AGENDA

August 02, 2021

Meetings of Standing Committees
Council Conference Room
6:45PM

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
7:00PM

WebEx Telephone Number:408-418-9388
Meeting Number (access code): 173 612 1237
Meeting Password: RPjiJKea582

Livestream #1:
https://www.facebook.com/cityofmishawaka/
Livestream #2: @MichianaAccessTV on Facebook
Livestream #3: Michiana Access TV
(Comcast and AT&T U-Verse Channel 99)

To connect on-line join using Microsoft Lync or Microsoft Skype for Business

Dial:1736121237@mishawaka.webex.com

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of the Minutes of the Regular Meeting of July 26, 2021

5. Petitions, Communications, Remonstrance and Memorial

APPEAL NO. 2021-24	Use Variance to allow Microblading/Permanent Makeup - 218 W. Cleveland Rd.
PETETITON NO. 2021-11	Rezone rear portion of property from C-1 General Commercial to R-1 Single Family Residential - 115 Kline St.

PETITION NO. 2021-12 Annexation & Rezoning to the I-1 Light Industrial District for a future expansion of adjacent manufacturing business – vacant land 58200 Block Byrkit Rd. W. of 1405 & 1505 Byrkit Rd.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2021-25 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

P.O. NO. 2021-26 Additional Appropriation:
CARES Provider Relief Fund

Capital Outlays
264-50-445-07 Medical Equipment $44,576.00

P.O. NO. 2021-27 Additional Appropriation:
Cumulative Capital Development

Other Services & Charges
417-50-436-90 Service Contract/
Software Maintenance $75,000.00

8. Resolutions

9. Ordinances on Second Reading

P.O. NO. 2021-24 Authorizing the Investments of Public Funds
(Assigned to Budget and Finance Committee)

10. Privilege of the Floor – Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment –

This meeting will be aired via live stream:

An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, **https://www.facebook.com/cityofmishawaka/** and also on the Michiana Access TV Facebook page, **https://www.facebook.com/MichianaAccessTV**

At this time, I know of no other business to come before the Council.

Deborah S. Block, IAMC, MMC, City Clerk

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements contact Susan Kile, ADA Coordinator, at (574) 258-1615.

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

July 26, 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, July 26, 2021 at 7:00PM. The meeting was called to order by President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance.

Roll Call.
Present: Mrs. DeMaegd (P), Mr. Banicki (P), Mr. Hazen (P), Mr. Mammolenti (P), Mr. Emmons (P), Mr. Bellovich (P), Mr. Compton (E), Mrs. Voelker (P), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Others Present: Clerk Block, Mike Trippel

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 July 6, 2021 were approved as received from the Clerk's Office.

Clerk Block read a letter from the Board of Zoning Appeals regarding their recommendations from their Jul 13, 2021 meeting.

Appeal No. 2021-20	An appeal submitted by Jadet LLC requesting a Use Variance for 1035 East McKinley Avenue to allow for the continuation of automobile repair in I-1 Light Industrial District.

The Board, with a vote of 5-0, recommended approval subject to the following condition:

1. Installation of grit/oil/water separator if any work containing fluids such as brake jobs or oil changes occur at this site in the future.

Clerk Block also read **A Presentation of Encumbered Funds**.

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

<u>PROPOSED ORDINANCE NO. 2021-24</u>

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS PURSUANT TO INDIANA CODE 5-13-9-5
(Assigned to Budget & Finance Committee)

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

RESOLUTION R2021-14

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA INTRODUCING AN ORDINANCE FOR ANNEXATION ADOPTING A WRITTEN FISCAL PLAN AN INDEFINITE POLICY FOR ANNEXATION FOR THE PROPERTY LOCATED AT: A 20-ACRE PARCEL LOCATED AT AUTUMN RIDGE SUBDIVISON AND S. OF BLAIR HILLS

Ken Prince, City Planner, spoke in favor of **RESOLUTION R2021-14**. Mr. Prince stated before them was an annexation for roughly 20 acres and the property was located between the Autumn Ridge and the Blair Hills subdivision. Mr. Prince stated this would be an extension of Autumn Ridge as it was developed. Mr. Prince stated of the 19.9 acres, 83 percent was contingent to the city as required by the Indiana Code. Mr. Prince stated this was a cookie cutter template for properties that small, they did not go through a great due diligence process, they distributed it to every department and identified if there were any capital expenditures needed. Mr. Prince stated all departments indicated that no additional capital expenditures were required of the city to service the property, which meant that the property and the development would be serviced out of the existing annual budgets for each department.

Question was called for at 7:06PM for **RESOLUTION R2021-14 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 resolution passed 9-0.

RESOLUTION R2021-15

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA INTRODUCING AN ORDINANCE FOR ANNEXATION ADOPTING A WRITTEN FISCAL PLAN AN INDEFINITE POLICY FOR ANNEXATION FOR THE PROPERTY LOCATED AT: 16996 S.R. 23 SOUTH BEND, IN INCLUDING ADJACENT S.R. 23 RIGHT-OF-WAY AND VACANT LAND TO THE SOUTH

Ken Prince, City Planner, spoke in favor of **RESOLUTION R2021-15**. Mr. Prince stated the size of the property was 5.2 acres roughly and it was 29.1 percent contiguous to the existing city limits. Mr. Prince stated it was only contiguous from the condominium development off Douglas Road and the access to the property was only off State Road 23. Mr. Prince stated the developer contacted the city for annexation, because they were looking to develop the property in cellblock storage units. Mr. Prince stated there was difficulty in getting the sewer to the property without going through the existing condominium development. Mr. Prince stated cellblock storage was ultimately a good idea for the property, because it was something that could exist without the sewer being there if they did not have a bathroom and it could fit for the difficulties associated with the property. Mr. Prince stated they contacted the city of Mishawaka, because it straddled more on the Mishawaka side than the South Bend side and right at their limit. Mr. Prince stated Hickory Road was considered the natural limits between the two cities. Mr. Prince concluded stating he would be happy to answer questions.

Mr. Emmons asked if there was an office on the property if they would have to have facilities there. Mr. Prince stated that would be correct and he believed the developer was still looking at that. Mr. Prince stated the lift station that was serving the existing condominium development was a private lift station, so they had to contact the development who would have the right to hook up to it. Mr. Prince stated if they could, they would have an office.

Mike Huber, Abonmarche Consultants, represented the developer for the project and spoke in favor of **RESOLUTION R2021-15**. Mr. Huber stated they were currently negotiating with the property to the south to try to get access to the sewer to be able to develop the office. Mr. Huber stated they would begin developing without the office if they were unable to get access to it until something became available. Mr. Huber stated he would answer any questions the council had.

Mr. Emmons asked if they would still have running water there if there were not any facilities. Mr. Huber stated they had water available at the property.

Question was called for at 7:11PM for **RESOLUTION R2021-015 Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 9-0.

RESOLUTION R2021-16

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, ADDING PARCELS TO THE CITY'S PROPERTY ACQUISITION LIST ASSOCIATED WITH A PREVIOUSLY APPROVED COMMON COUNCIL RESOLUTION 2014-07 WHICH APPROVED AN ORDER OF THE CITY OF MISHAWAKA PLAN COMMISSION APPROVING A CERTAIN DECLARATORY RESOLUTION, AN AMENDMENT TO THE BOUNDARIES OF THE NORTHWEST AREA IMPROVEMENT PROJECT, CONSOLIDATION OF THE SOUTHSIDE ECONOMIC DEVELOPMENT AREA AND THE NORTHWEST IMPROVEMENT PROJECT INTO ONE CONSOLIDATED AREA IMPROVEMENT PROJECT, AND AN AMENDMENT TO THE ECONOMIC DEVELOPMENT PLAN FOR THE CONSOLIDATED AREA IMPROVEMENT PROJECT ADOPTED BY THE CITY OF MISHAWAKA REDEVELOPMENT COMMISSION

Ken Prince, City Planner spoke in favor of **RESOLUTION R2021-16**. Mr. Prince stated this was adding a property to the acquisition list and back in 2014 when they amended the TIF district and created on consolidated TIF district, they were required to put properties they were looking to acquire as part of that amendment to the TIF district. Mr. Prince stated rather than doing it at that time, they would add them after all of the facts. Mr. Prince stated the decision was made at that time to add parcels individually and that evening, Mr. Prince was asking the council to add 901 S Union Street. Mr. Prince stated a fire took place at the location and once the fire took place, they contacted the owner with an interest in purchasing the properties located directly on the sidewalk. Mr. Prince stated rather than seeing someone look to reinvest in the property, the city wanted to acquire it. Mr. Prince stated he was happy to answer any questions.

