

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

May 17, 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, May 17, 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 (P), Mr. Banicki (P), Mr. Hazen (P), Mr. Mammolenti (P), Mr. Emmons (P), Mr. Bellovich (P), Mr. Compton (P), Mrs. Voelker (P), Mr. Hixenbaugh (P).
P: Present E: Electronically participating A: Absent

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

Members attending virtually do so by WebEx. Public that attend can participate by WebEx or observe meetings by YouTube or Facebook live. The Council meetings are also streamed live on Michiana Access on Comcast/AT&T U-verse Channel 99.

Minutes for the Regular Meeting of May 3, 2021 were approved as received from the Clerk's Office.

Clerk Block read the following letter from the City Plan Commission regarding their recommendation from their May 11, 2021 meeting.

PETITION #2021-04

A request submitted by Hack Properties, LLC, seeking to vacate the alley north of Brown Avenue between Forest Avenue and Benton Street.

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

PETITION #2021-05

A request submitted by GW Mishawaka II, LLC, seeking to rezone **5603 Grape Road** from C-7 Automobile Oriented Restaurant Commercial to C-4 Automobile Oriented Commercial District.

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

PETITION #2021-06

A request submitted by Pizza Hut of American, Inc., seeking to rezone **2777 Lincolnway East** from C-1 General Commercial District to C-7 Automobile Oriented Restaurant Commercial.

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

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

PROPOSED ORDINANCE NO. 2021-17

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.

Right of Way alley vacation of 16’ wide alley N. of Brown, S. of Catalpa, between Forest and Benton Ave. for length of 215 feet

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2021-18

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-7 Auto Oriented Restaurant to C-4 Automobile Oriented Commercial – 5603 Grape Road

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2021-19

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

Rezone from C-1 General Commercial to C-7 Automobile Oriented Restaurant – 2777 Lincolnway East

(Assigned to Land Use Planning)

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

PROPOSED ORDINANCE NO. 2021-14

AN ORDINANCE TRANSFERRING FUNDS FROM THE MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE CITY OF MISHAWAKA TO THE LOCAL ROAD AND BRIDGE MATCHING GRANT FUND OF THE CITY OF MISHAWAKA FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2021 AND AN ORDINANCE APPROPRIATING ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2021

Transfer of Funds and Additional Appropriation – Motor Vehicle Highway Restricted Fund \$386,620.00 TO: Local Bridge and Road Matching Grant Fund. Additional Appropriation of Funds to: Local Bridge and Road Matching Grant Fund - \$765,240.00

Mr. Compton reported the Committee of Budget & Finance recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried.

Rebecca Miller, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2021-14**. Ms. Miller stated the first item was an annual ordinance for transfer and appropriation for the community crossings grant. Ms. Miller stated they would be transferring their match from the Motor Vehicle Highway Restricted Fund to the Local Bridge and Road Matching Grant Fund and there they would appropriate the state's grant and their match for a total of \$765,240. Ms. Miller stated this was their first ordinance on street paving that evening and Chris Jamrose, City Engineer, was also present to answer questions.

Question was called for at 7:08PM for **PROPOSED ORDINANCE NO. 2021-14 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 proposed ordinance passed 9-0, thus became **ORDINANCE NO. 5742**.

PROPOSED ORDINANCE NO. 2021-15

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2021

Additional Funds: Local Road and Street - \$250,000 MVH Restricted - \$750,000 for a total of \$1,000,000

Mr. Bellovich reported the Committee of Budget & Finance recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried.

Rebecca Miller, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2021-15**. Ms. Miller stated for the following ordinance, in 2020 it was determined that their MVH funds would be reduced and they were reduced to about \$190,000, so they were conservative in requesting community crossing grants. Ms. Miller stated after careful review of the budget, their cash flow, projections and necessary need for further street repair, they determined out of \$250,000 from the Local Road and Street Fund and another \$750,000 out of the Motor Vehicle Highway Restricted Fund would allow for the capacity to pay an additional \$1,000,000 for street repair for 2021.

Mrs. Voelker asked this would mean they would have \$1.7 million. Ms. Miller stated that was correct and it would be the \$1 million plus their community crossing grant money.

Mr. Hazen stated with the \$12 million they would get they would be able to do Sewer and Water under that and asked if when they go back and pay if they could use that money too and free up

additional money normally used for paving. Ms. Miller stated she did not know if it could be used for paving, but it was being reviewed at that time for infrastructure.

