

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

February 15, 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, February 15, 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 February 1, 2021 were approved as received from the Clerk's Office.

PETITION #21-01 A petition submitted by RUDRA Twenty Six LLC requesting to rezone 1333 Lincolnway East from C-4 Automobile Oriented Commercial District to C-1 General Commercial District.

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

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

PROPOSED ORDINANCE NO. 2021-10

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

**Rezone from C-4 Automobile Oriented Commercial District to C-1 General Commercial District – 1333 Lincoln way East
(Assigned to Land Use Planning Committee)**

Clerk Block announced a request to amend the agenda to allow **PROPOSED ORDINANCE NO. 2021-11** for first reading. Clerk Block stated the council would need to amend their rules to accept it on first reading.

The chair entertained a motion to amend the agenda by **adding PROPOSED ORDINANCE NO. 2021-11** under ordinances on first reading. The motion was moved by Mrs. Voelker and seconded by Mr. Compton and question was called for the motion at 7:05PM.



**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.**

PROPOSED ORDINANCE NO. 2021-11

**AN ORDINANCE ESTABLISHING THE MISHAWAKA REDEVELOPMENT
AUTHORITY**

(Assigned to Land Use Planning Committee)

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

RESOLUTION 2021-03

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA SUPPORTING PASSAGE OF SENATE BILL 164, A BILL BEING
CONSIDERED BY THE INDIANA GENERAL ASSEMBLY INCREASING THE
CURRENT ST. JOSEPH COUNTY INNKEEPER'S TAX FROM 6% TO 8% AND
SPELLING OUT HOW THOSE FUNDS SHOULD BE ALLOCATED TO HELP
DEVELOP PRODUCT, ENHANCE TOURISM, STIMULATE ECONOMIC GROWTH,
AND CREATE JOBS IN ST. JOSEPH COUNTY.**

Mr. Hixenbaugh requested Clerk Block read the ordinance in its entirety for the record.

Clerk Block read Resolution No. 2021-03 in its entirety.

Whereas, in 1974, at the request of the community, an innkeepers tax was put into place in St. Joseph county by the Indiana general assembly for the purpose of developing, constructing, and supporting the development of a convention center in downtown South Bend, as well as for the general support of and promotion of tourism throughout St. Joseph county; and

Whereas, since its adoption, the St. Joseph county innkeepers tax has been modified from time to time by the general assembly to meet the changing and evolving needs of the tourism industry and the community in St. Joseph county; and

Whereas, throughout the years, the St. Joseph county hotel-motel tax board which includes appointees of the county's two largest cities, South Bend and Mishawaka, as well as St. Joseph county, has allocated those tax receipts generated by the tax to drive visitor growth and spending, which has in turn stimulated new economic growth, capital investment, and job creation efforts in our communities; and

Whereas, St. Joseph county offers a number of unique offerings well suited for visitors and annually attracts tourists from across the country and around the world to visit those attractions, which includes the University of Notre Dame, the 2nd most visited attraction in the State of Indiana; and

Whereas, according to a study conducted by CERTEC INC. In 2019, the tourism and travel industry contributed \$1.1 billion to St. Joseph county's economy in 2019, with direct expenditures by tourists accounting for \$708.5 million of that total, and increase of 4.7% since 2017; and

Whereas, according to that same CERTEC study, the tourism industry generated over \$266.4 million in tax revenues to government, including \$100.6 million to the state of Indiana, \$54.2 million locally, and \$111.5 million to the federal government; and

Whereas, a total of 11,507 jobs in St. Joseph county resulted from the tourism industry in 2019, with direct spending creating 8,357 of those jobs, one-third of which were in high-wage occupations according to CERTEC; and

Whereas, the tourism-generated jobs provided over \$228.4 million in wages to St. Joseph county workers, up \$28 million from 2017 wages, according to CERTEC; and

Section 1. The Mishawaka Common Council joins the Mayor of the City of Mishawaka in supporting the increase of the St. Joseph County Innkeepers Tax and asks the Indiana General Assembly to approve Senate Bill 164, giving St. Joseph County the ability to adopt additional tools to develop additional product that will spur economic growth, new capital investments, and jobs.

Section 2. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approved by the Mayor.

The public hearing was opened for **RESOLUTION R2021-03**.

Jeff Rea, President and CEO of the South Bend Chamber of Commerce, spoke in favor of **RESOLUTION R2021-03**. Mr. Rea began stating the resolution spelled out many of the key points and he wanted to add a couple of other things. Mr. Rea stated they were most excited about the golfing product in the area. Mr. Rea stated what they had seen spelled in the proposal was the different uses proposed to go along with the tax and the development of a sports complex in the Northeast side of Mishawaka. Mr. Rea stated they believe it will be significant and the resolution was important, because as it advances through the General Assembly that they show support back in the local community and the bill passed the Senate by a vote of 31-15. Mr. Rea stated they were taking similar action with the Mishawaka common council, South Bend council, and the County Council asking them to consider a very similar resolution hoping passage occurs. Mr. Rea stated they thought the support of all of the councils, the support of the Mayors, County Commissioners, Hotel-Motel Tax Board, and the business community would tell a compelling story. Mr. Rea stated this would be paid by visitors and not by folks living in the community locally. Mr. Rea stated this would be a way of them to capture additional dollars to develop product that would stimulate economy and drive the numbers Clerk Block read up and stated he would be happy to answer questions.

Mrs. Voelker asked if he could tell her a little bit about the Tourism Capital Improvement Fund and what he would anticipate the dollar amount would be and also asked if there were examples

of Tourism Capital Improvement Funds in other communities and a little bit about the oversight of the money. Mr. Rea stated 1% is planned for the Tourism Capital Development Fund and in a pre-COVID time frame that is approximately 1 million dollars intended to be a matching grant program. Mr. Rea stated it would be intended to drive tourism nights, so for example, it could be a new sheet of ice in the area to host hockey tournaments or a concert venue where they could hold concerts in the area. Mr. Rea stated they would be overseen by the Hotel-Motel Tax Board and it had not been completely in place, so they only had a concept in place. Mr. Rea stated the frequently asked questions they had received had more information related to that and he would make sure the council had that. Mrs. Voelker asked if this was geared more towards capital. Mr. Rea stated it was, specifically aimed at capital improvements to help drive tourism and hopefully they would have 2 million dollars every year going into tourism capital improvements.