Mr. Emmons asked if once they purchased the facility if they were going to demolish it or if it would be left standing. Mr. Prince stated they typically did not leave things standing for any extended period. Mr. Prince stated they had no plans of keeping it in place. Mr. Emmons also asked about the little construction company building down the street and if they had purchased it. Mr. Prince stated they had not purchased it and there was a bank issue associated with the property. Mr. Prince stated they inquired about leasing it, so they could knock it down and take over the maintenance of the property but it was something they would continue to work on.

Mr. Banicki stated the property that had the fire generally would be insured and insurance should have paid to fix it or tear it down. Mr. Banicki asked why the city was assuming the responsibility to tear it down if in fact it was a fire hazard or would come down anyway. Mr. Prince stated they were a third party to any type of insurance on the building and he was sure there was. Mr. Prince stated they likely reached a point where they could take the insurance money to reinvest into the structure or the city could buy it and tear it down. Mr. Prince stated they could never get it cheaper because of the insurance money that they were getting from the property and the property was purchased on contracts. Mr. Prince stated they had to meet with multiple properties to get it signed so they could potentially buy it. Mr. Prince stated the insurance payment contributed to trying to get it at a lower price.

Mr. Prince noted by law they had to get two appraisals of the property and the property appraised for just over $100,000. Mr. Prince stated they believed it was fair market value. Mr. Banicki stated he could appreciate that, but if the vacant lot were worth $50,000 and they had to tear down the building, that should be fair market value. Mr. Prince stated the issue was that the fire did not completely ruin the building. Mr. Prince stated it damaged it to the point where it would be very expensive to repair it, but it did not remove all value.

Question was called for at 7:18PM for of **RESOLUTION R2021-16 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 resolution passed 9-0.

RESOLUTION R2021-17

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, AUTHORIZING THE CITY OF MISHAWAKA REDEVELOPMENT COMMISSION TO SELL MUNICIPALLY OWNED PROPERTY IN ACCORDANCE WITH THE CITY OF MISHAWAKA MUNICIPAL CODE CHAPTER 2, ARTICLE 5, DIVISION 3, SEC. 2-492 & 493
Civil City Property Disposal of 126 N. Church Street

Ken Prince, City Planner, spoke in favor of **RESOLUTION R2021-17**. Mr. Prince stated they did not normally dispose of civil city property very often. Mr. Prince stated when they were looking at the consolidation of the Mishawaka Utilities business office, City Hall, and the police station it was brought to their attention that it was required council approval. Mr. Prince stated as it had been well published and distributed to them previously, the City Redevelopment Commission solicited bids, as required by law, for the disposal of their Mishawaka Utilities business office at 126 N. Church Street. Mr. Prince stated they had one bidder, that was Beacon Health Systems Inc., and they were looking to do a medical office building with the first phase being $12.5 million and the second phase being a $8.5 million addition that would go onto where the Mishawaka Utilities business office was located. Mr. Prince stated they felt the project would be a wonderful addition and great investment in the city. Mr. Prince concluded stating they were asking for their permission to dispose of the property.

Mr. Hixenbaugh asked if he could talk more fully about the investment to be made in downtown Mishawaka because of the disposition of the property and how that would benefit the community. Mr. Hixenbaugh also asked how that would match up to the purchase price paid for the acquisition. Mr. Prince stated the purchase price of the property was only $50,000 and they had it appraised and it came in at a few hundred thousand dollars. Mr. Prince stated if you could imagine, if he were an investor and owned the building, he would not use the financial model of the city and sell it to someone for the $300,000 and they would invest in it. Mr. Prince stated they did not follow that model and if he were in that scenario and owned that property, he would sell the building and essentially someone would spend $300,000 on the facility, put some paint on it and then remarket the property. Mr. Prince stated they were looking for a transformative investment and had a much longer-term look when looking at investing on properties. Mr. Prince stated in Beacon's case, they were looking at it as a teardown, which was why they were looking at only $50,000 on the property. Mr. Prince stated when they talked about this briefly in the past, they had earmarked in their budget in TIF a line item for the removal of the Mishawaka Utilities business office that they no longer had to carry if the sale went through with Beacon, because they would take on all of the liability of it. Mr. Prince stated looking at the investment, the building located on the corner would service downtown Mishawaka with an additional health service. Mr. Prince stated in addition to that, they were talking about 60 full-time employees at that location and would contribute to the vibrancy of downtown. Mr. Prince also brought up the construction dollars and when talking about a $20 million dollar investment rather than if someone were to straight up buy the Mishawaka Utilities business office, it would be an investment at less than 10% if they sold the building outright for an adaptive reuse.

Mr. Hixenbaugh stated he was sure Mr. Prince could understand that sometimes they hear from members of the public who have not heard the entire narrative with regard to the long-term gain that the community would accrue from less than a market value sale. Mr. Hixenbaugh stated he and the administration believed that the long-term gains to be made both in terms of investment and the property, in the short-term construction and long-term increased tax revenue, the additional workforce coming into downtown then treats in the restaurants and stores throughout the existing downtown. Mr. Hixenbaugh stated there also would be ongoing public access to the parking, so there would be shared partnership with Beacon moving forward so public good would come out of it in that fashion and asked if that was an accurate recitation. Mr. Prince stated it was accurate and added that Beacon pointed at the mill project and said the emphasis for them doing that was in part looking at the additional population and also the modern development had a compounding affect. Mr. Prince stated the scope of the improvement was such a larger gain where people would say they wanted to be there too.

Mr. Mammolenti asked if the 60 employees Mr. Prince had mentioned were new hires or transfers from other locations. Mr. Prince stated they had not inquired about that as part of the development. Mr. Mammolenti also asked if there was only one bidder on the property. Mr. Prince stated that was correct.

Mr. Banicki asked if they were tax-paying entities and if they would be paying property taxes on that specific property. Mr. Prince stated they were, but negotiated and pay a reduced rate and he did not know that rate exactly.

Mr. Hixenbaugh thanked Mr. Prince for his work on this and welcomed Beacon to downtown Mishawaka.

Question was called for at 7:29PM for **RESOLUTION R2021-17 Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 9-0.

RESOLUTION R2021-18

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT: 1035 EAST MCKINLEY AVENUE, MISHAWAKA, INDIANA
Renewal of Use Variance to allow Automobile Repair in I-1 Light Industrial – 1035 E. McKinley

Jerry Deturk spoke in favor of **RESOLUTION R2021-18**. Mr. Deturk stated he had his wife present with him to help him answer questions. Mr. Deturk stated last year they applied for a temporary variance and they met all of the criteria and wanted approval for a permanent variance for the installation of the tires and wheels at the business.

Mr. Banicki stated everything seemed like it was going well there and his only concern had to do with the stacking of tires and rims right against the road. Mr. Banicki asked if that was something that would be moved. Mrs. Deturk stated they would be moved. Mr. Banicki stated he wanted to make sure, because he did not want them coming back the next day. Mr. Banicki stated they were out by the sign that day when they needed to be against the building.

Mr. Emmons stated he was concerned about giving lifetime permission and they should have a time limit, such as 5 years, to come back so they had a grip on it if they were not following the rules. Mr. Emmons stated he did not want to have to penalize them or their partner, but the city and the council needed some type of leverage down the road if they were not abiding by the guidelines of the variance. Mr. Deturk stated those numbers sounded good and it would be better than coming before the council every year. Mr. Deturk also stated it would be acceptable and if they would be open to being notified if something was wrong. Mr. Emmons stated he would be in favor if there were a year limit on the variance instead of lifetime permission. Mr. Emmons concluded stating he would make a motion for that later on.

Mr. Banicki asked Mr. Prince about the stacking of the tires and if them being placed underneath their sign would be acceptable or if they needed to be against the building. Mr. Prince stated they looked at it as a seasonal display, so if someone wanted to display something they ask that it met the buildings setback for whatever district it was in. Mr. Prince stated in this case, they should not be under the sign and against the building. Mr. Banicki asked if they were right against the building if it would be fine. Mr. Prince stated that would work.

Mr. Compton stated this was a small business that moved into their district and rightfully so, they asked them to abide by a variance for 1 year and were cautious. Mr. Compton stated in his opinion, they had done everything they needed to do. Mr. Compton stated they said themselves they would display tires and rims on the road out in front of their business and he was not sure if they really defined what that meant at the time. Mr. Compton stated he saw no reason to not grant this to them but if they were not in compliance, then they would have avenues to remedy that. Mr. Compton stated unfortunately for someone who would not want that remedied it could be difficult but in his time on the council, he did not know of these kinds of trouble with people. Mr. Compton stated he believed they had done what they asked and they needed to grant their wish that evening. Mr. Compton concluded stating he would vote in favor of the resolution.

