REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

April 12, 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, April 12, 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.
(Mr. Mammolenti participated remotely)

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

Minutes for the Regular Meeting of March 15, 2021 were approved as received from the Clerk's Office.

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

Appeal 2021-04 Use Variance to allow Tattoo Studio – 110-112 N. Main St.

Petition 2021-03 Rezone from C-1 to R-1 – 1803 Lincolnway West

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

RESOLUTION R2021-07

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A REPORT OF COMPLIANCE WITH STATEMENT OF BENEFITS FOR CERTAIN PROPERTY OWNERS
BD SJRMC MISHAWAKA DEVELOPMENT LLC, LONG TERM CARE INVESTMENTS V LLC, BARAK RIVER ROCK LLC, WELLPET LLC, RIVER WALK DEVELOPMENT GROUP LLC, LIPPERT COMPONENTS MANUFACTURING INC., JAMIL PACKAGING CORPORATION
2020 Tax Abatement Compliance Report

Ken Prince, City Planner, spoke in favor of RESOLUTION R2021-07. Mr. Prince began stating every year by law, each entity that received a tax abatement must complete a required CF1 form from the state that would be ultimately submitted to the auditor. Mr. Prince stated it was the role of the city council as local government to determine whether or not the abatement was met or substantially in compliance to the abatement they received. Mr. Prince stated every year they sent out letters to each entity that received an abatement and would go through them and if they felt like there were discrepancies, they would ask for an explanation and why it occurred. Mr. Prince stated all of the information was compiled by Derek Spier and was sent to the council along with the resolution. Mr. Prince added these were due by May 15, 2021 so if the council had a question about any particular abetment, they would have time to ask for continuance and address it at the next two council meetings. Mr. Prince stated it was their opinion that the 7 active tax abatements in the city were in fact in compliance and he went through them one by one. Mr. Prince stated the first tax abatement was the oldest and for the St. Joseph Regional Medical Center office building. Mr. Prince stated it was acquired after construction by BD Mishawaka Development, LLC. Mr. Prince stated in summary, they estimated this would create 370 jobs with an estimated payroll of $10,555,000. Mr. Prince stated their current employment was 403 positions and a payroll over 3 times of what they had estimated. Mr. Prince noted this was also the last year of compliance and it was a 10-year abatement. Mr. Prince stated the hospital started construction in 2008 and did not complete until 2011, which was why they were reviewing it at that time. Mr. Prince stated it was based on not when the abatement was approved, but when the improvements were completed. Mr. Prince stated the second abatement was Long-term Care Investments. Mr. Prince stated they estimated a total number of 61 full-time equivalent positions and they had currently 72 employed with a payroll of $2,161,000 estimated with them at being at $3.18 million at that point. Mr. Prince stated they were beyond what was approved when the abatement came in and this was another that was another abatement completed and one they would not see next year for reporting. Mr. Prince stated the third abatement was for River Rock LLC. Mr. Prince stated they estimated they would generate 5 to 8 job and currently employed 6 people which excluded the businesses located there. Mr. Prince stated they estimated their payroll at $200,000 and were at a little over $230,000 which put them in compliance. Mr. Emmons asked if this abatement had to do with individuals who had not shown up for a year. Mr. Prince stated no and they had not come in and not followed through in that part of the expansion, so anything completed beyond 5 years from the day of approval, then the addition would have begun. Mr. Prince stated then at that point they would have had to come forward with an amendment and deemed it was beyond coming back and amending the abatement after the fact. Mr. Prince continued stating the next abatement was for WellPet and their existing employment was 115 in 2015 with 4 jobs to be added and the total employment reported was 127. Mr. Prince stated the total payroll listed was a little over $6.3 million which was higher than the $3.89 million they had estimated at that time, putting them in complete compliance. Mr. Prince stated the next abatement was for Riverwalk Development Group LLC was for the apartments in 2017 and south of Mishawaka Avenue. Mr. Prince stated it was approved and the developer then decided to change to a condominium style before COVID-19 hit. Mr. Prince stated they had not started that project, but indicated they would want to start the project later in the year. Mr. Prince noted if they did not start the project by May 2022, their abatement would expire and they would have to bring it back before the council. Mr. Prince stated they felt like Riverwalk Development Group LLC was working on their due diligence and the abatement would be evaluated and moved forward when construction began. Mr. Prince stated the next abatement was Lippert Components. Mr. Prince stated they originally estimated the project was a $7.4 million investment and ended up being a $13.3 million investment. Mr. Prince stated when the abatement was filed, they listed the employment at 247 with an additional 200 jobs to be added. Mr. Prince stated as the council knew, the administration had met with Lippert prior to COVID-19 regarding employment and he was pleased to report at present they were at 395 employees which was a substantial increase. Mr. Prince stated they ended up moving the call center from Sample Street over to the facility and believed they were in total compliance. Mr. Prince stated the total payroll was listed at $19.78 million which was substantially more than the $10.35 million they estimated for the rebuilding. Mr. Bellovich asked if that included anything with their corporate headquarters. Mr. Prince stated it did not include anything involved with the corporate headquarters. Mr. Prince stated the last abatement that was active was for Jamil Packaging and Jamil Packaging was the one that had a drop in numbers, with the total employment reported at 108, a decrease of 31 positions and 43 less than what was projected. Mr. Prince stated Jamil was significantly impacted by COVID-19 and their payroll was listed at $5.385 million which was 10% higher than identified on the SV1 when filed. Mr. Prince finished stating that concluded the overview of the tax abatement presentation and was happy to answer any questions.

