended his extreme gratitude and appreciation for all of the individuals on the front line and all they have done during this time. Chief Witkowski stated his appreciation for Mr. Mammolenti's remarks and acknowledged how proud he was of his department and the people on the street. Chief Witkowski stated they have had great new hires in the last 2-3 years and they still have people saying the Mishawaka Police Department was the department to come to and he was quite proud of that.

Mr. Emmons asked if any of the new hires were female or minority. Chief Witkowski stated they hired one female.

Mrs. DeMaegd asked what the police department is doing to encourage women to apply. Chief Witkowski stated they have put out the same message out for anyone who would want to apply and they have had really good women who have been applying. Chief Witkowski stated normally out of, for example, a group of 40 you will have 4 to 5 women who apply. Chief Witkowski stated they do not lower their standards and hire the best.

Mr. Compton stated this was an unusual year in negotiations, but the council and himself made a point to make sure the Mayor's administration, someone from the police department, Pat Hinkle, and Rebecca Miller be at all of the negotiations and they were not aware of theirs. Mr. Compton stated he understood that was to be part of the process and after speaking with Mayor Wood and other police officers, they described the negotiations as unusual and quick. Mr. Compton asked in the future for Chief Witkowski to let them know and allow them to have the opportunity to sit in and would like to be a part of it. Chief Witkowski apologized and stated they were not meant to be left out. Mr. Compton stated he did not need to explain and understood given the circumstances. Mr. Compton stated he just wanted to make a point of it and leave it at that.

Mr. Hixenbaugh thanked Chief Witkowski for his work and his department's work they do on a daily basis and it was much appreciated by the council as well as the community. Mr. Hixenbaugh also thanked him for the work he and his leadership team have done to come to the council with the agreement. Mr. Hixenbaugh asked what BCS stood for in the language of the ordinance. Chief Witkowski stated that is how they tracked the computerized version of their days off and it works very well for them, despite few hiccups. Mr. Hixenbaugh also stated he is glad to hear about the regional academy opportunity and hopes that would be able to continue post-COVID.

Chief Witkowski thanked the council for their time and their comments. Chief Witkowski stated it had been a rough year and sadly they had gotten good at very violent and high priority types of situations and stated it was amazing how well their people handle the situations they are placed in. Chief Witkowski stated the officers know their jobs, know what to do and they have been putting undesirables away with a good arrest rate. Mr. Hixenbaugh stated the majority of the day to day support comes from the administration, but to not hesitate to let the council know if there is anything they can do to support him and his department.

Question was called for at 7:23PM for **PROPOSED ORDINANCE NO. 2021-03**  **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. 5730.**

PROPOSED ORDINANCE NO. 2021-04

**AN ORDINANCE APPROVING AN AMENDED AGREEMENT BETWEEN THE CITY
OF MISHAWAKA AND THE TEAMSTERS LOCAL UNION #364
Collective Bargaining Between the City and Local 364 Central Service Dept. – 1-01-2021
thru 12-31-2022
(Requesting Second Reading)**

The chair entertained a motion to suspend regular council rules and hold first and second reading of **PROPOSED ORDINANCE NO. 2021-04** that evening. The motion was moved by Mr. Compton and seconded by Mr. Mammolenti, thus a council vote was held.

Mrs. DeMaegd stated she hoped they do not get used to suspending rules for the first and second reading so the body is given the time to look at the issues, do the proper research and to speak to those involved in order for them to make informed decisions that would affect all the citizens of Mishawaka.

Mr. Hixenbaugh thanked Mrs. DeMaegd for her comments and a roll call vote was held.



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 motion passed 9-0.

Tim Ryan, Director of Central Services, spoke in favor of **PROPOSED ORDINANCE NO. 2021-04**. Mr. Ryan stated they decided to put a one-year extension in light of them not being able to sit down and negotiate with the teamsters and believed this would be the best route. Mr. Ryan stated the contract is going to stay the same language wise and the adjustments were the 2021 wage package which was 1.5% plus \$500 and the pro rating of the boot allowance, which over 4 years, was \$600 broke down to \$150 a year.