Mr. Mammolenti thanked Mr. Compton for sharing his thoughts, with the business being in his district. Mr. Mammolenti stated he remembered them presenting to the council before and they gave them a hard time with asking several questions and took them for their word. Mr. Mammolenti stated from what he heard, they were doing a great job and kept their word. Mr. Mammolenti stated he believed they established great trust with them and the owners. Mr. Mammolenti welcomed them to Mishawaka and stated he would be favor of a renewal that evening.

Mr. Hixenbaugh invited the operator of the facility to the podium and wanted to ask him a few questions.

Jesus Navarro, 1622 S. Jackson St., spoke before the council. Mr. Hixenbaugh stated he had appreciated the fact that he lived up to the commitments he made a year ago. Mr. Hixenbaugh stated he hoped his business was thriving and the future was bright for him. Mr. Hixenbaugh stated the one issue he had was with the tires and he stated it was concerning to him that there was a conversation on site at the facility between the city staff and himself and he wanted to give Mr. Navarro the chance to alleviate his concern. Mr. Navarro stated he thought the issue was because they were right by the entrance, so he figured if they put them under the sign there would not be an issue. Mr. Navarro stated if it were still an issue, he would place them by the building. Mr. Hixenbaugh stated that made him feel more comfortable and brought up another issue. Mr. Hixenbaugh stated the issue was an expansion of his business model to include oil changes and any type of automotive work that would then result in fluids drained from the vehicles and what not. Mr. Hixenbaugh asked his thoughts on whether that type of expansion of the business was imminent and if so, if he remained committed to the condition built into the resolution that was approved, which would obligate him to put in a separator system if he would expand his business into the other areas. Mr. Navarro stated he did not see himself expanding his business and if he were to, he would gladly put it in. Mr. Hixenbaugh stated if memory served him correctly from the year before, Mr. Navarro never intended to do that and stick with the tire business. Mr. Navarro stated the other work would be just in case to earn more money, but it was not necessary. Mr. Hixenbaugh appreciated the answers to his questions.

Mr. Emmons asked for an amendment to **RESOLUTION R2021-18** to change the renewal to a five-year period instead of indefinitely. Mr. Emmons stated from past experiences and what they had run into, he felt this was a good move. Mr. Emmons stated he knew they had been good tenants and had nothing against them, but he felt they needed some kind of protection down the line. Mr. Emmons stated he wanted to make that motion. Mr. Hixenbaugh asked for a second to Mr. Emmons' motion. Hearing none, the motion died from a lack of motion.

Mr. Hixenbaugh echoed Mr. Compton and Mr. Mammolenti's comments and stated he appreciated the commitment to following through on what they were told last year that had been evidenced that evening. Mr. Hixenbaugh stated he would also vote in favor of this. Mr. Hixenbaugh stated he did not disagree totally with Mr. Emmons' sentiments and stated he made valid points. Mr. Hixenbaugh stated they were always concerned when people came before them to make representations that they would own up to, but in that instance they had a track record of the past year and they had done exactly what they told the council. Mr. Hixenbaugh stated the other thing that he thought was relevant to the motion Mr. Emmons made was that what they were doing built upon state law and this was the process in place throughout the state of Indiana and perhaps the Indiana general assembly ought to think of changing it so there was a different type of oversight. Mr. Hixenbaugh stated but until that happened, they were following what the general assembly had put into place with regard to these type of matters. Mr. Hixenbaugh also stated it was safe to say that overwhelmingly so, over an extended period, petitioners who came before them had not kept their word, but for the most part people kept their word to them. Mr. Hixenbaugh stated he felt if they overreacted to an unrelated bad issue, they then would set in stone a precedent where everybody who came forward would have to be held to the same standard. Mr. Hixenbaugh stated he feared it would be difficult for them to police a five-year cycle and he agreed with Mr. Emmons on certain points, but he would be voting in favor of the resolution that evening.

Mr. Emmons stated he agreed with Mr. Hixenbaugh, but in his district, he had a number of variances where people were not abiding. Mr. Emmons stated as a representative of the area, it was disturbing to him they gave the variances with no teeth in it to make the people abide by what they said they would do. Mr. Hixenbaugh stated he shared that concern and thought it was important for the council to work with the administration to be diligent about following up on the commitments and hold individuals to the commitments they made. Mr. Hixenbaugh stated they needed to strike the balance between allowing it to linger and not overreacting to it and they needed to take the matters seriously. Mr. Hixenbaugh appreciated Mr. Emmons' diligence to the issues and the passion he brought to the table on behalf of his constituents.

Question was called for at 7:47PM for **RESOLUTION R2021-18 Vote: Motion carried by unanimous roll call vote (summary: Yes = 8 No = 1).**
Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 8-1.

PROPOSED ORDINANCE NO. 2021-22

AN ORIDNANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA AND PROVIDING ZONING CLARIFICATIONS THEREFORE
Annexation & Zoning of 19.02 Acres to R-1 for a proposed Single Family Residential Subdivision – Autumn Ridge Phase 4
VOTE ONLY

Mr. Mammolenti 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. 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 9-0.

Question was called for at 7:49PM for **PROPOSED ORDINANCE NO. 2021-22 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 it became **ORDINANCE NO. 5750**.

PROPOSED ORDINANCE NO. 2021-23

AN ORIDNANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA AND PROVIDING ZONING CLARIFICATIONS THEREFORE
Annexation & Zoning of 5.24 Acres to I-1 for a proposed Self Storage Facility – 16996 S.R. 23
VOTE ONLY

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. 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 9-0.

Question was called for at 7:51PM for **PROPOSED ORDINANCE NO. 2021-23 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 it became **ORDINANCE NO. 5751**.

PRIVILEGE OF THE FLOOR

Sherri Raven, 122 W 6th Street, spoke before the council. Ms. Raven spoke on issues in her neighborhood and stated Ms. DeMaegd and Mr. Emmons knew what was going on. Ms. Raven stated they had problems with their neighbor at 119 W 6th Street and they had to call the police many times. Ms. Raven stated Vic Kasznia from Code Enforcement worked with them and had issued many citations to Mr. Michael Peck. Ms. Raven stated Code Enforcement knew Michael Peck quite well and they tried relentlessly to have him take care of the property. Ms. Raven stated there had been no utilities at 119 W 6th Street since October of 2020, he had disregarded many notices from Code Enforcement, had lost custody of his three underage children, his wife left and was living elsewhere (who also lost custody) and had many people who had prior convictions coming in and out. Ms. Raven stated those individuals were known to jump the fences and cross the other neighbors' property at early hours in the morning. Ms. Raven stated Mr. Peck had a fire on June 15th in his garage and damaged the neighbor's property. Ms. Raven stated he had no insurance and had not had insurance since 2019. Ms. Raven stated she did not know what they could do to fix things and that was why she was present at the meeting that evening. Ms. Raven stated when they police go to the home at night after he was supposed to be gone, Mr. Peck and/or the other individuals hid in the home and without probable cause; the police could not go in the house. Ms. Raven stated an hour or two after the police leave, the people arrive back to the home early in the morning, start all over again, and continue to cause a disturbance in the neighborhood. Ms. Raven stated their garage was unstable and dangerous for children in the neighborhood or people walking. Ms. Raven stated they wanted to know a timeline of what was going on and what could be done, even if not all of their questions could be answered that night.

Mr. Mammolenti thanked Ms. Raven for her extremely detailed presentation. Mr. Mammolenti asked for confirmation if they had not had any homeowner's insurance since 2019. Ms. Raven stated she found out that day that there had been no homeowner's insurance since 2019. Mr. Mammolenti asked if she knew of a mortgage on the home. Ms. Raven stated there was not, his mother that lived right next to her had purchased the home for himself, his family and they were supposed to pay her back through a land contract, and he had not paid anything since then. Ms. Raven stated she believed the land contract was invalid, but she was not positive about that. Ms. Raven stated someone pulled up to the home and unloaded a mattress and put it up against Michael's house. Ms. Raven stated there was no one supposed to be living there at night and Vic Kasznia had been regularly visiting the home and sent out letters. Mr. Mammolenti asked if the mattress was brought inside. Ms. Raven stated it had not and it was still outside. Mr. Mammolenti asked when the photos given to himself and Mr. Hixenbaugh were taken. Ms. Raven stated they were taken two weeks prior to the meeting when Mr. Peck started a fire in his backyard.

Mr. Hixenbaugh asked if he drove over there tomorrow, if the property would still have the same appearance. Ms. Raven stated she believed so. Mr. Hixenbaugh stated it would be helpful if she left one of the packets for Mr. Hinkle.

Mrs. Voelker asked about the visitor and why she was involved. Ms. Raven stated she was one of the people who was in and out of the house with prior convictions. Ms. Raven stated she was one of the people who they knew their name.