Mr. Compton questioned in regard to River Rock the apartments on Mishawaka Avenue, in his mind, the abatement was not given for employment but given as an incentive that would be passed on to renters and encourage people to live there. Mr. Prince stated that was correct. Mr. Compton questioned the capacity, were the apartments full. Mr. Prince stated typically full occupancy would be in the 95% range and the fact that they built 9 additional units recently told him that they were full or close to full in order to take on that addition to the project. Mr. Prince stated they had not verified the percent occupancy of the complex. Mr. Prince argued that the abatement would be to incentivize people living there, but with market competition they fulfilled that requirement by completing the building and if some market condition would change and the occupancy would drop, their abatement should not be contingent on that. Mr. Compton stated he did not mean to sound like it was contingent on that, but as a councilperson that was how he justified supporting it. Mr. Compton stated for that type of abatement that informational helped him and it included the retail. Mr. Compton asked Mr. Prince in these types of abatements if he could get that information for the council and in the future include it in the report. Mr. Prince stated he would get that information and they could hold on it or wait and he would distribute the information. Mr. Compton stated he would not hold and this would not hinge on his vote, but it did give him comfort that it was the right thing to do. Mr. Compton stated it was a struggle in his mind on a residential property that they were giving a tax abatement to or a residential complex and it was not normally what they did. Mr. Compton stated it was about jobs and creating jobs to put people to work and here it did not and it was more about occupancy. Mr. Prince stated he would be happy to get that information for Mr. Compton.

Mr. Hixenbaugh thanked Mr. Prince for the work he and his staff, Mr. Spier in particular, did on this. He suspected everyone agreed with him that the information not only in the letter but the additional documents provided was very helpful. Mr. Hixenbaugh echoed Mr. Compton's comment and his point was well taken and also stated any follow up information with regard to residential components would be well take. Mr. Hixenbaugh stated he struggled with River Walk Development a tad and clearly there were rational reasons why ground had not been broken yet on that and both as originally proposed and even the new concept would be a net benefit for the community. Mr. Hixenbaugh stated it sounded like there was a chance that if construction schedules lined up and they were able to break ground prior to May 2022, they would not have to reinitiate the process and the only re-initiation would be the result of the change in concept or if they went past the ability to break down prior to May 2022. Mr. Hixenbaugh asked if that was correct. Mr. Prince stated both of the points were correct. Mr. Hixenbaugh stated it was a minor concern, but it seemed like since 2017 the original concept was so stale that he felt like when they did break ground that they would lose something in the process. Mr. Hixenbaugh stated it was beyond everyone's control at that point and he would vote in favor of this, but as it played out and they approach the deadline, if they reached a tipping point where it would be legally appropriate to recommend to reinitiate the process or continue under the existing abatement, he would come down on the side of reinitiating in his opinion. Mr. Hixenbaugh stated his hope was things would come together and they would either meet the deadline or the new concept would resolve in and of itself. Mr. Prince stated they had expressed that in their discussions.

Question was called for at 7:18PM for **RESOLUTION R2021-07** **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.

<u>RESOLUTION R2021-08</u>

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, MAKING A FINAL DETERMINATION AND CONFIRMING DESIGNATION OF AREAS WITHIN THE CITY OF MISHAWAKA, INDIANA, KNOWN AS 1121 W 11^{TH} STREET AS AN ECONOMIC REVITILIZATION AREA FOR PURPOSES OF REAL PROPERTY TAX ABATEMENT
Confirming Resolution for Real Property Tax Abatement for Wellpet, LLC 1011 W. 11^{th} Street