Chris Jamrose, City Engineer, approached the podium to answer questions. Mr. Compton referred to the list sent out to the council and stated it looked as though the southeast part of the city was being concentrated on per the list, along with two repaving projects in the northeast part of the city. He also asked how they determined which streets to repave. Ms. Jamrose stated in order to get federal matching grant funds for community crossing, they had to follow a PSER rating system, which stood for Pavement Service Evaluation Rating, it rated every street every year on a 1 to 10 scale with 10 being fabulous and 1 being horrible. Ms. Jamrose stated per the ratings of 2020, they had 15 miles of rated 2 streets as well as 23 miles of rated 3 streets and 30 miles of rated 4 streets. Ms. Jamrose stated they were supposed to pay for an under, which was critical and because of how last year occurred, they paved the reconstruction projects and very few streets around the reconstruction projects, because they got the best bang for their buck at that time. Ms. Jamrose stated this year, they had \$2.5 million and that was only \$1 million they could figure out how to pay. Ms. Jamrose stated it was a compilation of community crossings, reconstruction projects and all of the pavement going on. Ms. Jamrose stated the \$1 million they were requesting was the worst of the twos. Mr. Compton reiterated so there was a scientific process to determine what needed to be done and appreciated Ms. Jamrose's clarification and stated he did not realize there was a rating process done throughout the city to determine what was next. Mr. Compton stated he was just curious and this year he stated it looked like there was a particular area of the city that was being concentrated on, but now he better understood why. Mr. Compton also asked if the move to pave more alleys was going to take place in the near future. Ms. Jamrose stated they had that movement for 6 years and it was funded through the trash and it was \$40,000 with the alleys being rated similarly to the streets, so they knew which ones were more problematic than others and which ones they had to worry more about drainage than others. Ms. Jamrose stated when they did reconstruction projects, that was a different set of funding and if they were going to pull the street out, they wanted to make sure they gave the residents a place to go. Ms. Jamrose stated if the alleys had not been upgraded, they typically upgrade them first because they are pushing everyone into the alleys. Mr. Compton thanked Ms. Jamrose for her explanation.

Mr. Hixenbaugh thanked Ms. Jamrose for the map she provided and stated it was very helpful along with the alignment of the funding sources. Mr. Hixenbaugh asked, referring to the issues in 2020, if the problem last year was that social distancing and concerns related to the pandemic would not allow paving crews to get out and do the work or if it was a loss of revenue and funding as a ripple effect of the pandemic. Ms. Jamrose stated they had to make decisions for the community crossings in June of every year and she was trying to predict what she would do for next year in June and they had not even talked about budget. Ms. Jamrose stated she would put her package together, submit it and she would find out in September or October if they were lucky enough to get an award. Ms. Jamrose stated they were lucky enough to get an award in 2019 slated for 2020 construction and that construction was a heavy duty dollar value. Ms. Jamrose stated they had already awarded the money and were under construction when they began to find out revenues would be slow, so they worked very hard to cover bills they already made commitments to and through August they did not fit all of what they planned in. Mr. Hixenbaugh stated it sounded to him like in light of everything going on, they were prudent and

judicious in planning things out and how they budgeted for street paving the prior year and they were not going to totally be able to close the gap between what was not done last year, but this was as best they could do under the circumstances and were moving forward. Ms. Jamrose stated that was correct and they cut back their community crossings request last June knowing what they were in for that coming year and not knowing what their distributions would be and how timely they would be. Ms. Jamrose stated they had a contractor they had to pay and were not sure they would be able to get those timely. Mr. Hixenbaugh thanked Ms. Jamrose.

Question was called for at 7:20PM for **PROPOSED ORDINANCE 2021-15. Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus became **ORDINANCE NO. 5743.**

PROPOSED ORDINANCE NO. 2021-16

AN ORDINANCE OF THE CITY OF MISHAWAKA, INDIANA ESTABLISHING THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY GRANT FUND

Mr. Emmons reported the Committee of Budget & Finance recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried.

Rebecca Miller, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2021-16.** Ms. Miller stated the ordinance was necessary to receive their ARP money and put it to use. Ms. Miller stated they were naming it Fund #180 and it talked about the distribution in 2021 and 2022, with them receiving half in 2021 and half in 2022. Ms. Miller stated it referenced the different uses and the administration along with the common council adopting a plan in how to spend the funds. Ms. Miller stated she appreciated Mr. Hixenbaugh's assistance in forming the ordinance.

Mr. Hixenbaugh stated he believed it was important to underscore the point the action that evening would was not set in stone the way the money would be spent. He asked for clarification from Ms. Miller. Ms. Miller stated that was correct. Mr. Hixenbaugh stated there was a great deal of scrutiny of those regulations and a wealth of interaction between the council and the administration needed to take place before they got around to spending the \$12 million they were slotted to receive. Mr. Hixenbaugh stated, for the record, their distribution would be in two large chunks being \$6 million in 2021 and \$6 million in 2022 and it all had to be encumbered by 2024, he asked if that was correct. Ms. Miller stated that was correct. Mr. Hixenbaugh concluded stating there was a lot of work still to do and he appreciated the work Ms. Miller had done and the council appreciated the work she had done with a lot more work to come.

Question was called for at 7:24PM for **PROPOSED ORDINANCE NO. 2021-16. 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 proposed ordinance passed 9-0, thus became **ORDINANCE NO. 5744.**

ADJOURNMENT 7:25PM

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

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