Mr. Hazen asked if the \$500 was what was negotiated for and if there was an additional \$500 for the COVID wage pay. Mr. Ryan stated contractually they are under the same wage increases as everyone else in the city and the only difference is the boot allowance.

Mr. Hixenbaugh thanked Mr. Ryan and his leadership team for working with the union to make this happen.

Clerk Block clarified the date on the ordinance is incorrect but it is correct on the contract with the contract expiring on 12-31-2021, which is the correct date.

Question was called for at 7:29PM for **PROPOSED ORDINANCE NO. 2021-04**  **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. 5731.

PROPOSED ORDINANCE NO. 2021-05

AN ORDINANCE APPROVING AN AMENDED AGREEMENT BETWEEN THE CITY OF MISHAWAKA AND THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 1392

Collective Bargaining Between the City and Electrical Workers Local 1392. 1-01-2021 thru 12-31-2022

(Requesting Second Reading)

Mr. Hixenbaugh stated the record will reflect that this also was a one-year extension of the collective bargaining agreement.

The chair entertained a motion to suspend regular council rules and hold first and second reading of **PROPOSED ORDINANCE NO. 2021-05** that evening. The motion was moved by Mr. Compton and seconded by Mrs. Voelker, thus a council vote was held.



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 motion passed 9-0.

Patrick Hinkle, Corporation Counsel for the City of Mishawaka, spoke in favor of **PROPOSED ORDINANCE NO. 2021-05**. Mr. Hinkle began stating that this was an extension for the electric department and the city approved this through the utility board. Mr. Hinkle stated there was a resolution attached to this and they agreed to a 1.5% plus \$500 wage increase from 1-01-2021 to 12-31-2021. Mr. Hinkle stated he was on the committee for this and it was reviewed and approved. Mr. Hinkle took responsibility for the ordinance not getting to the council sooner and explained he was not familiar with the procedure until Clerk Block mentioned so.

Mr. Bellovich asked if there were any language changes. Mr. Hinkle stated the only change were the wages.

Mr. Hixenbaugh thanked Mr. Hinkle and everyone else part of his team as well as the union bargaining team for their work. Mr. Hixenbaugh asked if all the collective bargaining agreements in front of them had been ratified by the work groups and unions as well. Mr. Hinkle stated that was corrected and then it was presented to the Board of Public Works and the Board of Public Works passed the resolution approving their agreement.

Mayor Wood spoke in favor of **PROPOSED ORDINANCE NO. 2021-05** and all of the collective bargaining agreements before the council. Mayor Wood thanked the council for suspending their rules and reminded everyone that when they began discussing this things, the administration was in the middle of a pandemic with no idea what long-term planning needed to be done. Mayor Wood stated all departments were focused on doing their jobs when really there was a lot of fear going around, departments were cutting back on staff or were suspending their operations, working from home, etc. Mayor Wood stated they have answered the call brilliantly

and it seemed as though everything got put to the side and he appreciated the council's patience with them in allowing the administration to bring the agreements to the council and they will do better the next time. Mayor Wood stated how proud he was of these departments and all of the others of their work on a day-to-day basis. Mayor Wood stated he wished they could do more and give more, but they did what they could to balance the budget, pay the bills and provide everyone with long term job security with good pay and good benefits. Mayor Wood called every one of the departments present the best in the state in this difficult time where the community is very fortunate. Mayor Wood concluded thanking everyone involved in the negotiation efforts.

Question was called for at 7:39PM for **PROPOSED ORDINANCE NO. 2021-05**  **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. 5732.**

PROPOSED ORDINANCE NO. 2021-06

AN ORDINANCE APPROVING AN AMENDED AGREEMENT BETWEEN THE CITY OF MISHAWAKA SEWER DEPARTMENT AND THE TEAMSTERS LOCAL UNION #364

Collective Bargaining Agreement Between the City and Sewer Dept. Local 364. 1-01-2021 thru 12-31-2021

The chair entertained a motion to suspend regular council rules and hold first and second reading of **PROPOSED ORDINANCE NO. 2021-06** that evening. The motion was moved by Mr. Compton and seconded by Mr. Emmons, thus a council vote was held.