Mr. Bellovich asked how many rooms they had in the City of Mishawaka versus number of rooms in South Bend. Mr. Rea stated there are generally 5,000 in the county and normally Mishawaka would be a third of that. Mr. Bellovich asked what the number of high wage employees they had working in the hospitality industry and what dollar amount is considered high compensation. Mr. Rea stated Rob DeCleene would answer that question.

Mr. Hixenbaugh thanked Mr. Rea for the additional information he provided in support of the resolution and stated in the frequently asked questions document, one of the important points touched on was the understandable concern of raising a tax in the midst of a public health emergency. Mr. Hixenbaugh asked Mr. Rea to touch on that subject for the benefit of the public. Mr. Rea stated the consumers are paying it and they did not think historically it would have a negative impact on their business since, for example, no one is staying in Niles instead of here because Niles does not have the tax. Mr. Rea stated they were open to conversation with some hotels and have quite a few hotels that had signed off already. Mr. Rea stated some hotels had expressed concern about dates and if the hotel industry felt it would need to be January 1st instead of July 1st, there would be a lot of flexibility there. Mr. Rea stated the General Assembly was taking action to enable it to be passed locally so it would not put into effect locally until the St. Joseph County council would adopt it and their preference would be for it to be done shortly after the General Assembly session. Mr. Hixenbaugh asked if this would be passed at the state level and adopted locally, would it would bring them into parity with some of the other larger counties throughout the state. Mr. Rea stated Howard county, being the 17th largest county in the state of Indiana who had a higher rate than they do, would be an example and just because others are higher that would not be the only reason to raise it, but St. Joseph county boasts the 2nd busiest tourist attraction in Indiana. Mr. Rea stated the size, the scale, and the numerous things happening in the area would make them more inductive to tourism than Howard county, for example. Mr. Rea stated they thought they were at a complete disadvantage compared to the other communities, because they did not have the same tools as them and the preference would be to bring it in line, because quite a few counties smaller than St. Joseph County already had this. Mr. Rea stated they were not trying to raise the tax all the way to the top and it was a community decision that would put them on par with many of these counties. Mr. Hixenbaugh stated when reading this, he thought the two major changes were the Tourism Capital Investment Fund and the additional 0.4% that would be geared toward the Mishawaka sports complex and asked Mr. Rea to expand on that. Mr. Rea stated throughout his history working in the city of Mishawaka, they never had anything specifically targeted toward Mishawaka and what the

greatest opportunity they believe would be getting that to 1% would be critical to the formula. Mr. Rea stated this would be really important for the hotels and the sports complex would be aimed for winter months to fill a gap and drive other business in the community. Mr. Rea stated their hope was they had a chance to boost restaurants, retail, and other businesses on the Northside and stimulate the economy by building product that will help keep these establishments busy.

Mrs. Voelker asked in regard to Compton generating revenue if that was inclusive of Notre Dame hockey games or exclusive. Mr. Rea stated that was exclusive and included youth hockey tournaments that happened out there over the years.

Rob DeCleene, executive director of the South Bend Chamber of Commerce, spoke in favor of **RESOLUTION R2021-03**. Mr. DeCleene stated there were just over 5,000 hotel rooms in St. Joseph County. Mr. DeCleene stated it was evenly split almost right down by one-third increments with Mishawaka, South Bend, and the rest of St. Joseph County. Mr. DeCleene stated this number was a lot for St. Joseph County and the construction project at Four Winds Casino would add another 321 rooms along with another 75 rooms under construction in Roseland. Mr. DeCleene stated about two years from now, they would be looking at almost 5,500 rooms. Mr. DeCleene stated in regard to the high wage jobs, they did not have a direct figure and are salary positions and there was a lot of management in that realm with professional sales people, general managers, support managers and others. Mr. DeCleene stated in 2019 pre-pandemic, they had 39,000 hotel room nights as a result of youth sports not affiliated with Notre Dame sports. Mr. DeCleene stated just last year in 2020, they still did over 20,000 sports nights with sports tourism and all of this happened without the sports complex. Mr. DeCleene stated they were very excited about it and it could be a game changer. Mr. DeCleene stated Compton taught them what they can do, because with a facility like that paired with the icebox in downtown South Bend, it brought to the forefront the strategic advantage they had which was location. Mr. DeCleene stated they had everything but Grand Park and Grand Park did not have what they had, in an analogy form. Mr. DeCleene stated this would be hugely impactful to not only Mishawaka hotels, but St. Joseph County as well.

Mayor Wood, spoke in favor of **RESOLUTION R2021-03**. Mayor Wood stated in essence, this resolution supports senate bill 164 and although the bill was not perfect, they were there to support it to benefit Mishawaka and the greater region. Mayor Wood stated it would take them to 1% of the Hotel-Motel Tax and prior to last year, they had received no dedicated funding for that. Mayor Wood stated this dedicated funding source would be big for Mishawaka and it would help them develop an athletic complex and the studies said that Mishawaka would be the spot for it. Mayor Wood stated this was the perfect timing with funding coming in and them being prepared for it. Mayor Wood stated when going to other communities to see what they had done, Mishawaka was very well suited for this and they believed that they had the infrastructure in place to support this. Mayor Wood stated it was uniquely situated close to travel amenities such as the Indiana Toll Road, Capital Avenue, and between Douglas, Cleveland and just east of the Juday Creek Golf Course. Mayor Wood stated it would lead to more economic development and more people coming to Mishawaka. Mayor Wood stated they were in the hole of the doughnut with a great site and they had a great partnership ready to go with Dedicated Funding and they believed this would be huge for the city of Mishawaka along with the greater region. Mayor

Wood stated they were still in the process of studying and were looking to expand it a bit to include things such as ice sheets. Mayor Wood stated it was his goal to break ground in 2021 and they would be pretty close by conclusion of the project. Mayor Wood stated they knew it would be a major driver of 'heads in beds', bringing people in to support this facility and their local economy as well. Mayor Wood stated this would feed the beast, referring to the second or third biggest retail restaurant market anywhere in the state of Indiana. Mayor Wood stated they were ideally set up for this and stated this would be a major economic development project for them.

