

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

August 16, 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, August 16, 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 in remembrance of former School City of Mishawaka teacher, coach, Mishawaka High School principal and administrator Bob Smith who had recently passed away.

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

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 August 2, 2021 were approved as received from the Clerk's Office.

Clerk Block read letters from the Board of Zoning Appeals and City Plan Commission regarding their recommendations from August 10, 2021 meetings.

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

PROPOSED ORDINANCE NO. 2021-28

AN ORDINANCE AMENDING CHAPTER 10, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS THE AMUSEMENTS AND ENTERTAINMENTS ORDINANCE OF THE CITY OF MISHAWAKA, INDIANA.
Amendment to the Amusement and Entertainment Ordinance
(Assigned to Public Health & Safety Committee)

PROPOSED ORDINANCE NO. 2021-29

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 rear portion of property from C-1 General Commercial to R-1 Single Family
Residential – 115 Kline St.
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2021-30

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA AND PROVIDING ZONING CLARIFICATIONS
THEREFORE**

**Annexation & Rezoning for 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.
(Assigned to Land Use Planning Committee)**

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

RESOLUTION R2021-19

**A RESOLUTION MODIFYING LOCAL INCOME TAX RATES IN ST. JOSEPH
COUNTY, INDIANA**

Mayor Wood supported **RESOLUTION R2021-19**. Mayor Wood stated the need to do this was they had a 911 communications center they consolidated within the past few years. Mayor Wood stated they had some growing pains there to be sure, but with the right leadership, technology and staff in place, they were ready to look at how it would be funded on a permanent basis. Mayor Wood stated he long believed the 911-communication center was a mission critical service that each person in St. Joseph County had equal access too and should be paid for equally. Mayor Wood stated that was not happening and unlike libraries where every citizen supported roughly equally with their tax dollars and the 911-communication center was not like that at all. Mayor Wood stated some citizens paid substantially more for the access and Mishawaka citizens were being double tasked. Mayor Wood stated that was the case, because it was funded three ways by the city of Mishawaka, the city of South Bend and St. Joseph County and if you lived in a rural part of the county, you would pay most likely from the St. Joseph County portion of your taxes. Mayor Wood stated if you lived in Mishawaka, you paid taxes in Mishawaka and paid taxes in St. Joseph County, both of which went to support the 911-communication center. Mayor Wood stated he believed every community should have roughly equal skin in the game. Mayor Wood stated the model proposal was not new and it was modified from what was recommended a couple of years ago. Mayor Wood stated they also asked for a public meeting and got one to receive some feedback. Mayor Wood stated the proposal was similar to what was recommended originally and they had a representative present at the meeting that evening who could explain it further if the council preferred. Mayor Wood stated he saw the proposal as a more equitable way of funding the vital service every citizen had access to. Mayor Wood stated more importantly, no tax increase was needed for it and it was a tax shift, which then would fund it. Mayor Wood stated lastly it would not impact school funding. Mayor Wood stated that was a few key reasons why he supported the resolution and hoped the council would do the same.

Mr. Hixenbaugh thanked Mayor Wood for his comments and for his partnership between himself, the administration and the council as they worked through the process over the past couple of years. Mr. Hixenbaugh stated it was fair to say that, to a certain extent, COVID-19 along with other issues altered the timeline and the period with regard to that issue and he was very pleased with the work they had done in conjunction. Mr. Hixenbaugh stated anyone who was part of the meetings would agree with the Mayor on the fact that Mishawaka had spoken with one voice throughout the process. Mr. Hixenbaugh thanked Mayor Wood again.

Mayor Wood thanked Mr. Hixenbaugh for his comments and the council as a whole. Mayor Wood stated it was an important message that they were all there looking at the issue and thanked them for taking it on.

Mr. Hixenbaugh thanked all involved in the process of putting the resolution together and acknowledged Councilman Emmons and Councilman Hazen, who participated in the meetings at various times, along with himself. Mr. Hixenbaugh stated those meetings included their friends from St. Joseph County government and the city of South Bend and they appreciated the opportunity to collaborate with them and work through the issue. Mr. Hixenbaugh stated the Mayor's comments were well taken and they could not underscore too frequently the fact that this was a tax shift and not a tax increase for any individual taxpayer or entity that paid taxes in St. Joseph County, Indiana. Mr. Hixenbaugh stated it had the additional benefit of not only bringing equity into the funding formula, but allowing them to free up additional revenue and this was one way to accomplish that. Mr. Hixenbaugh appreciated the work and collaboration throughout the process.

Question was called for at 7:13PM for **RESOLUTION R2021-19** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

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

Clerk Block asked for all of the councilmembers to stay after meeting to sign the resolution.