 **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 motion passed 9-0.

Patrick Hinkle, Corporation Counsel for the City of Mishawaka, spoke in favor of **PROPOSED ORDINANCE NO. 2021-06**. Mr. Hinkle stated this agreement does essentially the same thing that the other thing did with the electrical department and it stems out of an agreement between the Sewer Department and the local union of IBEW. Mr. Hinkle apologized for the lateness of this and had trouble getting Mr. Warnock's signature until January 6th of this year. Mr. Hinkle stated this would adopt the wage increased they all agreed to and that was approved by the Board of Public Works.

Mr. Compton stated for the record he wanted to know if this were for the teamsters and not the IBEW. Mr. Hinkle apologized for the mistake on his part.

Mr. Hixenbaugh asked Mr. Hinkle to pass along their thanks to Mr. Dolly and his team along with the members of the union bargaining team.

Question was called for at 7:44PM for **PROPOSED ORDINANCE NO. 2021-06**.  **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. 5733.

PROPOSED ORDINANCE NO. 2021-07

AN ORDINANCE AMENDING CHAPTER 58 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA AS FROM TIME TO TIME AMENDED COMMONLY REFERRED TO AS “THE TRAFFIC CODE”.

Amending the Municipal Code of the Traffic Code – Municipal Lot No. 3 on First & Church Street

(Assigned to Public Health and Safety Committee)

PROPOSED ORDINANCE NO. 2021-08

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY FOR THE CITY OF MISHAWAKA, INDIANA PROVIDING ZONING CLASSIFICATIONS THEREFORE Amending Ordinance No. 5709 – Annexing adjacent property to be included in subdivision – S. and E. of 1141 & 1241 E. Twelfth Street – Scrivener’s Error
(Requesting Second Reading)**

The chair entertained a motion to suspend regular council rules and hold first and second reading of **PROPOSED ORDINANCE NO. 2021-08** that evening. The motion was moved by Mr. Compton and seconded by Mr. Mammolenti, thus a council vote was held.

 **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 motion passed 9-0.

Clerk Block spoke on behalf of the Planning Department. Clerk Block stated what they received from Lang Feeny, the corrections to the actual legal, it did not change the boundaries or any acreage and only changed the bearings. Clerk Block stated they would like to go ahead and have this taken care of that evening, along with **RESOLUTION R2021-02** which would also only change the legal description in order for it to get published.

Question was called for at 7:48PM for **PROPOSED ORDINANCE NO. 2021-08**  **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. 5734.

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

RESOLUTION R2021-01

**A RESOLUTION OF COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING
APPEALS FOR THE PROPERTY LOCATED AT: 403 & 411 S. MAIN STREET
Use Variance to allow Tattoo, Piercing & Art Gallery – 403 & 411 S. Main Street**

Maurice Bokart, 16400 Kern Rd., was the owner of 403 S Main and 411 S Main. Mr. Bokart stated the operation in question would be in 403 S Main and stated most of the council were present back in February of last year when they approved the variance request. Mr. Bokart stated the bank pulled the financing for the purchaser in March, because they were a non-essential business and the acquisition of all 4 of his buildings basically fell through. Mr. Bokart stated the reason 411 S Main was included was because it would serve as the parking means of 403 S Main. Mr. Bokart stated he purchase 411 S Main Street years ago to serve as parking. Mr. Bokart the tenant was present tonight and she had been in the business for 10 years and owned her own business for 7 years in Niles. Mr. Bokart stated her clientele are in the South Bend-Mishawaka area and she felt it would be a positive for her business to relocate in Mishawaka. Mr. Bokart stated this would truly be body art and the price would range from \$300 to \$2,000 items.

Mr. Mammolenti asked how the building at 403 S Main will be broken up with the tattoo shop. Mr. Bokart stated when you enter the main doors, the building is segregated and the tenant, Maria, would be occupying the center and to the east. Mr. Bokart stated there was also another tenant that would not require a variance for their business in the rear of the building.