Mr. Hixenbaugh thanked everyone for their work on this resolution and acknowledged the work of Senator Niezgodski and appreciated his work on behalf of the community to be added to the mix in this legislation.

Question was called for at 7:32PM for **RESOLUTION R2021-03**  **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. The resolution passed 9-0.

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

PROPOSED ORDINANCE NO. 2021-09

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
RESCINDING RESOLUTION NO. 2010-21 AND RESOLUTION NO. 2012-03
PERTAINING TO PETITIONS OF THE MISHAWAKA BOARD OF ZONING
APPEALS FOR THE PROPERTY LOCATED AT: 1802 WEST SIXTH STREET
Rescinding Resolution NO. 2010-21 and Resolution No. 2012-03 – A Use Variance for the
Property, permitting commercial automotive body repair/maintenance shop – 1802 West
Sixth Street**

Clerk Block stated she had proof from the police officer that took the notice to Piper's and also had proof of a certified return receipt requested. Mr. Hixenbaugh stated the record will reflect that the notice had been delivered.

Mr. Emmons reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire committee upon a second by Mr. Compton motion carried. A roll call vote was held for the Committee Report.

 **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 Committee Report passed 9-0.

Mike Trippel, Council Attorney, spoke in favor of **PROPOSED ORDINANCE NO. 2021-09**. Mr. Trippel stated he had drafted the appropriate ordinance that would rescind previous actions of the council and the Board of Zoning Appeals approving use variances for the property at 1802 West Sixth Street. Mr. Trippel stated there were various violations regarding written commitments and related pursuant to the previous passages and he would be glad to have Mr.

Hinkle address those specifically. Mr. Trippel concluded stating he would be happy to answer any questions the council had.

Mr. Emmons thanked Mr. Trippel for his work in drafting this proposed ordinance. Mr. Emmons stated it had been a long time coming and he appreciate his work.

Pat Hinkle, Corporation Counsel for the City of Mishawaka, spoke in favor of **PROPOSED ORDINANCE NO. 2021-09**. Mr. Hinkle stated by way of history, the use variance originally issued to Mr. Piper stated he would be allowed to operate a commercial automotive body repair maintenance shop within the I-1 Light Industrial District subject to the following conditions. 'The use variance shall be limited to automotive body repair and automotive maintenance, it is limited to indoors, no outside storage of materials and or vehicle parts will be permitted.' Mr. Hinkle stated there were other conditions regarding landscaping and exterior lighting and #4 was 'All employees shall park within the fenced area on the property and not on the adjacent streets.' Mr. Hinkle continued reading 'Overnight parking in the fenced area lot shall be limited to the temporary staging of cars being worked on. This lot shall not be used for long-term storage of vehicles.' Mr. Hinkle stated there was another condition regarding signage and hours of operation, but those had not been an issue and the conditions he had read off were the issues at hand. Mr. Hinkle stated they filed a lawsuit in St. Joseph County Circuit Court, because there had been repeated violations and continued violations with no effort by the owner to cure the violations. Mr. Hinkle stated the complaint they filed was filed on November 5, 2020 and in the complaint they alleged that the defendant, Mr. Piper and the business itself, were in violation of the use variance by engaging in the following conduct: outside storage of vehicles, materials and or vehicle parts, employees parking on adjacent streets, car repairs outside the enclosed building, using streets and sidewalks for staging or repairing vehicles, and long-term storage of vehicles in the fenced in lot. Mr. Hinkle stated attached to the complaint were a number of citations and correspondence from the city to Mr. Piper asking him to comply with the variance as he had promised to in the past with the council and he had not done any of that. Mr. Hinkle stated the court ordered him to comply by March 4th and if he did not, the court would proceed with the trial scheduled for March 26th. Mr. Hinkle stated if he did comply by March 4th there would be no trial and the compliance would have to be to the satisfaction of Ken Prince, City Planner, as he is a main plaintiff in the case as required to do by statute. Mr. Hinkle stated the ordinance drafted by Mr. Trippel was at the request of Mr. Emmons and thanked Mr. Trippel for doing so. Mr. Hinkle stated he would be happy to answer questions and this was all of the background he had on this issue.

Mrs. Voelker asked if Mr. Piper would be in compliance by the time the court date occurs, if he would be able to continue to operate his business. Mr. Hinkle stated it would have to be by March 4th because March 5th they would have a conference with the judge and the parties would inform the judge whether or not Mr. Piper would be in compliance. Mr. Hinkle stated if Mr. Piper were in compliance at that time, the judge would continue to try him. Mrs. Voelker asked if they rescind the variance that evening and Mr. Piper were to come into compliance by March 4th if he would not have a variance to operate. Mr. Hinkle stated that would be true and presumably he would have to reapply for a variance. Mr. Hinkle stated there was also a purchaser present that evening interested in buying the property and if the variance were rescinded, that purchaser would have to convince the council to reinstate it.

Mr. Emmons thanked Mr. Hinkle for his work on this variance along with Mr. Trippel's work and Mr. Prince's work on the ordinance. Mr. Emmons stated it had been long overdue to correct this situation that had been out of hand with the neighbors complaining and himself getting numerous phone calls and he was glad to say all the problems could come to an end. Mr. Emmons stated Mr. Piper neglected to live up to the variance he fully agreed to when it was signed and disregarded it on a number of occasions and Mr. Emmons did not see anywhere that it was going to be changed. Mr. Emmons stated as of that day, the lot was still packed with cars, cars on the street and he did not see anywhere he had tried to abide by the variance he had and he believed the council needed to take action to rescind it.

Mr. Bellovich asked if Mr. Piper responded to any letter from the administration at any time. Mr. Hinkle stated he had not. Mr. Bellovich asked if they had seen any effort at all to comply with what he was expected to do. Mr. Hinkle stated there was no effort to comply and the only time they received a response was when they filed suit against him and he responded by attending the telephone status conference with the judge. Mr. Hinkle stated Mr. Prince had tried to get Mr. Piper to comply several times and even offered to go out there and walk through the property with Mr. Piper and tell him exactly what it was he needed to do to fix the issues and Mr. Piper never contacted Mr. Prince to set up a time to do that. Mr. Hinkle stated they all had asked to go, including himself, Mr. Prince, and another member of Mr. Prince's staff, to go out and help him. Mr. Hinkle stated at the same time, Code Enforcement had been monitoring him and issuing citations for parking on the sidewalk along with other violations. Mr. Hinkle stated not only had he been violating conditions he agreed to when he received the variance, but he also had been violating Building Code requirements. Mr. Hinkle stated he had only been with the city for a year, but after everything he had read along with all of the documents and after speaking with Mr. Emmons he saw it had been an ongoing problem for years.