Ken Prince, City Planner, spoke in favor of **RESOLUTION R2021-09**. Mr. Prince expressed on behalf of the administration that they believed this was doing right by the community and they had expressed to Wellpet over a long period of time the odor issues coming from the plant and they had worked in good faith to address those issues. Mr. Prince stated they started with an encapsulation system but that did not work out as planned, so the new system proposed could significantly decrease the amount of odors coming from the facility and were whole heartedly in favor. Mr. Prince stated for those watching online that the total investment plan for the facility was $42.6 million. Mr. Prince stated it was only a 90 by 90 addition and it was well over 80 feet and it was appropriate given the location with the closest single family property being over 500 feet away. Mr. Prince stated the equipment itself was over $27.9 million of the investment and the building itself had a value of $14.7 million. Mr. Prince stated when projected out the taxes paid versus taxes abated and if this were approved, the real property taxes appropriated over the next 5 years would amount to $2.227 million and the owner would have $1.336 million abated and would pay $890,000. Mr. Prince stated for the equipment, it amounted to $3.284 million over that period of time and the owner would have $1.97 million abated and would pay $1.313 million in taxes. In short, Mr. Prince stated when you thought of the abatement as an incentive to correct the issue, they were talking about a $42.6 million investment, addressing the odor issue, and an investment that would generate over $2 million in taxes above and beyond the abated amount in the 5-year time. Mr. Prince stated in their opinion, they thought it would be very favorable to the city of Mishawaka and appreciated the council's consideration.

Mr. Hixenbaugh thanked Mr. Prince for his work and Mr. Spier for the work on this.

Doug Mitchell, Director of Operations for Wellpet, spoke in favor of **RESOLUTION R2021-09**. Mr. Mitchell stated they would defer to their previous presentation instead of having an additional presentation and they were happy to answer any questions. Mr. Mitchell concluded thanking the council for the time they spent over the last month considering them.

Mr. Emmons stated they had talked about getting together with the community for a meeting to update them with their plans on how they would eliminate the odor, the type of equipment they would put in and the displacement of the odor. Mr. Emmons asked if they would be willing to meet with individuals surrounding the area sometime during April. Mr. Mitchell stated they absolutely would. Mr. Emmons stated he could not give a definite date at that time, but he was hoping it would be somewhere in the area between the third or fourth Thursday in April. Mr. Mitchell stated the early evening would work for him and he had commitments from the 20th to the 22nd in April but would be available afterward. Mr. Emmons stated he would get back with Mr. Mitchell to confirm a site along with a time and date for a presentation. Mr. Emmons thanked Mr. Mitchell.

Mr. Compton made a comment to publicly support Wellpet in the community with them being in Mishawaka for a long time and started as a family business. Mr. Compton stated he knew it had not always been pleasant with a byproduct of their operation, but he appreciated the efforts they made in the past and the efforts they made now to improve that and what they had done in the community. Mr. Mitchell stated they appreciated the comments and the feedback from the community. Mr. Mitchell stated they made every effort to do the right things for the community and that the work with the neighborhoods to strive to get better.

Mr. Hazen seconded Mr. Compton’s comments and appreciated them going above and beyond over the years. Mr. Hazen expressed his appreciation for their cooperation.