Mr. Banicki asked if there would be a problem making this a one-year probationary variance, where he would have to return to the council in a year to make sure everything with the business is going smooth. Mr. Bokart stated Maria operated totally within the letter of the law and he expected people would stop by to make sure individuals would be signing off on legal documents assuring they are not under the influence of drugs or alcohol. Mr. Bokart stated as the building owner, he would welcome anyone to come into the shop to inspect whenever they would like and he would have no objection to that. Mr. Banicki asked if there were limited hours or if that would be something to ask the tenant about. Mr. Bokart stated most of the business would be by appointment only and they have 10 parking spaces reserved at 411 S Main. Mr. Bokart stated the tenant also has two part-time workers and they would expect 3 to 4 cars at max in the vicinity. Mr. Banicki asked if there were a type of cutoff for business. Mr. Bokart stated the tenant had children and they would not be conducting business late in the evening.

Mr. Hixenbaugh stated there could be a good chance there would be a motion imminent to amend the ordinance to build in the additional condition, which would approve the use variance for a one-year period only. Mr. Hixenbaugh stated that would be advantageous to have that motion take place now to continue to public hearing with the resolution as amended. Mr. Trippel agreed with Mr. Hixenbaugh. Mr. Banicki then made a motion to make the resolution a one-year probationary variance where the council would have to approve it once again in the next year. Mr. Banicki stated at that point in time, they could discuss expanding it and with previous things,

he believed this was the way to go. Mrs. Voelker seconded the motion and a vote was held to amend the resolution.



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 passed 9-0.

The public hearing continued on **PROPOSED RESOLUTION 2021-01AA.**

Maria Ortega spoke in favor of **PROPOSED RESOLUTION 2021-01AA.** Ms. Ortega began stating she had been a tattoo artist for 10 years and her work was not something that was spur of the moment and all of her clients speak with her and come to an agreement to do business. Ms. Ortega stated she liked to do scar cover-ups, nipple tattoos for cancer patients and she did not usually like to do tattoos on younger people. Ms. Ortega stated she liked to do her work on older people who know more of what they want.

Mrs. Voelker asked about the art she is planning on displaying in the building and how she intended to market that. Mrs. Voelker also asked if that artwork will be available to sale or having art gallery showings. Ms. Ortega stated the art she produced would be strictly just for show. Ms. Ortega stated she would not have any type of sales or showings while she was there at all. Mrs. Voelker stated she did not think it would be a bad idea if she were to sell her art and asked if she ever sold it in the past. Ms. Ortega stated she did but not paintings. Ms. Ortega stated she does pencil portraits for people who request them for their loved ones who passed away or family members. Ms. Ortega stated she did not sell her oil paintings, but she would consider it in the future.

Mr. Banicki asked what kind of hours she was looking to work and how many days out of the week she would work. Ms. Ortega stated she would not be working late, because she has three children and she wanted to take at least two days off. Ms. Ortega stated she also had other people working for her, but 5-6 days a week would be the max and the latest she would work would be 8PM. Mr. Banicki asked how many total artists there would be and if they were people she worked with before. Ms. Ortega stated she would have two more workers who have worked with her in the past. Mr. Banicki asked if she would be doing permanent makeup or if she would just strictly do tattoos. Ms. Ortega stated she had done eyebrows in the past, but now she did not have the different equipment necessary. Ms. Ortega stated she could dive into that once again, but that was not a priority for her.

Mr. Emmons asked if the eyebrows and blading work would fall under this resolution. Ms. Ortega stated micro blading was different and she used her traditional tattoo machine in the past to do eyebrows before. Mr. Emmons asked if her license would fall under this resolution. Ms. Ortega stated it would.

Mr. Compton thanked Ms. Ortega for coming to Mishawaka and opening her business here. Mr. Compton stated it is an unusual piece of property along the tracks and it could be there for a while. Mr. Compton wished Ms. Ortega good luck.

Mrs. DeMaegd welcomed Ms. Ortega to Mishawaka and believed her business would be the only tattoo parlor in the city of Mishawaka. Clerk Block stated there were multiple tattoo businesses in Mishawaka. Mr. Hixenbaugh stated while it may not be the only tattoo establishment in the city, they welcomed her nonetheless.

Mr. Hixenbaugh asked if she had any objection to the yearlong limitation subject to further review of the council and some opportunity to come see them that had been amended into the resolution. Ms. Ortega stated she had no problem with it and would cooperate completely.