Mr. Hixenbaugh suggested they focus on the condition of the home rather than the individuals in that setting. Mr. Hixenbaugh also suggested having conversations with Mr. Hinkle and others about those types of issues.

Mrs. DeMaegd asked about the property taxes on the house. Ms. Raven stated as far as she knew, the house would go to the tax sell, but his mother paid enough to keep it off the tax sell for that year.

Mr. Hazen asked if she knew where the process was at with Code Enforcement. Ms. Raven stated the last time she spoke to Vic, she was told he told them what they do and could not do and there had been no work done as Michael Peck as said he would do. Ms. Raven stated the home needed to be inspected by the city and as of that date; she believed there had been no process. Ms. Raven stated he needed to do electrical, plumbing; there was foundation that needed to be fixed and the garage needed to be torn down. Ms. Raven stated the backyard had not been cleaned up as well.

Mr. Bellovich asked about activity in the evening and how they had lights on in the home and how they got electricity. Ms. Raven stated they believed they were using cell phone lights and they did have a battery light in the past. Ms. Raven stated a while back, they had somehow rigged into the electric through the city, but that fixed. Ms. Raven also stated they rigged into the water through the city as well and that was fixed as well.

Mr. Emmons thanked Ms. Raven and her neighbors for being present at the meeting. Mr. Emmons expressed displeasure with the situation in the neighborhood and the damage caused. Mr. Emmons stated they needed to put stronger teeth in to make sure things were cleaned up quicker. Mr. Emmons stated he honestly could not represent why they allowed it to go on that long. Mr. Emmons stated he talked with Joe Van Nevel, Director of Code Enforcement, and the property was listed as a nuisance with the Police Department. Mr. Emmons stated he did not know what that entailed and what they could do for Mr. Peck or his mother to get the property back to what it was supposed to be. Ms. Raven stated she did not know what could be done either. Ms. Raven mentioned they put up 'no trespassing' signs. Mr. Emmons stated hopefully they could get the situation done sooner than later and he was sure his fellow council members felt the same way. Ms. Raven appreciated his comments.

Mrs. DeMaegd stated Mr. Peck had a gas powered generator in the house when she visited Ms. Raven's home. Mrs. DeMaegd asked if he was still using that generator. Ms. Raven stated he had not been and he somehow disabled it.

Mr. Hazen asked Mr. Emmons if he received a timeframe from Code Enforcement. Mr. Emmons stated they did not have a definite timeframe, but they had sent letters to Mr. Peck stating he was in violation with many things. Mr. Emmons stated he knew Mr. Kasznia and Mr. Van Nevel were both working on the case and involved in the case. Mr. Emmons was not blaming anyone, but he stated they did not have enough teeth in it to bring it to a closure. Mr. Hazen agreed and stated no one should have to live next to that.

Mr. Hixenbaugh thanked Ms. Raven for the information shared and apologized for the issues she and her neighbors have had to deal with. Mr. Hixenbaugh stated this had brought the situation full circle and her information helped him better understand. Mr. Hixenbaugh stated it was disgusting, disheartening and not what he expected to see in Mishawaka. Mr. Hixenbaugh stated they had very diligent people working in all of the departments referenced that evening, but he agreed with Mr. Emmons on the fact that he was not 100% convinced that there was not an ability under the law to deal with it differently. Mr. Hixenbaugh stated he refused to believe that they did not have any ability to be able to enforce and enact reasonable standards with regard to the problems. Mr. Hixenbaugh hoped this now would bring a different sense of urgency to the matter and that the entire council receive an update where they were at on the follow-up to the concern, what the timeline was and what additional steps would be taken to address it. Mr. Hixenbaugh stated it was not only a problem for the neighborhood, but also a problem for everyone in Mishawaka if this was allowed to continue. Mr. Hixenbaugh thanked Ms. Raven for bringing it to their attention and asked her to continue to share with the council any information she wanted them to receive and they would do everything they could to help.

Mr. Emmons stated the pictures did not represent what Mishawaka was and what they wanted it to be. Mr. Emmons apologized that they had to put up with that. Mr. Hixenbaugh stated they could absolutely address the issues and thanked Ms. Raven again for bringing it to their attention.

Kevin Walton, 1223 W 6th Street, was the neighbor of Michael Peck and spoke on the issue. Mr. Walton stated when they moved in 15 months ago, they noticed questionable activity. Mr. Walton stated the fire occurred shortly after that and his concern was twofold. Mr. Walton held concern for his daughter along with her safety and his stepdaughter's safety with the criminal activity occurring within feet of his home at all hours of the night. Mr. Walton stated they contacted the police at least 20 times in the last month and had been told there was not much that could be done. Mr. Walton stated there was more going on that could not be figured out. Mr. Walton pleaded the council use the force they had to find clarity on the permit on Mr. Peck's home and find the underlying cause of the situation. Mr. Walton stated it had gotten to the point where he contemplated confronting someone at the home, because of how out of hand the situation had gotten but he had not done so. Mr. Walton stated it had become a threat to his personal property and his family. Mr. Walton stated the fire at Michael Peck's residence affected five additional families. Mr. Walton stated all he was asking the council to do was use the influence they had to the proper departments to get clarification. Mr. Walton stated he could not have the criminal element floating around it or the house that was centered on all of the issues. Mr. Walton thanked the council for their time.

Mr. Hixenbaugh apologized that he and his family had to experience this. Mr. Hixenbaugh stated there were certain things they all agreed the law would not allow them to do, even if they wanted to. Mr. Hixenbaugh stated there were property rights every individual had and as a society, they had to strike the balance between what somebody did with their property and what they caused for their neighbors. Mr. Hixenbaugh restated he refused to believe something could not be done and he knew all of the city departments took this seriously. Mr. Hixenbaugh hoped, based on the dialogue that evening, there would be a different sense of urgency and Mr. Walton would be able to see that fix. Mr. Hixenbaugh stated it would not be an overnight solution, but he believed as a community, they had the wherewithal to address these type of situations.

Mr. Mammolenti thanked Mr. Walton for attending and speaking on behalf of the neighbors. Mr. Mammolenti also apologized and stated it was every homeowner's nightmare come true. Mr. Mammolenti echoed Mr. Hixenbaugh's point that the issue was moved to the forefront. Mr. Mammolenti stated it was safe to say that they had all of the council who would all work on the issue for them.

Mrs. DeMaegd asked if a building permit could be revoked. Mr. Hixenbaugh stated it could with a due process preceding that. Mr. Hixenbaugh stated now that they were comprehensively aware of the issue, he knew there would be conversations taken place the next day to try to look at creative solutions. Mr. Hixenbaugh stated Mr. Hinkle, Corporate Counsel, would take a look at this situation more in depth as well.

Mr. Walton added was that this was overtasking the police force and they could be providing safety elsewhere. Mr. Walton stated this became a never-ending cycle of taking up their resources, having them not doing anything and taking up their time. Mr. Walton stated these were quality resources that could be used in a more important matter, but as a neighborhood, they had no choice and needed to call the police numerous times, because they did not know what the Peck's intentions were. Mr. Walton he wished no one to get hurt in the process, but unfortunately, it was heading in that direction and hoped something would be done before then.

Mr. Hixenbaugh appreciated his sensitivity to the resources devoted by the police department, but he always understood the police department comprehensively encouraged individuals to call when they needed help rather than not utilizing them when necessary. Mr. Hixenbaugh deferred to Mr. Hazen, who was a former Police Chief, on the matter.

Mr. Hazen stated they understood where he was coming from, but did not want him to do something that could harm his life. Mr. Hazen stated he guaranteed all nine of them on the council would take charge on the issue and see it through. Mr. Hazen stated he knew it was a ticking time bomb. Mr. Walton thanked the council for their time.

NEW BUSINESS

Mr. Mammolenti put out a reminder regarding the National Night Out event that would be occurring at Twin Branch Park in the pavilion on August 3rd at 5:30PM. Mr. Mammolenti stated there would be food, beverages, prizes, games, etc. as they normally did each year. Mr. Mammolenti concluded stating all were welcome.