Mr. Mammolenti asked if Mr. Hinkle had a number of citations that had been written over the course of the original variance. Mr. Hinkle stated they were attached as an exhibit to the complaint and they had a 26-page exhibit with letters from Mr. Prince along with photographs showing the same vehicles parked in the lot over long periods of time. Mr. Mammolenti apologized and stated he was making a point that a plethora of emails, phone calls, and citations had been issued to that business and asked if that was correct. Mr. Hinkle stated that was true and Mr. VanNevel with Code Enforcement was continuing to cite and some of the later citations were not part of the exhibit, because they occurred after the complaint. Mr. Hinkle stated it went back a pretty long time. Mr. Mammolenti stated he remembered when this was on their table to be voted on originally and he was almost positive every single council member went to the property to speak with Mr. Piper and got a true understanding of what he was promising to do. Mr. Mammolenti stated he had visited his location several times thereafter and spoke with him and had a mutual agreement with Mr. Piper as to what needed to be done and Mr. Mammolenti stated it was a sad situation, because he was a busy mechanic who put out a good product and if he could just follow the rules in the agreement, they would not be in the position they were in. Mr. Mammolenti concluded thanking Mr. Hinkle for his efforts and all of those who were involved.

Mr. Hixenbaugh asked with regard to the ongoing litigation, at any point in time as part of the proceedings had Mr. Piper made any representations to the court that he had remediated any of the shortcomings noted. Mr. Hinkle stated at the last status conference, Mr. Piper told the judge he purchased equipment that would allow him to start moving vehicles, but the weather hit and interfered with his ability to do so. Mr. Hinkle stated the judge seemed encouraged that he would get these things resolved by March 4th so there would not be a hearing held and the judge said he did not want to hold a whole day open for a trial if it were to get resolved. Mr. Hinkle stated he was clear to Mr. Piper that he wanted him to do these things although there was no order. Mr. Hinkle stated he also warned Mr. Piper that he could not represent a corporation and a corporation was one of the defendants in this case. Mr. Hinkle stated Mr. Piper indicated that he did not have the resources to hire a lawyer and it was a mess for the court, the council and the city of Mishawaka. Mr. Hixenbaugh asked if it was correct that the representation made by Mr. Piper to the court was he had begun preparations to address the areas of noncompliance, but there had been no representations that these various issues had been addressed and brought to compliance. Mr. Hinkle stated that was correct. Mr. Hixenbaugh asked, with respect to the current status of the litigation, as he understood it was set for trial. Mr. Hinkle stated that was correct. Mr. Hixenbaugh stated subject to some interactions between the parties to try to confirm if there had been compliance on the part of Mr. Piper and asked if Mr. Hinkle was aware of any orders of the court that preclude the council from taking the action that was suggested by the proposed ordinance in front of them. Mr. Hinkle answered no. Mr. Hixenbaugh asked if Mr. Hinkle were aware of any intangible efforts on the part of Mr. Piper to try to bring the property into compliance with the requirements of the use variance. Mr. Hinkle answered no. Mr. Hixenbaugh thanked Mr. Hinkle.

Johnathan Piper, 222 Borley Street, spoke in opposition to **PROPOSED ORDINANCE NO. 2021-09**. Mr. Piper stated he had no excuses but he had been going through a divorce for three years, everything had been locked down, he couldn't get rid of anything or move anything and they had made progress by moving 5 cars out of there already. Mr. Piper stated he had cleaned out some of the building by taking 6,000 pounds of stuff out of the building. Mr. Piper stated they are moving cars and the snow was hindering them a lot. Mr. Piper stated the buyer for the building was present and he did not want the business the way it was and he just had to get through his divorce to get to the point where he could do something about it. Mr. Piper stated it was just him and he got to March with the judge and they were moving things. Mr. Piper asked if they could let it go until the March date with the judge and see if anything changed, because that's all he had. Mr. Piper stated he could not defend anything going on and they were moving things and did not believe he needed proof to say that. Mr. Piper stated everything was planned in his mind the way it should have been and the way it was talked about and for it to get to his point now he did not have a working crew any longer. Mr. Piper stated he was down to 3 people inside of the shop and had just enough work to maybe keep the business open and that was why he got the buyer to purchase it, so he could become a tenant rather than a landlord. Mr. Piper stated other than that, he did not know what else to say.

Mr. Hazen stated he wished he would have responded back to the city and showed some kind of effort that he was working on it. Mr. Hazen stated it was very frustrating as a businessman to know a man who was trying to save his business had no communication with anyone and came to the council last minute and asked for help. Mr. Hazen stated it was putting the council in a

hard spot. Mr. Piper stated the judge had a date and regardless if he did not comply by that date, he would do what he had to do as well. Mr. Piper stated all it would do was chop his legs out from under him just to get to that point and it would be the same thing at that time. Mr. Piper stated he would have customers and clientele that he would have to finish up and he would not know how to handle that.