Judy Cannon, 2714 Birchwood Drive, spoke in opposition to **PROPOSED RESOLUTION 2021-01AA**. Ms. Cannon stated she did not believe the people in the neighborhood in the surrounding area of the 400 block of South Main Street would agree with this and thought this would need a medical license to operate when working on the skin of individuals with tools and implements. Ms. Cannon questioned how one could possibly make a kind of decision on the art she is displaying when they do not have a sample of it and stated the council needed a sample of it and to inspect the office when open. Ms. Cannon stated it would not add to the refinement of Mishawaka and she stated she was against tattooing in general. Ms. Cannon stated it would promote a lower class clientele, it would be ugly and did not believe it would be good for individuals to have tattoos when they get older. Ms. Cannon reiterated she was opposed to the shop and she would rather see a music studio there rather than a tattoo business. Ms. Cannon stated it would add nothing to the value of life in Mishawaka and it would detract. Ms. Cannon stated the area where the tattoo building would be in would have lower income people coming through and they need money to support their family rather than having tattoos. Ms. Cannon concluded once again stating it would add nothing to the value of life in Mishawaka.

Mr. Emmons thanked Ms. Cannon for her opinion, but took offense to her saying the neighborhood was lower class. Mr. Emmons stated that was his district and he did not relish her coming up to the podium and creating the statement that the reason she was against this was because there was lower class in the neighborhood. Mr. Emmons stated if he misinterpreted her that was his mistake, but he thought he heard her state she did not want the establishment there because the lower echelon in that area. Mr. Emmons asked if he were correct. Ms. Cannon stated she said lower income. Mr. Emmons stated he did not remember her saying income and heard class being referenced. Mr. Emmons stated he was not appreciative of that. Ms. Cannon apologized and stated this was quick and she got all of the ideas in her head without thought and all she knew was she was against it.

Mr. Banicki asked if she were aware there was a tattoo parlor in the Town and Country Center. Ms. Cannon stated she was. Mr. Banicki asked if she had ever seen in the paper that they had problems there. Ms. Cannon stated she had not. Mr. Banicki stated there was not a bunch of people causing trouble at it and they had been there for a long time running a respectful business. Mr. Banicki understood everyone has the rights to their own personal opinions and he did not have any tattoos, but the city of Mishawaka does a great job of keeping an eye on all business and not just one type or the other. Mr. Banicki stated they watch out for each other and that is why they make sure they aren't open during exuberant hours and they gave her a probationary period so if there were issues, they would have an out in 12 months. Mr. Banicki stated there are worse things that could happen and this would be a great use for the property. Mr. Banicki stated

Ms. Ortega seemed like a very nice young lady and an artist like her likely had people who follow her a long distance. Mr. Banicki stated the reality is that it is a new world and this was how things go. Mr. Banicki stated he has relatives who have tattoo sleeves and if that is how they want to spend their money, that is their decision. Mr. Banicki thanked Ms. Cannon for coming.

Mr. Mammolenti addressed Ms. Cannon's objections to the tattoo establishment and began stating the building would be monitored by the Health Department and she would need to be qualified and get training and certification to be a tattoo artist. In regard to her comments on class, Mr. Mammolenti stated he did not believe a tattoo would determine the class of social economic status an individual is in. Mr. Mammolenti stated Ms. Ortega would have the right to display or post any art of hers in regard to Ms. Cannon's comments on the artwork. Mr. Mammolenti stated they will revisit this in one year and if they found that she is operating in an unsatisfactory matter, they would have the option to not renew the agreement. Mr. Mammolenti thanked Ms. Cannon and wished her a good evening.