ADJOURNMENT 8:28PM

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

Deborah S. Block, IAMC, MMC

JUL 28 2021

City Clerk
Mishawaka, IN

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AP 21-24

DATE: June 25, 2021

TO: Board of Zoning Appeals
City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. I, ***SHEA JOHN C SR & ROSEMARY REVOCABLE LIVING TRUST JOHN C & ROSEMARY SHEA TRUSTEE (represented by Mark Shea)***, am the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to- wit:

The parcel is legally described as: THAT PART OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 3 EAST, CLAY TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA BEING DESCRIBED AS: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SECTION AND THE CENTERLINE OF INDIANA HIGHWAY 23 (CLEVELAND ROAD) WHICH IS NORTH 90-00'-00" EAST, 656.26 FEET FROM THE SOUTH QUARTER POST OF SAID SECTION, SAID POINT ALSO ON THE CENTERLINE OF LEO STREET, THENCE NORTH 00-00'-46" WEST ALONG SAID CENTERLINE, 363.26 FEET TO THE SOUTH LINE OF THE RECORDED PLAT OF COUNTRY SIDE ESTATES SECTION 3; THENCE SOUTH 90-00'-00" EAST ALONG SAID SOUTH LINE, 667.79 FEET TO THE EAST LINE OF THE WEST HALF OF SAID SOUTHEAST QUARTER; THENCE SOUTH 00-00'-46" EAST ALONG SAID EAST LINE, 363.26 FEET TO THE SOUTH LINE OF SAID SECTION AND THE CENTERLINE OF INDIANA HIGHWAY 23 (CLEVELAND ROAD); THENCE NORTH 90-00'-00" WEST ALONG SAID SOUTH LINE AND CENTERLINE, 667.79 FEET TO THE POINT OF THE BEGINNING. SUBJECT TO ALL LEGAL HIGHWAYS OF RECORD.
Commonly known as 218 W Cleveland Rd.

2. The above-described real estate presently has a zoning classification of C-2 Shopping Center Commercial District under the Zoning Ordinance of the City of Mishawaka.

3. Appellant presently occupies the above-described property in the following manner: Hair Salon (Business Name: Salon Sixteen)

4. Appellant desires to add microblading service to already existing hair salon that resides in the complex.
   a. Autumn Spitler is certified in Permanent Makeup which is a cosmetic technique which employs tattoos as a means of producing designs that resemble makeup, such as eyelining and other permanent enhancing colors to the skin of the face, lips, and eyelids. Permanent makeup, also called a cosmetic tattoo or micropigmentation, is done with the use of a hand tool containing a number of small needles or a tattooing pen that tattoos the skin to create the look of makeup. A tattoo can mimic eyeliner or lipstick, or it can darken and create the look of thicker eyebrows. It can last anywhere from 1 to 5 years depending on skin type, skin care routines, sun exposure and other things.

5. The Zoning Ordinance of the City of Mishawaka equates microblading to tattooing, which is not a permitted use by right in any district.

6. The strict adherence to the ordinance requirements creates an unusual hardship because it doesn't list microblading as a use in any zoning area.

7. Answer the following necessary questions for a **USE VARIANCE**:

   (1) Will approval be injurious to the public health, safety, morals or general welfare of the community?

   No it will not be injurious to the public health, safety, morals or general welfare of the community.

   Autumn Spitler has been in the beauty industry for 10 years, as a licensed cosmetologist in the state of Indiana and Michigan. Before that, she worked in the Healthcare industry for 13 years. She has been certified in bloodborne pathogens and hazardous waste since October of 2019. Autumn completed her training under Stacy Nielson at New You Face and Body in Portage, Mi. October of 2019.

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(2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the business will be located in a building that is surrounded by various commercial uses.

(3) Does the need for the variance arise from some condition peculiar to the property involved?

Yes, the need for the variance arises from some condition peculiar to the property involved. The current zoning does not permit microblading, but does allow the salon where the process is taking place, thus requiring the use variance for the proposed use.

(4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

Yes, this constitutes as an unnecessary hardship because the current zoning does not permit microblading, but does allow the salon where the process is taking place.

(5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?

No this approval will not interfere substantially with the Mishawaka 2000 Comprehensive plan. This is a personal/cosmetic service similar to the hair/beauty salon that currently resides in the complex.

WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.

Owner's Signature

CONTACT PERSON:
Name: Celeste Mojarrad
Address: 53191 Juday Creek Blvd., Granger, In
Day Phone Number: 574.387.0232
Fax Number:
Email: c.mojarrad@gmail.com

Name: Autumn Spitler
Address: 2006 Ontario Rd, #85, Niles, MI
Day Phone Number: 269.357.3013
Fax Number:
Email: autumnspitler@gmail.com

July 16, 2021

To whom it may concern,

The management of Centennial Place support our tenant Studio 16 in the initiative to provide permanent make up services to their customers. We have a Lease in effect that clearly describes Studio 16's responsibilities to abide by all local and state guidelines and requirements.

Sincerely,

Mark F. Shea

Mark F. Shea

Centennial Place

General Manager

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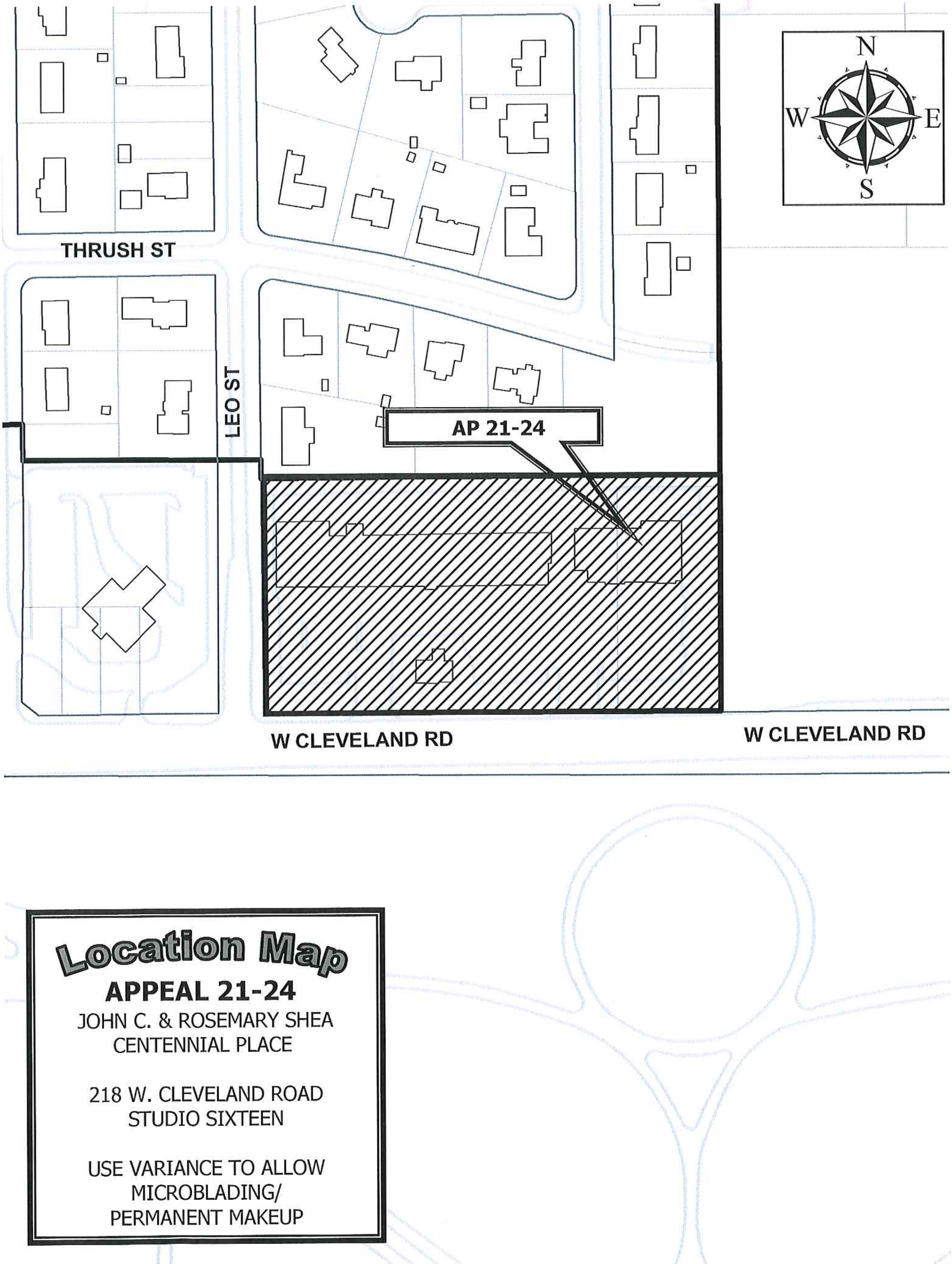
AP 21-24



Location Map

APPEAL 21-24

JOHN C. & ROSEMARY SHEA
CENTENNIAL PLACE

218 W. CLEVELAND ROAD
STUDIO SIXTEEN

USE VARIANCE TO ALLOW
MICROBLADING/
PERMANENT MAKEUP

PET 21-11

July 21, 2021

Honorable Members of the
Common Council
City of Mishawaka, Indiana
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana

Deborah S. Block, IAMC, MMC
JUL 28 2021
City Clerk
Mishawaka, IN

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RE: PETITION TO REZONE

The undersigned John Connon and Kelly Connon respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

PART OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, INDIANA DESCRIBED AS FOLLOWS: BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF LINCOLNWAY EAST WITH THE WESTERLY LINE OF KLINE STREET; THENCE SOUTH 02°00'00" EAST (ASSUMED BEARING) ON THE WESTERLY LINE OF KLINE STREET, A DISTANCE OF 200.56 FEET; THENCE SOUTH 83°44'02" WEST, A DISTANCE OF 128.69 FEET TO A POINT ON THE EASTERLY LINE OF THE REPLAT OF BOSSE'S 1ST ADDITION RECORDED JUNE 4, 1929 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, IN PLAT BOOK 13, PAGE 49; THENCE NORTH 05°50'22" WEST, ON THE EASTERLY LINE OF THE REPLAT OF BOSSE'S 1ST ADDITION, A DISTANCE OF 200.01 FEET TO THE NORTHEAST CORNER OF LOT 7 IN SAID REPLAT; THENCE NORTH 83°44'02" EAST ON THE SOUTHERLY LINE OF LINCOLNWAY EAST, A DISTANCE OF 142.13 FEET TO THE POINT OF BEGINNING.