Mr. Emmons stated Mr. Piper had been before them a number of times and it had been over 10 years since the variance had been put in to have the auto shop and from day one basically they have had problems. Mr. Emmons stated he had not complied to the variance guidelines that the variance stipulated and after 10 years have put up with a business that did not adhere to the variance and the people in the neighborhood had been upset over him breaking his promises. Mr. Emmons stated Mr. Piper lied to him and he lied to the neighborhood and after Mr. Emmons went around to get the people to support him, Mr. Piper stabbed him in the back. Mr. Emmons asked rhetorically how could he support not accepting the proposed ordinance after he had done nothing to improve the facility. Mr. Emmons stated the proposed ordinance was for the outside, not the inside and it had been that way for 10 years. Mr. Piper interrupted stating he had cleaned the outside too. Mr. Emmons stated he hated to dispute him, but he did not see where that was true. Mr. Piper began to interrupt Mr. Emmons before Mr. Hixenbaugh interceded and stated it would work much better if when one person was speaking, the other allowed them to finished and he promised Mr. Piper they would allow him to say what he wanted to say. Mr. Hixenbaugh asked him to extend that courtesy to Mr. Emmons. Mr. Emmons thanked Mr. Hixenbaugh and continued stating Mr. Piper basically lied to the community on not keeping his word on the variance that they approved for him to have a business in that area. Mr. Emmons reiterated that it had not been over the course of one year, but a number of years and he had cars that had sat there for years and not been moved. Mr. Emmons also stated on top of the violations in the fenced in area; he also violated on street parking by having cars needing repaired parked there and the neighbors of that area had been frustrated, because they couldn't park there. Mr. Emmons concluded stating he would approve the proposed ordinance to cancel the variance. Mr. Piper stated he moved cars and wouldn't be saying he had if he did not. Mr. Piper stated there were way too many cars out there and even if he moved only a couple of them, it would be hard to tell the difference. Mr. Piper stated the cars were not his and the owners of the cars had not been picking up their phones when called. Mr. Piper stated the city could tag them and he could not force people to take care of them themselves. Mr. Piper stated it was not about finding the owners, it was about getting them moved. Mr. Piper stated he was also still trying to do a lot of work and he was way behind. Mr. Piper stated for the last 3 years he knew the cars had not moved, because he could not touch them and it was all marital assets so he could not do anything with them. Mr. Piper stated his ex-wife was 51% owner of the business and his hands were tied to basically do anything. Mr. Piper stated the new owner of the business would only buy it if the variance stuck with the business and that would deplete the sale. Mr. Piper stated it was an abandoned building before he made a business out of it and even though he did not comply with everything, he believed he was a good asset to the community. Mr. Piper stated he could get a petition of all of the people he had helped, because they had done that in the past and he stated he was not a bad guy. Mr. Piper stated he was a worker and he was not a businessman and he did not respond to things because he did not know how to deal with it in the appropriate manner. Mr. Piper stated he called back but he could not do anything at the time but he was present that night

and he was hoping the judge would give him a chance. Mr. Piper stated it had been 10 years so another couple weeks would not make a difference, but it would in his life and in the community.

Mr. Compton asked what the initial zoning of the property was and if they repealed it, what can operate in the building. Mr. Hixenbaugh stated they should wait until Mr. Piper stepped away from the podium and Mr. Prince could step forward to touch on that question. Mr. Hixenbaugh stated it was a good question. Mr. Compton then stated he looked on the map and counted 48 cars on the lot and believed the picture had been taken sometime during the summer given there was no snow on the ground. Mr. Compton stated here they were at the eleventh hour and this was the first he had heard about this and even though Mr. Piper had marital issues among others taking place in his life, he did not communicate with Mr. Hinkle, Code Enforcement, or whoever had cited him for his issues. Mr. Compton stated they were left with not many options and stated his question would be what the property was zoned for and if the variance involved outside storage of vehicles, then his thought was Mr. Piper could operate without it. Mr. Compton stated whether someone else would want to buy the building or not would be a completely different situation. Mr. Piper stated the divorce had been going on for 3 years and that would be at the point where he could not do anything. Mr. Compton stated it came down to communication and to his knowledge, this was his first time hearing about this and possibly was the first time most of the council heard about it as well, to his knowledge. Mr. Compton stated without that communication, they had nowhere to go except to continue down the road to the collision point. Mr. Hixenbaugh followed up Mr. Compton's question stating after reading over the proposed ordinance again, in the second paragraph there was reference made to the underlying zoning of the parcel being I-1 Light Industrial and Mr. Prince could expand upon that.

Mr. Mammolenti thanked Mr. Piper for coming out and giving the council a long overdue explanation. Mr. Mammolenti asked how many of the indoor cars he had been able to move or contact the owner. Mr. Piper stated he contacted the owner of three cars and the rest of them, he had alternative storage so it was not an issue of how many cars he could put but he needed to move them from that property out there so he did not break any laws. Mr. Piper stated he had plenty of storage for the cars to take them out of there and move everything out that did not pertain to the shop. Mr. Mammolenti asked if his ex-wife being 51% owner of the business influenced the sale of the business or if it had been signed off. Mr. Piper stated it had not been signed off and in the court proceedings for the divorce as of January, they left him the building but her name was still on it. Mr. Piper stated she would not contest him moving anything because she had no want to have anything of what's left of the shop. Mr. Mammolenti stated the reason for the question was he had presented that he would sell the business to a person in the audience and he would just be a tenant. Mr. Mammolenti asked if that was correct and Mr. Piper stated it was. Mr. Piper also stated from that point on, he would be a better businessman than he would be and whatever issues would arise he could handle it and Mr. Piper could be a worker.

Brandon Arispe, 19645 Glendale Avenue, spoke in favor of **PROPOSED ORDINANCE NO. 2021-09**. Mr. Arispe began wanting to ask the council a few questions starting with why this had been let go for 10 years before bringing it up. Mr. Arispe stated this gave Mr. Piper the sense that they would not do anything to him so he could slide by and that was probably what he was trying to do. Mr. Arispe stated he was not right and he was wrong, but if you were to break the rules and nothing happened to you why would he not keep breaking the rules. Mr. Arispe stated going