Mr. Hixenbaugh thanked Ms. Cannon for her presence and sharing her opinion. Ms. Cannon stated that is not what she came for. Mr. Hixenbaugh stated regardless of what she came for, they appreciated her participation nonetheless. Mr. Hixenbaugh appreciated in particular her answers to Mr. Emmons' questions because if he misheard what she said, he too misheard what she said. Mr. Hixenbaugh stated he heard a lot of reference to class and assumptions geared toward residents of Mishawaka based upon where they live, how much money they have and whether they have a tattoo. Mr. Hixenbaugh stated he suspect she agreed with her in the fact that at his age, tattoos are something he personally was not interested in and it was a generational thing in many respects. Mr. Hixenbaugh stated it sometimes cuts across generational lines and there were people in the room who are well respected in the community, elected to office and appointed to high office as a department head who have a tattoo. Mr. Hixenbaugh stated it is dangerous for them to make assumptions on who human beings are based on where they live, what their social economic status is and if they have body art. Mr. Hixenbaugh stated again it is not for him, but he respects people who do and the evolution of referring to it as body art rather than a tattoo is powerful because it has gone beyond just a picture or a slogan and it is an expressive component of the human existence at this point in time. Mr. Hixenbaugh stated he sincerely appreciated the fact she shared her thoughts and believed any time in a democracy that we have an opportunity to speak, there is also a responsibility to be careful of the words you choose and be respectful of everyone involved in the process, whether they sit on the dais or their someone who wishes to come to the community and open a new business. Mr. Hixenbaugh asked her to reflect on that and whether it be that evening or in the future, any time she step onto the podium and speak into the microphone to try to be more respectful to the people involved in the process just as they demand they will be respectful to her. Ms. Cannon stated she was a very respectful person and it was not her intent to disrespect anyone and she appreciated every department after listening to all of the gentlemen and especially respected the Police Department. Ms. Cannon stated she appreciated everyone's effort and it just boiled down to her personal preference. Mr. Hixenbaugh stated she had made that very clear and he took it at face value that how they perceived what she wanted to communicate with the council was different than her intent and asked her to reflect on that and with regard to any other comments made in the future to try to be a little more thoughtful in her word choice. Ms. Cannon stated they did not ask what class she was in and Mr. Hixenbaugh stated nor would he ever ask that question. Ms. Cannon stated she would be

considered at the poverty level. Mr. Hixenbaugh stated that is not germane to the land use matter in front of them and it was a question whether this would be an appropriate land use for the location and they went way beyond the scope of what they typically deal with and should deal with under state law with regard to a land use matter based upon the commentary. Mr. Hixenbaugh stated they had gotten off track and he appreciated Ms. Cannon's comments. Ms. Cannon thanked them for their time.

Mr. Compton stated he would support this and commented this is a very unusual location and it is not in a residential unity area of town. Mr. Compton believed it would be appropriate for this location, welcomed Ms. Ortega and congratulated Mr. Bokhart for finding a tenant for a building right next to the railroad tracks could have stayed empty for a long time. Mr. Compton stated he was thankful to get that useful piece of property a purpose and welcomed Ms. Ortega.

Question was called for at 8:22PM for **PROPOSED RESOLUTION R2021-01AA**  **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 resolution passed 9-0.

RESOLUTION R2021-02

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA INTRODUCING AN ORDINANCE FOR ANNEXATION ADOPTING A WRITTEN FISCAL PLAN IN A DEFINITE POLICY FOR ANNEXATION FOR THE PROPERTY LOCATED AT AWT INC. PROPERTY LOCATED AT: S. AND E. OF 1141 & 1241 E TWELFTH STREET

Amending Resolution NO. 2020-19 – Fiscal Plan for Annexing adjacent property – S. and E. of 1141 & 1241 E. Twelfth Street – Sriver's Error

Mr. Hixenbaugh made a statement for the record incorporating by reference the Clerk's comments with regard to **PROPOSED ORDINANCE 2021-08** earlier into the record of the public hearing on this resolution, such that they indicate that this reflects a Sriver's Error and a change in the legal description with regard to the matter at issue and no change in substance.

Question was called for at 8:25PM for **RESOLUTION R2021-02**  **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.

NEW BUSINESS

Mr. Mammolenti reminded the public and residents of the Twin Branch area that a Twin Branch neighborhood watch meeting would take place Wednesday January 20th at 7PM via zoom. Mr. Mammolenti stated the meeting ID number was 8685464701 and the password was 314476. Mr. Mammolenti stated he would also post that on the council Facebook page and the guest speaker would be Michael Castellon, the Penn Township Assessor. Mr. Mammolenti also stated Lieutenant Reppert would discuss the recent crime report within the city and they would also

discuss the proposed gas station on the corner of Vistula and Bittersweet. All public are welcome.