The above described property has addresses of 3019 Lincoln Way East and 115 Kline Street.

Petitioners own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 General Commercial District. The property is currently being used as a commercial business, an apartment and a single family residence.

Petitioners desire the following described portion of said real estate to be rezoned to R-1 Single Family Residential District:

PART OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 37 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, INDIANA DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF LINCOLNWAY EAST WITH THE WESTERLY LINE OF KLINE STREET; THENCE SOUTH 02°00'00" EAST (ASSUMED BEARING) ON THE WESTERLY LINE OF KLINE STREET, A DISTANCE OF 134.56 TO THE POINT OF BEGINING; THENCE CONTINUING SOUTH 02°00'00" EAST ON THE WESTERLY LINE OF KLINE STREET, A DISTANCE OF 66.00 FEET; THENCE SOUTH 83°44'02" WEST, A DISTANCE OF 128.69 FEET TO A POINT ON THE EASTERLY LINE OF THE REPLAT OF BOSSE'S 1ST ADDITION RECORDED JUNE 4, 1929 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, IN PLAT BOOK 13, PAGE 49; THENCE NORTH 05°50'22" WEST, ON THE EASTERLY LINE OF THE REPLAT OF BOSSE'S 1ST ADDITION, A DISTANCE OF 75.74 FEET; THENCE NORTH 88°00'00" EAST, A DISTANCE OF 133.43 FEET TO THE WESTERLY LINE OF KLINE STREET AND THE POINT OF BEGINNING.

Petitioners further state the purpose for this rezoning request is to bring the existing non-conforming single family house located at 115 Kline Street into compliance so it may be subdivided (proposed Lot 2, Connon Minor Subdivision) and sold.

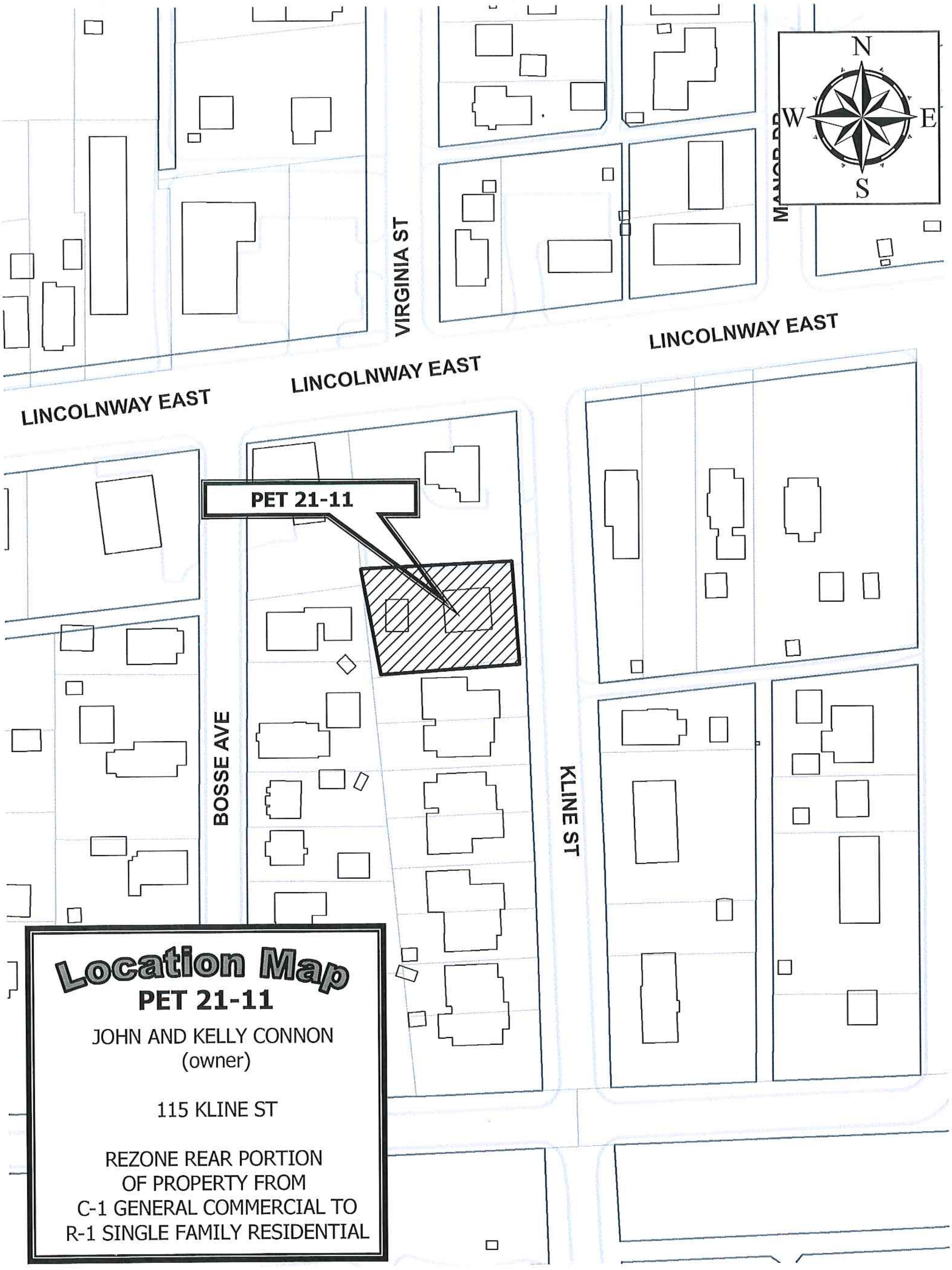
Wherefore, the petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.

John Connon

Kelly Connon

CONTACT PERSON

Edward M. Fisher
303 East Third Street
Mishawaka, Indiana 46544
Ph: 574 255-8377
Fax: 574 2578557
Email: FISHERSURVEY@AOL.COM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LINCOLNWAY EAST
PET 21-11
BOSSE AVE
KLINE ST
Location Map
PET 21-11
JOHN AND KELLY CONNON
(owner)
115 KLINE ST
REZONE REAR PORTION
OF PROPERTY FROM
C-1 GENERAL COMMERCIAL TO
R-1 SINGLE FAMILY RESIDENTIAL

PC 21-12

Deborah S. Block, IAMC, MMC

JUL 28 2021

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DATE: July 19, 2021

TO THE: HONORABLE MEMBERS OF THE COMMON COUNCIL
CITY OF MISHAWAKA, INDIANA

RE: PETITION FOR ANNEXATION & REZONING FOR:

BYRKIT PROPERTY GROUP LLC
51129 SHAMROCK HILLS COURT
GRANGER, INDIANA 46530

THE UNDERSIGNED, BYRKIT PROPERTY GROUP LLC, RESPECTFULLY SHOW THAT THEY ARE THE OWNERS OF THE FOLLOWING DESCRIBED REAL ESTATE LOCATED IN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA:

PARCEL: ANNEXATION AND REZONING LEGAL DESCRIPTION:

PART OF THE NORTHEAST QUARTER OF SECTION 22, AND THE NORTHWEST QUARTER OF SECTION 14, BOTH IN TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 22; THENCE SOUTH (ALL BEARINGS ASSUMED) ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, SAID LINE ALSO BEING THE CENTERLINE OF FIR ROAD A DISTANCE OF 759.23 FEET MORE OR LESS TO THE POINT OF BEGINNING; THENCE CONTINIUNG SOUTH ALONG SAID EAST LINE AND CENTERLINE A DISTANCE OF 60 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 561.68 FEET MORE OR LESS; THENCE SOUTH A DISTANCE OF 507.90 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 622.49 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 487.37 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 137.22 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 81.54 FEET MORE OR LESS; THENCE EAST A DISTANCE OF 1321.44 FEET MORE OR LESS TO SAID EAST LINE OF SAID QUARTER SECTION AND THE CENTERLINE OF FIR ROAD TO THE POINT OF BEGINNING.
CONTAINING 9.15 ACRES MORE OR LESS.
SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

APPROXIMATE PROPERTY ADDRESS: 58200 BLOCK OF FIR ROAD.