Mr. Hixenbaugh echoed the appreciation for what Wellpet had done as a recipient of prior tax abatements and they would be congratulated for exceeding their own expectations and the council’s expectations with regard to the investment, their employment numbers, and the payroll. Mr. Hixenbaugh believed it had long been a good investment on the part of the community to partner with Wellpet as they continued to expand and do the work they did and employ the people they employed in the community. Mr. Hixenbaugh stated he may have heard Mr. Compton’s comments with regard to another tax abatement of a residential nature and asked for the council to receive additional information regarding occupancy of that building. Mr. Hixenbaugh stated that was different than the information they normally received, but it made sense given the particulars of that abatement. Similarly, Mr. Hixenbaugh stated Wellpet’s request in front of the council that evening had the unique twist to it with the odor control component. Mr. Hixenbaugh stated they were all excited that there was a greater chance of success than any of them would have envisioned not too long ago with regard to addressing the issue. Mr. Hixenbaugh he took some time to look at the website of the company handling the remediation equipment and it was an impressive website. Mr. Hixenbaugh stated it lined up perfectly with everything Wellpet had indicated to them. To his point earlier, Mr. Hixenbaugh stated it would be his hope that as the process moved forward, pending approval, and once they implemented the new odor control machinery, that they would do follow up testing to confirm what they had purchased and put in place was in fact hitting the mark. Mr. Hixenbaugh asked if that was correct. Mr. Mitchell stated they would continue to do testing to ensure they were getting the value they paid for and stated the abatement, while this was one unique twist, was for economic revitalization in the area and they were adding jobs and growth to the business. Mr. Mitchell stated this was one part and as long as they were not pinning the entire abatement on one factor and not the entire package, he was fine with that. Mr. Hixenbaugh stated that was a very fair point and did not think they should ever look past a $42 million investment and focus on one of the smaller components, but in his mind it was a significant component. Mr. Hixenbaugh stated the justification for approving the abatement went beyond the dollar investment that would be made in the odor control and he would struggle, if not unfortunately come down on the side of not voting in favor of the abatement if the odor control component was not in place, because of what he believed was the unintended consequence that had been visited upon the neighborhood as a result of the odor. Mr. Hixenbaugh stated it had a definite impact at that time of the quality of life there. Mr. Hixenbaugh stated this was a great investment in his mind and the problem would not get better if they did not partner with them on the investment to try to remediate the odor issue, but in his mind that benefit was one of the compelling justifications to the abatement. Mr. Hixenbaugh stated he viewed it as being beyond the dollars again and part of the analysis of whether the totality of the benefits as they were obligated to find under the law, justified the abatement. Mr. Hixenbaugh stated his hope was that both in the short term as they implemented the new equipment and on an ongoing basis as they would continue to try to make sure they were getting the bang for their buck that they would invest in this equipment, that as they reported to them on an annual basis any information they could share with regard to the efficacy of the odor control and that would be part of the presentation provided to the council. Mr. Mitchell stated they absolutely would do that and whether it was $42 million or $400,000, they would always try to do the right thing for their community, their business and the city of Mishawaka in general. Mr. Mitchell stated the odor control was a huge part of rebuilding relationships within the direct neighborhoods and that was one of their main goals as well as expansion of the facility. Mr. Hixenbaugh appreciated that and stated they were a valued corporate resident of Mishawaka, good community partner, they did good work in the community beyond the people they employed and the taxes they paid, they did things to support educational institutions and other components of the community, but the investment and dealing with the odor control would really bring it full circle in terms of justifying the community's investment in their operation and their investment in the best interest of the community. Mr. Hixenbaugh thanked him for the work they had done and asked Wellpet to make a note to continue to provide the council with information even before next year's reporting cycle as they had good news to share with regard to the efficacy of the equipment and to pass that along to Mr. Prince or the Clerk's Office and that would be very much appreciated.

Question was called for at 7:33PM for **RESOLUTION R2021-09** **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. The resolution passed

RESOLUTION NO. 2021-09

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, MAKING A FINAL DETERMINATION AND CONFIRMING THE DESIGNATION OF AREAS WITHIN THE CITY OF MISHAWAKA, INDIANA, KNOWN AS 1121 WEST 11TH STREET AS AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF PERSONAL PROPERTY TAX ABATEMENT
Confirming Resolution for Personal Property Tax Abatement for WellPet, LLC 1011 W. 11th Street

Ken Prince, City Planner, spoke in favor of **RESOLUTION NO. 2021-09**. Mr. Prince noted he would like his previous comments in the prior resolution referenced for this resolution as well and stated he was happy to answer any questions.

Question was called for at 7:35PM for **RESOLUTION 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. The resolution passed

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

PROPOSED ORDINANCE NO. 2021-12

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA.
Penn PUD Amendment to allow an 8’ High Anti-Climb Screening Fence to Surround the new Juday Creek Water Treatment Plant – Lot 2 of Juday Creek Business Park – Vacant Land
(Assigned to Land Use Planning Committee)

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

Ken Prince, City Planner, spoke in favor of **PROPOSED ODINANCE NO. 2021-12**. Mr. Prince stated a number of years ago when they brought this PUD Amendment for the water production facility to the council, they identified a number of development standards as a part of it. Mr. Prince stated one of their oversights was the fencing that was needed for security for the operation. Mr. Prince stated per Mishawaka Ordinance, you were allowed a 7-foot high fence and they would like an 8-foot fence and they also, for quality purposes, wanted to use a welded wire mess. Mr. Prince stated by the water tower they were using a picket fence similar to the fence around the cemetery and this was more of a rural character and the welded wire mesh would fit in and would be equal in terms of expense with them both being high quality as well. Mr. Prince stated the significant thing about the welded wire as opposed to chain link was when you would cut it, it would not fall apart. Mr. Prince stated that is why it was such a durable fence and this would be the type of fencing that would be used at a zoo to keep a lion in the cage, for example. Mr. Prince stated with that, he was happy to answer any questions they had and that was the reasoning for the PUD Amendment that evening.

Question was called for at 7:39PM for **PROPOSED ORDINANCE NO. 2021-12** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. Thus, it becomes **ORDINANCE NO. 5740**

ADJOURNMENT 7:40PM

Deborah S. Block /s/	Gregg A. Hixenbaugh /s/
Deborah S. Block, IAMC, MMC, City Clerk	Gregg A. Hixenbaugh, President