Mr. Compton addressed the council in regard to Martin Luther King Jr. Day. Mr. Compton began stating after seeing certain things happening at the national level, he was proud to be part of the council and he believed most people would not know what party they belong to during a meeting and he was proud of that as well. Mr. Compton stated he was proud they are able to work with their administration and they are able to work with them and he thought they needed to take that out into the world, because government does not run so smoothly and people aren't happy with their leadership for one reason or another. Mr. Compton stated they needed leaders who people can respect and it bothered him to see what happened in Washington at the Capitol building. Mr. Compton stated they owe it to their society to be leaders and to show people how government should and does work daily. Mr. Compton stated this had been a tough time in his household, with COVID hitting his home and his wife had been sicker than he had ever seen with her staying in bed for more than two weeks. Mr. Compton asked everyone to follow the protocol, wear a mask, social distance and wash your hands. Mr. Compton stated this was not over yet, but they are getting there. Mr. Compton stated he spent time on a call in Mr. Hixenbaugh's absence with St. Joseph Hospital and people in the community and numbers seem to be dropping. Mr. Compton stated there are less tests and less tests mean less positives. Mr. Compton stated hospitalizations and deaths are going up nationally. Mr. Compton stated he had been trying to make appointments for his Mother in law and Mother and it had been real frustrating. Mr. Compton stated it goes back to different levels of government and part of it is too many chefs in the kitchen and another part of it is there is not enough vaccine and it is continuously being produced. Mr. Compton stated after listening in on the meeting and talking about the different problems, we all must be patient no matter how hard it is. Mr. Compton stated if you know people who are older or alone, reach out to them and it is easy to do once you get it done. Mr. Compton recommended not looking just at St. Joseph county but also counties like Elkhart, because it seemed you could get in a lot quicker there. Mr. Compton stated they mentioned in the meeting that if you have had COVID or had shots, the immunity needs to be in the 70-80 percent range for us to get of the woods and we are not at 10 percent yet, which means there is a long way to go. Mr. Compton thanked the council for the time to speak on these issues.

Mr. Hixenbaugh announced today is the Martin Luther King Jr. Holiday and stated the celebration in the city of South Bend was very well done under difficult circumstances. Mr. Hixenbaugh acknowledged Mayor Wood's great job in regard to his portion of the proceeding and expressed the council's congratulations to the individuals nominated by Mayor Wood to be honored on behalf of the city of Mishawaka. Mr. Hixenbaugh stated the first group of honorees were the city of Mishawaka employees who as the Mayor correctly stated did a fantastic job to go over and above. Mr. Hixenbaugh stated they typically do that, but especially in these trying times they had surpassed their usual standards of excellence. Mr. Hixenbaugh stated the second honoree, Dr. Michelle Megliore who currently works in the Employee Health Clinic and provides additional value and service to the community via her contributions to the various COVID taskforces in existence and the work she had done to help the employees stay safe during this pandemic beyond their visits to the Clinic. Mr. Hixenbaugh stated that group and individual were very well deserving of the accolades they received and added the council's appreciation to the well-deserved honor received. Mr. Hixenbaugh lastly announced two informational meetings

that would be conducted in the future. Mr. Hixenbaugh stated the public was invited to participate in these meeting with the first being on the topic of economic development in general and with focus in Mishawaka taking place Monday January 25th at 6PM in the council chambers. Mr. Hixenbaugh stated there will be a WebEx opportunity available for anyone wanting to observe the meeting and the information will be available through the Clerk's Office. Mr. Hixenbaugh stated the second informational meeting will be on the topic of their TIF Bond and local stimulus initiative with a presentation by Mayor Wood along with Ken Prince with regard to the good information shared with the Redevelopment Commission recently on what they will do as a community to further support the economy in Mishawaka. Mr. Hixenbaugh stated this meeting would also take place in the council chambers Monday February 8th at 6PM with a WebEx remote opportunity available given limited attendance restrictions.

ADJOURNMENT 8:35PM

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

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