Mr. Hixenbaugh stated the record should also reflect that this was the first step in a multi-stage process. Mr. Hixenbaugh stated pursuant to the law, Clerk Block would now formally notify the county auditor of the action that took place that evening which would set the stage for other legislative bodies who served as part of the income tax counsel to take action as they saw fit to do so. Mr. Hixenbaugh concluded thanking everyone involved in the process and thanked Clerk Block for her assistance.

RESOLUTION R2021-20

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: 218 WEST CLEVELAND ROAD GRANGER, INDIANA

Use Variance to allow Microblading/Permanent Makeup – 218 W. Cleveland Rd.

Autumn Spitler, 2006 Ontario Rd. #85 Niles, Michigan 49120, spoke in favor of **RESOLUTION R2021-20**. Ms. Spitler stated she was present that evening to support the use variance to allow microblading and permanent makeup at their studio 16th lawn at 218 West Cleveland Road.

Mrs. Voelker stated she drove by her facility today and she noticed she had a great sign. Mrs. Voelker asked how long she had been there. Ms. Spitler stated they moved in the first week of April. Mrs. Voelker congratulated her and welcomed her to Mishawaka.

Mrs. DeMaegd asked if she could tell the council a little bit about the pre procedure instructions she gives her clients and stated she realized it was not a walk-ins welcome procedure type of salon. Ms. Spitler stated they would do an initial consultation with the client and give them some requirements before they could even have the treatment, which required they not be on certain medicines, blood thinners, retinols and things of that nature. Ms. Spitler stated they ran their clients through long list of questions. Mrs. DeMaegd asked if she had the clients sign waivers. Ms. Spitler stated they absolutely did.

Question was called for at 7:17PM for **RESOLUTION R2021-20** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

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

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

PROPOSED ORDINANCE NO. 2021-25

AN ORDINANCE TRANSFERRING FUNDS FROM THE MOTOR VEHICLE HIGHWAY RESTRICTED FUND TO 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. Banicki reported the Committee of Budget and Finance recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Mammolenti, the motion carried.

Debbie Block, Mishawaka City Clerk, spoke in favor of **PROPOSED ORDINANCE NO. 2021-25**. Clerk Block stated this was the third time the ordinance had come before the council and it seemed like publications had been difficult to deal with for this one, but they had been done correctly that time. Clerk Block stated they were all set now with this ordinance and asked they vote favorably.

Question was called for at 7:20PM for **PROPOSED ORDINANCE NO. 2021-25** **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. 5753.**

PROPOSED ORDINANCE NO. 2021-26

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

**Additional Appropriation: CARES Provider Relief Fund Capital Outlays 264-50-445-07
Medical Equipment \$44,576.00**

Mrs. Voelker reported the Committee of Budget and 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 Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2021-26**. Mrs. Maguire stated this was an appropriation of CARES Act Provider Relief Fund money they received last year due to them servicing Medicare patients with their ambulances. Mrs. Maguire stated the Fire Department would use this to purchase a new Tahoe to replace an aging Tahoe in their fleet and Chief Woodward wrote a letter detailing that it was used as a first responder vehicle and there was always a medic on it. Mrs. Maguire stated it was very useful for the department and it was used also to deliver COVID PPE supplies to the various departments.

Mr. Hixenbaugh echoed the Controller's comments and thanked Chief Woodward for the information he submitted in his letter. Mr. Hixenbaugh stated it was easy to understand and he appreciated all the detail included.

Question was called for at 7:23PM for **PROPOSED ORDINANCE NO. 2021-26** **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. 5754.**

PROPOSED ORDINANCE NO. 2021-27

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

**Additional Appropriation: Cumulative Capital Development Other Services & Charges
417-50-435-90 Service Contract/Software Maintenance \$75,000.00**

Mr. Emmons reported the Committee of Budget and 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 Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2021-27**. Mrs. Maguire stated this was an additional appropriation for the Cumulative Capital Development Fund and there had been a city increase in service contract needs and software maintenance. Mrs. Maguire stated they were appropriating an additional \$75,000.00 to make it through the rest of the year.

Question was called for at 7:26PM for **PROPOSED ORDINANCE NO. 2021-27** **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. 5755**.

NEW BUSINESS

Mrs. Voelker complimented the City of Mishawaka Police, Fire and Central Services for all of the work they had done on the cleanup from the storm the week prior to the meeting. Mrs. Voelker stated Lincoln way was a mess, traffic stopped in both directions for a number of hours and they did an amazing job getting huge trees cleaned up. Mrs. Voelker stated even that day; they were out picking up debris. Mrs. Voelker concluded thanking them for their efforts and she really appreciated it.

Mr. Hixenbaugh thanked those agencies of city government along with the Parks Department and any of the other individuals who deserved accolades for their participation in the National Night Out Against Crime. Mr. Hixenbaugh stated it was a well-attended event in both locations of Merrifield and Twin Branch. Mr. Hixenbaugh stated the weather was good; people were enjoying themselves and he thanked all who were involved for their work in putting the events together.

ADJOURNMENT 7:29PM

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

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