on for 10 years and asked where Code Enforcement was for the last 10 years. Mr. Arispe stated cars on the street was the major issue and stated hypothetically he would be very upset if he were in this situation and had to come home to cars parked in front of his house. Mr. Arispe believed the cars should have been towed and did not think that had happened. Mr. Arispe stated Code Enforcement should have been taking care of the cars. Mr. Arispe asked for clarification on the variance and if it states that 'there was no materials or car parts allowed in the fenced area.' Mr. Hixenbaugh stated that was accurate. Mr. Arispe asked as long as it was not materials or car parts, then physical cars would be okay to be inside the fenced area. Mr. Hixenbaugh stated actually the variance said no outside storage of vehicles, so the entire vehicle along with the sub parts were also subject to the use variance. Mr. Hixenbaugh stated this would be an opportunity for him to make comments and if he wanted to ask the council rhetorical questions it would be up to the council whether they wanted to answer them and perhaps draw in the attorneys, staff and other folks who can answer them. Mr. Hixenbaugh stated it was not an opportunity for Mr. Arispe to interrogate the council but he would allow him to continue and ask his questions. Mr. Arispe stated he was trying to buy the building and as far as Mr. Piper's statement of wanting to be a tenant, that was not going to happen. Mr. Arispe stated Mr. Piper could work for him and he was a good worker. Mr. Arispe stated he had seen him do work for everyone in the city of Mishawaka and he did not believe Mr. Piper never had a reputation of not getting work done. Mr. Arispe again stated he was interested in buying the building and he had the funds available to do so. Mr. Arispe stated he could not buy the building if the variance was rescinded and he wanted to have an auto body shop, because owning a body shop was a staple in his family growing up. Mr. Arispe stated he spoke to Ken Prince and relayed that he was interested in purchasing the building and explained he would make sure everything was in compliance of the variance. Mr. Arispe stated he knew he would have to put a good amount of money into the business because it was not in the greatest of shape. Mr. Arispe stated he would not run a business that he would not feel comfortable bringing his products to. Mr. Arispe stated he would love to have Mr. Piper as a worker but not as a tenant, meaning no disrespect to him. Mr. Arispe stated first and foremost, the cars on the street needed to be taken care of immediately. Mr. Arispe stated he believed Mr. Piper was a good person for the community in Mishawaka and when you heard about getting cars painted you thought about Piper's for a long time. Mr. Arispe stated he had been trying to buy the building for over a year and he had been continuously told by Mr. Piper he could not do that, because of the pending divorce. Mr. Arispe stated he would like to get the process done without an attorney and Mr. Hinkle said he may need an attorney. Mr. Arispe stated he would do what need to be done, it was nothing tough to complete the process, and it was solely about the cars. Mr. Arispe concluded stating Mr. Piper was a good guy, but he dropped the ball on this and he was asking for the opportunity to pick it up a little bit.

Mr. Emmons stated he took offense to Mr. Arispe saying they had done nothing for 10 years and this had been an ongoing situation with Mr. Piper from almost day one after signing the agreement with the variance. Mr. Emmons stated the neighborhood did not want the junk cars sitting out there on the street and it was not a junkyard, but that is what it had become unfortunately. Mr. Emmons stated they had been fighting with Mr. Piper for longer than 10 years and right after Mr. Emmons had been elected to the council, he had run on the situation of Mr. Piper's promise to the neighborhood that he would run a good business, abide by the variances, have no cars or junk outside, no cars parked on the sidewalk or the street and from day one when he had received the variance it went right out the window. Mr. Emmons asked why he would

believe Mr. Arispe because he stated in his comments he would want to keep cars outside and that was not what the neighborhood would want or what the variance stated. Mr. Emmons concluded stating he took offense to Mr. Arispe's comments of them neglecting their duties with Mr. Piper. Mr. Arispe addressed Mr. Emmons stating he did not mean to offend him, but it did not take 10 years to get the meeting that night to rescind it. Mr. Arispe stated in year 2 it could have been rescinded or in year 7 it could have been rescinded but it was not and he was just asking why it was not rescinded then. Mr. Arispe stated he understood it had been a long time and he along with others went to bat for someone who let him down and made him look bad, but at some point during the 10 years it should have come to a head. Mr. Emmons stated they had tried to work with Mr. Piper and Mr. Prince, his staff, and the past attorneys had tried to get Mr. Piper to turn it around so he could have a successful business. Mr. Emmons stated he would not comply, answer reports, answer citations, answer Mr. Prince's office, or answer Mr. Hinkle's office. Mr. Emmons stated it was wrong to say they did nothing for 10 years and they tried to work with him, but it came to a conclusion that they could not. Mr. Emmons stated it was a disrespect to the neighborhood and they wanted to fix it. Mr. Emmons started their police department and Code Enforcement had other things to do than 100% of the time going over and inspecting Mr. Piper's property and they got tired of it. Mr. Emmons stated he was sorry that Mr. Arispe may not get the building, but maybe after they got it cleared away he could come back to the council and they could discuss the situation with him. Mr. Emmons stated right now, they needed to pass the proposed ordinance to cancel the variance Mr. Piper had on the property and it had been a huge nuisance. Mr. Arispe asked if there was any paperwork sent out over the last 10 years or if it had been word of mouth to each other trying to help each other. Mr. Emmons stated there had been paperwork and word of mouth, along with the police going out to the business, Mr. Prince had been out there along with Mr. Hinkle and Mr. Emmons himself and there had been a paper trail for years. Mr. Arispe asked if there had been any type of creative option. Mr. Emmons stated no, right now they needed to get it settled and start anew. Mr. Arispe asked if there were an amount of days they were willing to agree to. Mr. Emmons there will not be because they had given them 10 years. Mr. Hixenbaugh stated he felt they had been re-plowing the same ground over and over and asked Mr. Arispe if he had any other comments he wished to make to the council. Mr. Arispe stated he would like to buy the building and operate the same business under a different name. Mr. Arispe also stated he wanted to be a part of the community and he would do whatever necessary to expedite the process to show the council what he can do before even purchasing the building. Mr. Arispe stated the council had the power to take it away or give it and he didn't want to buy the building just for it to sit there.

Mr. Prince addressed Mr. Compton's question regarding the underlying zoning and any other items he wished to address. Ken Prince, City Planner, stated it was zoned I-1 Light Industrial and if the variance was revoked, auto repair would not be a permitted use so that would have to cease. Mr. Prince stated under the many permitted uses in the I-1 district, auto repair is not one. Mr. Prince stated after hearing the discussion that evening, he stated he agreed with what Mr. Trippel had put together and what Mr. Emmons suggested in terms of revoking the variance, because it was based to protect the neighborhood and the community. Mr. Prince added that if they were to revoke the variance by the ordinance that evening, his fear would be for them to enforce that as a legal mechanism would open up another can of worms. Mr. Prince stated Mr. Hinkle had very capably ushered this through court over a series of months that was now coming down to a court order in March and he would much rather had this weighing over their head in

order to get change on the property and get it cleaned up knowing of the pending court case. Mr. Prince asked if they revoked the ordinance that evening, what would happen in terms of an enforcement action and if that restarted the clock ticking as a result of the action. Mr. Prince stated because now the variance they were trying to get enforcement on was no longer in use because it would be revoked. Mr. Prince stated he would almost rather see the council leave this as a manner pending the outcome of the hearing and then revoke it and that would by default, though they did not deserve another chance to clean up the property, but in that time should they make progress that could be a consideration of the council in the future refraction of the variance. Mr. Prince stated he would answer any questions and he realized it was difficult and it was very important that the outcome was the same at the end, but he was worried of what would happen to the process of how they get there if the council were to move forward that evening.