THE ABOVE-DESCRIBED PARCEL OF LAND IS PRESENTLY ZONED "M" MANUFACTURING INDUSTRIAL DISTRICT IN THE UNINCORPORATED COUNTY.

PETITIONERS DESIRE TO ANNEX AND REZONE THE REAL ESTATE DESCRIBED ABOVE TO THE "I-1" LIGHT INDUSTRIAL DISTRICT CLASSIFICATION. THE PURPOSE FOR THE ANNEXATION AND REZONING IS TO ALLOW FOR A FUTURE EXPANSION OF THE JAMIL PACKAGING CORPORATION FACITY LOCATED ADJACENT TO AND WEST OF THE PETITION SITE.

WHEREFORE, THE PETITIONERS PRAY AND RESPECTFULLY REQUEST THAT THE COMMON COUNCIL OF THE CITY OF MISHAWAKA REFER THIS MATTER TO THE MISHAWAKA CITY PLAN COMMISSION AND THAT AFTER HEARING, AN APPROPRIATE ORDINANCE BE ENACTED ANNEXATING AND REZONING THE ABOVE DESCRIBED PARCEL OF REAL ESTATE LOCATED IN THE CITY OF MISHAWAKA.

Michael S. Krizman, Manager

FOR: BYRKIT PROPERTY GROUP LLC
51129 SHAMROCK HILLS COURT
GRANGER, INDIANA 46530
PH.NO. 574-271-9952

CONTACT PERSON:

MICHAEL DANCH
DANCH, HARNER & ASSOCIATES, INC.
1643 COMMERCE DRIVE
SOUTH BEND, INDIANA 46628
(574) 234-4003.
MDANCH@DANCHHARNER.COM

PARCEL: ANNEXATION AND REZONING LEGAL DESCRIPTION:

PART OF THE NORTHEAST QUARTER OF SECTION 22, AND THE NORTHWEST QUARTER OF SECTION 14, BOTH IN TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 22; THENCE SOUTH (ALL BEARINGS ASSUMED) ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, SAID LINE ALSO BEING THE CENTERLINE OF FIR ROAD A DISTANCE OF 759.23 FEET MORE OR LESS TO THE POINT OF BEGINNING; THENCE CONTINIUNG SOUTH ALONG SAID EAST LINE AND CENTERLINE A DISTANCE OF 60 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 561.68 FEET MORE OR LESS; THENCE SOUTH A DISTANCE OF 507.90 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 622.49 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 487.37 FEET MORE OR LESS; THENCE WEST A DISTANCE OF 137.22 FEET MORE OR LESS; THENCE NORTH A DISTANCE OF 81.54 FEET MORE OR LESS; THENCE EAST A DISTANCE OF 1321.44 FEET MORE OR LESS TO SAID EAST LINE OF SAID QUARTER SECTION AND THE CENTERLINE OF FIR ROAD TO THE POINT OF BEGINNING.
CONTAINING 9.15 ACRES MORE OR LESS.
SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

Mishawaka City Plan Commission and
The Mishawaka Common Council
600 East Third Street
Mishawaka, Indiana 46544

July 18, 2021

RE: Annexation and Rezoning request for
Byrkit Property Group LLC:

Dear Board Members,

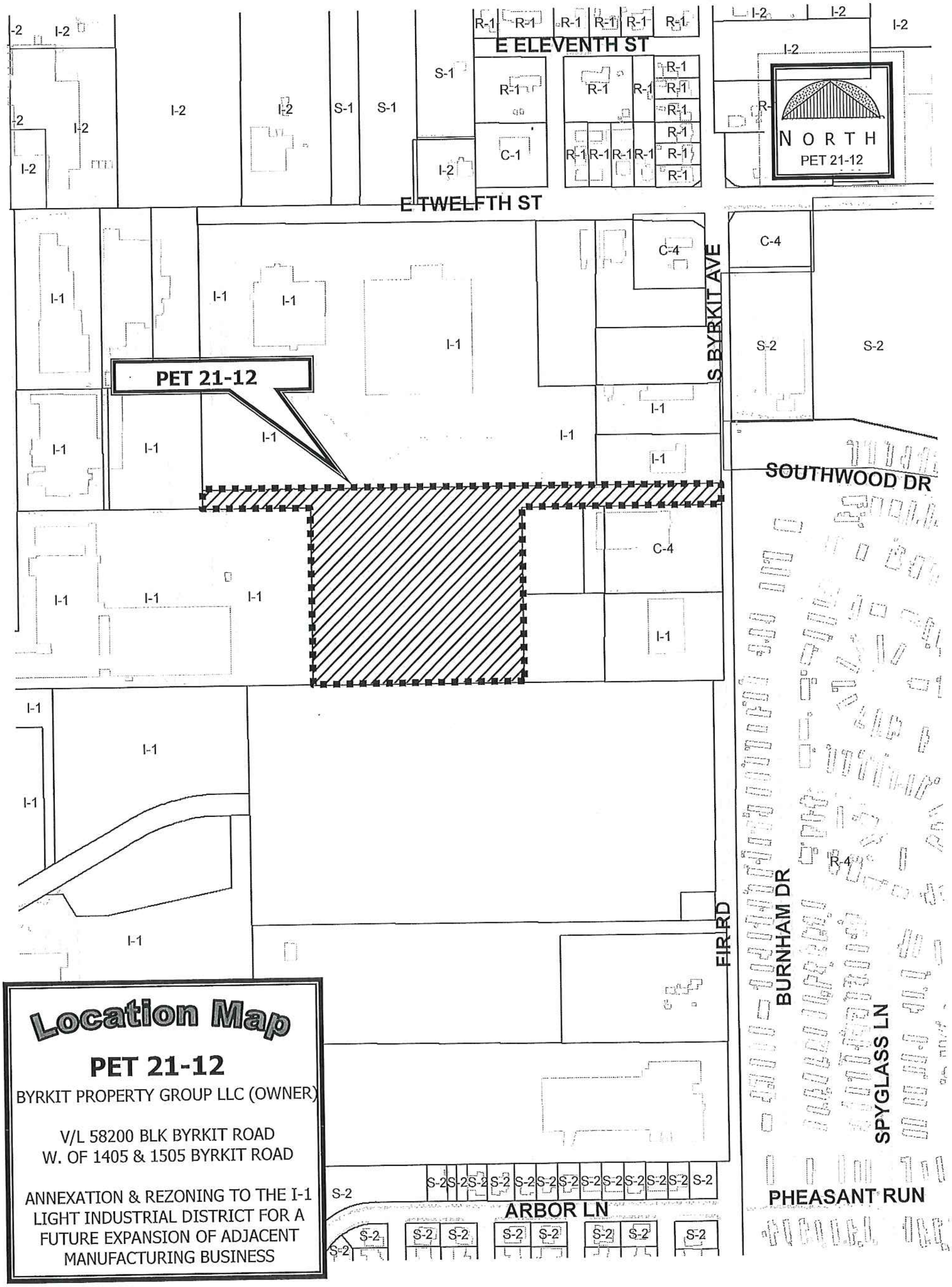
This letter is to inform the Board Members that we have granted authority to Danch, Harner & Associates to represent us at the Mishawaka Plan Commission meeting(s) and the Mishawaka Common Council meeting(s) at which our Annexation and Rezoning requests will be heard for our property located in the 58200 Block of Fir Road, St. Joseph County, Indiana.

If you have any questions concerning this matter, please feel free to give me a call at 574-271-9952.

Sincerely,

Michael S. Krizman, Manager
For Byrkit Property Group LLC
51129 Shamrock Hills Court
Granger, Indiana 46530

File No. 210180 "C" Md.



E ELEVENTH ST
E TWELFTH ST
S BYRKIT AVE
SOUTHWOOD DR
FIR RD
BURNHAM DR
SPYGLASS LN
PHEASANT RUN
ARBOR LN
NORTH
PET 21-12
PET 21-12
Location Map
PET 21-12
BYRKIT PROPERTY GROUP LLC (OWNER)
V/L 58200 BLK BYRKIT ROAD
W. OF 1405 & 1505 BYRKIT ROAD
ANNEXATION & REZONING TO THE I-1 LIGHT INDUSTRIAL DISTRICT FOR A FUTURE EXPANSION OF ADJACENT MANUFACTURING BUSINESS

Deborah S. Block, IAMC, MMC

JUL 23 2021

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO.2021-25

ORDINANCE NO.__________

AN ORDINANCE TRANSFERRING FUNDS FROM THE MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE CITY OF MISHAWAKA TO THE LOCAL ROAD & 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

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, THAT:

Section 1. There is hereby transferred from the Motor Vehicle Highway Restricted (MVHR) Fund of the City of Mishawaka to the Local Road & Bridge Matching Grant Fund of the City of Mishawaka the sum of $382,620.00 as required for the Community Crossing Grant.

Motor Vehicle Highway Restricted Fund (MVHR)

From:			
Capital Outlays			
203-50-442-01	Street Repair		$382,620.00
		Total	$382,620.00

Local Bridge and Road Matching Grant Fund

To:			
Other Services and Charges			
244-50-436-03	Street Repair		$382,620.00
		Total	$382,620.00

Section 2. Which requires the appropriation of additional funds for the fiscal year ending December 31, 2021 in addition to that set out in detail in the published budget.

Section 3. There is hereby appropriated from the Local Bridge and Road Matching Grant Fund of the City of Mishawaka the sum of $765,240.00 for assignment as follows:

Local Road & Bridge Matching Grant Fund

<u>Other Services and Charges</u>			
244-50-436-03	Street Repair		<u>$765,240.00</u>
		Total	$765,240.00

<u>Section 4</u>. This Ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana

On this ____________day of ________________, 2021 at _________ o'clock, ___. M.

____
Gregg Hixenbaugh, Presiding Officer

ATTEST:

____
Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this ________day of ______________, 2021 at______ o'clock, ____. M.

____
Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this ________day of _______________, 2021 at

___________o'clock, ____. M.

____
David A. Wood, Mayor

Deborah S. Block, IAMC, MMC

JUL 29 2021

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2021-26

ORDINANCE NO.____________

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

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA INDIANA, THAT:

Section 1. An emergency exists which requires the appropriation of additional funds for the fiscal year ending December 31, 2021 in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the CARES Provider Relief Fund the sum of $44,576.00 for assignment as follows:

CARES Provider Relief Fund

Capital Outlays		
264-50-445-07	Medical Equipment	$44,576.00
	Total	$44,576.00

Section 3. This Ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana

on this ___________day of ________________, 2021 at _____________

o'clock, ____. M.

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this_______________ day of __________________,2021 at________

o'clock, ____. M.

____

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this ___________day of ___________________,2021 at

_________________o'clock, ___. M.

____

David A. Wood, Mayor

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kurtis D. Vardaman, Deputy Controller

Deborah S. Block, IAMC, MMC
JUL 29 2021
City Clerk
Mishawaka, IN

Date: July 29, 2021

To: Honorable Members of the Common Council

From: Rebecca Maguire – Controller

Re: **Additional Appropriation CARES Provider Relief fund**

For first reading on August 2nd is an additional appropriation for the CARES Provider Relief Fund.

In 2020 the City received funds based on certain criteria from the City's ambulance runs.

These funds will be used for a new Tahoe for the Fire Department. See Chief Woodward's letter for further explanation.

c: David A. Wood – Mayor

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

MISHAWAKA FIRE DEPARTMENT
Bryon Woodward
Chief of Department

Date: June 14, 2021

To: Rebecca Miller, City Controller

From: Bryon Woodward, Fire Chief

Re: New vehicle purchase

I am requesting to utilize CARES Provider Relief Funding to the amount of $44,575.58 for the purchase a new 2021 Chevy Tahoe to replace our current Battalion 1, 2013 Chevy Tahoe. This pandemic has caused a vast amount of changes for everyone and we are no different, specifically for this vehicle COVID has increased its routine workload.

One of the three Battalion Chiefs, who are assigned to it every day, along with two Station 4 Captains who fill in the vehicle when a Battalion Chief is off duty, are Lead paramedics and at no time is there less than an EMT-B assigned to the vehicle. This is important because Battalion 1 is stationed at the far east side of the city in our only station that does not have an ambulance housed in it. Because of the levels of medical certification that are staffed in Battalion One it responds as another mobile, medical provider. It has been outfitted with all necessary medical equipment, now including COVID related PPE, so they can respond along with other units assigned to any call. A benefit to our community of having paramedics ride in this vehicle is they can provide advanced levels of care to patients well before an ambulance were to arrive.

Also, is it has become the COVID PPE supply vehicle. Every morning a COVID PPE supply list is phoned in to the Battalion Chief from the stations and then the Battalion transports the necessary PPE out to restock frontline apparatus to their original par levels. Also, throughout the 24-hour shift anytime a piece of apparatus starts running low on its stock again, it requires the Battalion to make multiple trips to the stations to deliver PPE. All of the normal EMS supplies are housed at St. 3 on the far north side of the city but due to lack of space and a need for more constant oversight of COVID related PPE, all of those supplies are housed at Station 4.

Simply put, the mission and routine workload of Battalion One has changed and with that comes additional wear, tear and maintenance on a vehicle that is already having mechanical issues. We had hoped to replace it through the budget process in 2022 but this is not fiscally feasible due to ordering other needed apparatus, which puts it two years away at best before any replacement can happen.

Thank you,

Bryon Woodward

Bryon Woodward
Fire Chief

Deborah S. Block, IAMC, MMC
JUL 29 2021
City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2021-27

ORDINANCE NO.____________

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

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA INDIANA, THAT:

Section 1. An emergency exists which requires the appropriation of additional funds for the fiscal year ending December 31, 2021 in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the Cumulative Capital Development (CCD) fund of the City of Mishawaka the sum of $75,000.00 for assignment as follows:

Cumulative Capital Development

Other Services and Charges		
417-50-436-90	Service Contracts/ Software Maintenance	$75,000.00
	Total	$75,000.00

Section 3. This Ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana

on this ____________ day of ________________, 2021 at _____________

o'clock, ____. M.

____
Gregg Hixenbaugh, President

ATTEST:

____
Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana on this_______________ day of ___________________, 2021 at________ o'clock, _____. M.

____
Deborah S. Block, MMC, City Clerk

APPROVED BY ME this ___________day of ____________________, 2021 at __________________o'clock, ___. M.

____
David A. Wood, Mayor

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Maguire, Controller
Kurtis D. Vardaman, Deputy Controller

Deborah S. Block, IAMC, MMC
JUL 29 2021
City Clerk
Mishawaka, IN

Date: July 29, 2021

To: Honorable Members of the Common Council

From: Rebecca Maguire – Controller

Re: **Additional Appropriation Cumulative Capital Development CCD**

For first reading on August 2nd is an additional appropriation for the Cumulative Capital Development Fund.

The CCD fund #417 is used exclusively for Information Technology hardware, software, maintenance agreements, and service contracts.

Due to a steady increase in projects and price increases, there is a need to add additional funds to the budget to pay for service contracts and maintenance agreements for 2021.

Please contact Patrick with any questions.

c: David A. Wood – Mayor
Patrick Stokes – IT Director

Deborah S. Block, IAMC, MMC
JUL 12 2021
City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2021-24

ORDINANCE NO. ________

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS PURSUANT TO IC 5-13-9-5

Whereas, the City of Mishawaka (the "City") desires pursuant to IC 5-13-9-5 to allow banks outside the political subdivision to submit quotes on public funds certificates of deposit for the purpose of investing its operating and utility funds;

Section 1. Now, therefore, pursuant to IC 5-13-9-5, the Common Council of the City of Mishawaka hereby authorizes the investing officer of the City to invest in certificates of deposit of depositories that have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5. This authorization expires one (1) year after the adoption date.

Section 2. This ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana

On this __________ day of ______________, 2021 at _________ o'clock, ____. M.

____
Gregg Hixenbaugh, Presiding Officer

ATTEST:

____
Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this __________ day of ________________, 2021 at ______ o'clock, ____. M.

____
Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this __________ day of ________________, 2021 at

________________ o'clock, _____. M.

____
David A. Wood, Mayor

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Miller, Controller
Kurtis Vardaman, Deputy Controller

Deborah S. Block, IAMC, MMC
JUL 12 2021
City Clerk
Mishawaka, IN

Date: July 12, 2021

To: Honorable Members of the Common Council

From: Rebecca Miller

Re: Investment of Public Funds

For the July 19th meeting I am requesting first reading on our Investment of Public Funds ordinance. This ordinance has an annual renewal and is necessary to allow me to invest in financial institutions outside of the Mishawaka city limits.

I work with Baker Tilly who requests bids and recommends the most advantageous interest rates and maturity dates.

Please contact me with any questions.

c: David A. Wood, Mayor