Mr. Hazen asked if they could amend the proposed ordinance that evening to make it effective the 26th and if that aligned with the court. Mr. Hixenbaugh stated they should let Mr. Trippel weigh in first in particular to Councilman Hazen's suggestion with the amendment. Mr. Hixenbaugh stated he would prefer to see the matter postponed until after the date rather than amend the ordinance so they were able to consider all of the facts at the time and that was his personal opinion. Mr. Trippel stated certainly any amendment as being suggested as reasonable enough for the council's discretion, but his problem was he did not want to apply to much on the litigation because Mr. Hinkle was handling that for the city and he did not want to take any steps that would disrupt his ability to continue the enforcement mechanisms that are put in place with the lawsuit on file. Mr. Trippel stated one of the things Mr. Hinkle could address was if the council was inclined to move forward that evening to rescind, he would have to amend his complaint to add that the council was taking action to descend special use because that would change dynamics in the litigation. Mr. Trippel stated the additional dynamic would not give Mr. Piper the legal right to operate on the property and to some extent it would help the litigation, but how that procedurally would move forward from a timing perspective, he would rather have Mr. Hinkle address that.

Clerk Block stated she was being asked to advise the council members to speak closer to their microphones.

Mr. Hinkle began he received a call today and he did not know who was who in the purchasing process and that concerned him and he had also sent the council a letter with the order and even if they won the trial and if Mr. Piper were ordered to comply with the variance and pay a fine, it would not be over. Mr. Hinkle stated he would have 30 days to appeal and after 30 days if Mr. Piper were not complied they could enforce a judgement and that was the hard part of any lawsuit. Mr. Hinkle stated he would not voluntarily pay any money or comply with the variance and he may even file for bankruptcy, which would stay any efforts made at collection or enforcement. Mr. Hinkle stated if they rely on the lawsuit, they could be looking at another 6-8 months of no compliance and not anything they could do to the lawsuit. Mr. Hinkle stated if the variance were changed, they still would have the enforcement problem but that was more immediate and he would have to do more research on that to determine how long it would take to get that enforced. Mr. Hinkle stated in any event, unless there was corporation and they do what they had not done before, it would still take a while to remedy the situation. Mr. Hinkle stated he knew it was frustrating for the council and it was frustrating for him as well as the Corporation

Counsel for the city. Mr. Hinkle stated the court system relied on people cooperating and they had someone who repeatedly had not cooperated, so even if they did follow through with the trial and got a judgement in their favor, they would still have a judgement to enforce and that would be about worthless. Mr. Hinkle stated the next step then would be getting the sheriff involved and that could take months. Mr. Hinkle stated that's what he was concerned with and the deadline set by the judge was simply a deadline to decide whether or not they would have a trial on March 26th. Mr. Hinkle stated Mr. Piper was not under any order at that point to clean it up and the judge ordered him to do something by then or not do it, but in any event that was the deadline to get off the hook to go to trial on March 26th. Mr. Hinkle stated it would not no matter what happen on March 4th, because that was simply the deadline posed by the court for Mr. Piper to be able to say to the court that he had complied with what Mr. Prince outlined to do and if they could continue or delay the trial. Mr. Hixenbaugh stated he would try to summarize what Mr. Hinkle had just laid out for clarity. Mr. Hixenbaugh began by addressing Mr. Trippel's question and asked what complicating factors would that visit upon Mr. Hinkle as the attorney representing the city and Mr. Prince in the pending litigation. Mr. Hinkle stated Mr. Trippel suggested he could amend the complaint and he had agreed with that. Mr. Hinkle stated but now that the council rescinded the variance, now he is in violation of the variance and zoning ordinance itself. Mr. Hinkle stated he is now violation of the law and specifically the zoning status of the area. Mr. Hixenbaugh asked hypothetically if the council took action to revoke the use variance, litigation would be still pending and they would have to amend the complaint, but at that point in time if there continued to be an auto repair shop that was operated on the site, would it in fact be the case that that element of non-compliance would have to be litigated and then along that same timeframe laid out for the council. Mr. Hinkle answered he would have to amend the complaint to add that in. Mr. Hinkle stated he would first have to file a motion of leave to the court to amend the complaint and add a new count relative to the action the council would take and if the court were to grant him the opportunity to amend the complaint, then that would become an issue tried at the trial. Mr. Hinkle stated that would then delay the original trial date, because the court would have to give Mr. Piper time to answer. Mr. Hixenbaugh asked if he believed it would provide him with any further leverage, with purpose to the litigation, that the potential action of the council to revoke the use variance is pending as opposed to being acted upon that evening. Mr. Hinkle stated it would probably be an advantage to Mr. Piper, because one of the reasons the court valued the property at \$225,000 was because the city had not done anything to rescind the variance. Mr. Hinkle stated Mr. Piper's lawyer argued the city would likely rescind the ordinance and the court stated they had not done it or sent out a notice they would do so (at that time). Mr. Hinkle stated he would have to think about how the potential action to revoke the variance affected him, because it was the same judge in both of Mr. Piper's cases, the divorce case and his business' case. Mr. Hinkle stated it would be another hammer that the judge could order the variance be rescinded and he would not be able to sell it and Mr. Hinkle stated ultimately, Mr. Piper would not have to do anything until an order from the judge is entered. Mr. Hinkle stated Mr. Piper had the hammer over his head at that time. Mr. Hixenbaugh thanked Mr. Hinkle for his answers.

Mr. Mammolenti stated he believed the council were all in agreement that the ultimate goal was to get the property cleaned up as quick as possible and asked if that were correct. Mr. Hixenbaugh stated it was. Mr. Mammolenti asked if it would behoove the council to entertain a further discussion with Mr. Arispe because he could potentially clean up the property in 20 days

or so if given the opportunity and Mr. Mammolenti was fearful if the variance was rescinded, Mr. Piper would no longer operate his business and not clean up the premises. Mr. Mammolenti stated they would still be stuck with the same problem and believed perhaps a discussion with Mr. Arispe, barring a purchasing agreement, could be helpful. Mr. Emmons stated it was not Mr. Arispe who was at the meeting that evening. Mr. Mammolenti stated he was referring to the gentleman who came before the council who wanted to buy the business. Mr. Hixenbaugh thanked Mr. Mammolenti.

Mr. Compton made comments stating this had been going on for quite a long time and he did not realize it was over a span of 10 years. Mr. Compton stated he had been hearing about the vehicles in how they could not get moved and the time it took to get leans and he heard Brandon saying he could get them moved and wondered what he could do that did not get done before. Mr. Compton stated he did not see that dragging this on any further would be helpful. Mr. Compton stated he could support delaying this to help the city and Mr. Hinkle and maybe the Piper's but he had not been hearing that that would be helpful either. Mr. Compton stated it took forever to get to this point and the wheels of government, they all knew, could turn very slow and they rely on people doing what they are supposed to do. Mr. Compton stated the civil suit could carry on for a long period of time if parties who are supposed to react to it choose not to and you can't put a person in jail for it, making that threat disappear. Mr. Compton stated he would support the proposed ordinance as it was at that point until he heard something different that would help him understand or explained why he should not.

Mrs. Voelker stated she remembered Mr. Piper coming in front of the council about those very issues and believed it had been when she was first on the council in 2013, but thought it could have been more recent than that. Mrs. Voelker stated this had gone on for many, many years and she was reminded from when Mr. Piper was there before talking about the fact that he did not have title to the cars and couldn't move them, which was years ago. Mrs. Voelker stated to her, this was a problem that had not been solved to that point and she did not feel confident it would be solved. Mrs. Voelker stated after hearing the potential buyer, Brandon, that night, she did not believe the site would be feasible for the type of business being operated there now and given they need outside storage for vehicles, which the variance did not allow. Mrs. Voelker stated she would support the ordinance as written that evening.

Mr. Hixenbaugh added that it was unfortunate they were at that point. Mr. Hixenbaugh stated they all enjoyed the work they did as members of the council, because the Mr. Pipers of the world are exactly the type of people they wanted to help and see thrive in Mishawaka by allowing them to take advantage of a use variance and do the good work they hoped they would do. Mr. Hixenbaugh stated he never had done any business with Mr. Piper, but had casual interactions with him in the past and heard nothing but good things, including that evening, about the work he had done for any number of people they knew. Mr. Hixenbaugh stated the work he did was not the issue, but the unfortunate issue was the business model he adopted did not match up with the commitments made and imbedded in the use variance that he was granted. Mr. Hixenbaugh stated he viewed these as promises to not only the council, but to the community they represent. Mr. Hixenbaugh stated while he might have been inclined to overlook someone who did not keep their promise to him, he struggled with overlooking promises made to the neighbors who lived immediately proximate to the business and to the community in general.

Mr. Hixenbaugh stated Mr. Compton was right when stating they had to operate in a good faith basis and believe people who step to the podium understand what they were agreeing to and intended to commit and live by their promises. Mr. Hixenbaugh stated he would give Mr. Piper the benefit of the doubt and did not believe he conscientiously meant to mislead anyone at any time during the process, but that was irrelevant. Mr. Hixenbaugh stated the facts were that he had not lived up to those commitments and he had intentions to try to bring himself into compliance throughout the process. Mr. Hixenbaugh stated he understood Mr. Piper's comment of this taking him by surprise but that was not true, because this went back to 2010 when these promises were made and all of the conversations, correspondents, and opportunities for Mr. Piper to avail himself of what they typically granted everyone in the community. Mr. Hixenbaugh stated that was the opportunity to tell the council they need help or need some time. Mr. Hixenbaugh stated it was the lack of communication that denied them as a community to give Mr. Piper the break and opportunity to approve what he asked for that evening and that was unfortunate, but what's done was done. Mr. Hixenbaugh stated the sad reality was there were too many code enforcement violations and too many conditions that had not been complied with and as much as Mr. Hixenbaugh as an individual would have liked to give Mr. Piper and the perspective buyers of the property, as a representative of the community he could not in good conscience at that time allow for that. Mr. Hixenbaugh stated he would legitimately be open to Mr. Piper or a new buyer coming forward to the council, start fresh, and make a set of promises to the community they are sure they could keep and also address the problems that already took place in the neighborhood. Mr. Hixenbaugh stated he would be very open to the consideration of that and believed every councilmember would listen to that with an open mind, but it would have to be a real commitment to not having the business model have ripple effects out into their neighborhood and to the larger community that cause people who have invested in their homes to be concerned. Mr. Hixenbaugh stated that would not be fair to them and what caused him a great deal of pause was that anyone who knew that area knew that had been an industrial stretch and he did not think there would be a realistic possibility of someone building a home on that sight. Mr. Hixenbaugh stated even though they did not go through the list of manufacturing uses currently zoned, better be careful what they asked for because if someone else were to pick up property and operated it as a manufacturing concern, they could be trading one set of problems for another. Mr. Hixenbaugh stated they should take pause before considering what they would do that evening. Mr. Hixenbaugh stated because of that element of promise to the community and because of despite Mr. Piper's good faith actions and the desire on the part of another person to step in and live his dream operating there, it was too late. Mr. Hixenbaugh stated he would reluctantly support the ordinance as drafted, but much like Mr. Compton, he would also be open to any thoughts and suggestions the council had.

Question was called for at 8:58PM for **PROPOSED ORDINANCE NO. 2021-09**  **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. 5737.**

NEW BUSINESS

Mr. Mammolenti made an announcement that due to a conflict of schedule, the speaker could not attend the monthly neighborhood watch meeting for the Twin Branch area originally set to take place Wednesday, February 17th. Mr. Mammolenti confirmed there would not be a neighborhood watch meeting on that date, but they would have a meeting scheduled for March 17th at 7PM. Mr. Mammolenti stated they had a speaker confirmed and would announce that at a later time.

ADJOURNMENT 8:59PM

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

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