

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

September 20, 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, September 20, 2021 at 7:00PM. The meeting was called to order by Vice President Matt Mammolenti. All were asked to stand for the Pledge of Allegiance.

Roll Call.

Present: Mrs. DeMaegd (P), Mr. Banicki (E), Mr. Hazen (P), Mr. Mammolenti (P), Mr. Emmons (P), Mr. Bellovich (P), Mr. Compton (P), Mrs. Voelker (A), Mr. Hixenbaugh (E)
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 September 7, 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 their September 14, 2021 meetings.

APPEAL #2021-27 An appeal submitted by Mark Shea, Trustee of the John C. Shea Sr. Revocable Trust and Rosemary Shea, Trustee of the Rosemary Shea Revocable Trust requesting a Use Variance for 318 West Cleveland Road and 320 West Cleveland Road, Granger, to allow dog grooming and cat boarding on C-2 Shopping Center Commercial property.

The Board, with a vote of 4-0, recommended approval.

APPEAL #2021-32 An appeal submitted by GLC-MAP McKinley Trust requesting a Use Variance for 422 West McKinley Avenue to allow a three-tenant building, one with drive-thru window, on C-1 General Commercial zoning district.

The Board, with a vote of 4-0, recommended approval.

PETITION #21-13 A petition submitted by MFD II, LLC (Miller Family Development, LLC) requesting to amend the Whispering Pines Planned Unit Development to remove the restriction as a senior-only complex to become market-rate, non-age restricted.

The Commission, with a vote of 4 (against) - 1 (for), forwarded no recommendation.

PETITION #21-14 A petition submitted by GLC-MAP McKinley Trust requesting to rezone 422 West McKinley Avenue from C-4 Automobile Oriented Commercial District to C-1 General Commercial District.

The Commission, with a vote of 5-0, recommended approval.

PETITION #21-15 A petition submitted by Stephen J. and Joellen Miller requesting to rezone 821 West Jefferson Boulevard from R-1 Single Family Residential District and C-1 General Commercial District to C-6 Linear Office Commercial District.

The Commission, with a vote of 5-0, recommended approval.

Pursuant to I.C. 36-7-4-605 the Mishawaka Plan Commission hereby certifies to the Mishawaka Common Council the attached proposed ordinances regarding the above matters.

The introduction and swearing-in of Mayor Wood's Youth Council commenced.

Mayor Wood spoke prior to the festivities stating this was one of the special nights of the year swearing-in the class of 2021-2022 Youth Council. Mayor Wood stated next year, hopefully they would be able to swear-in the youth council in a much bigger Council Chambers new City Hall building. Mayor Wood stated they would take the same oath of office that himself, the council, and all of the public servants took. Mayor Wood stated it was something they held sacred and one they valued very much. Mayor Wood stated they would also go upstairs and select their officers for the upcoming year, so they ran it just the way the City Council operated their business. Mayor Wood stated they would operate within their budget and would effectively become Mishawaka public servants. Mayor Wood stated this was a program that he considered to be one of his most important initiatives and could not do it without the help of parent volunteers and especially Lou Ann Hazen along with his wife Jamie Wood and Debbie Gregg. Mayor Wood stated this program to him was about community service, educating on a multitude of areas of government and lastly being a leadership program. Mayor Wood stated the goal was not only to build the future of Mishawaka for the kids, but also give them the feeling to live and work in the city of Mishawaka. Mayor Wood stated they knew these kids were the best and the brightest and they wanted them to chase their dreams, wherever they may find them. Mayor Wood stated they wanted to give them a hands-on opportunity to shape Mishawaka's future and last year's class helped continue that notion. Mayor Wood referred to the designing of the city park located at the former Hums Park, which was now Heroes Park. Mayor Wood stated that project designed by the kids had won the Best Place making Project in the state of Indiana for the prior year. Mayor Wood stated in October, they would have a small contingent to appear in front of about 1,000 people and accept the award. Mayor Wood stated the only difficult thing about that was they now had to come up with something even bigger to let them do. Mayor Wood stated they had to look no farther than City Hall and they would likely give youth council a project with City Hall to work on. Mayor Wood stated when he thought about the kids, he appreciated what they did. Mayor Wood stated they came silent in most cases and then became

friends with kids they may not have met otherwise. Mayor Wood stated the youth council consisted of 30 kids from 3 different high schools (Mishawaka High School, Penn High School and Marian High School). Mayor Wood stated they had the opportunity to be mentored by other kids who went through the program or community leaders. Mayor Wood stated they would have all kinds of opportunities and they knew it was a good program, because he got mayors from all over Indiana and the Midwest looking to copy and paste the idea to their own communities, with several having done so already. Mayor Wood thanked everyone involved, but most especially the parents because it was a commitment they made along with their kids. Mayor Wood stated they expected the kids to take full advantage of the opportunities in front of them and this was their chance to shape and mold their community. Mayor Wood also stated they would keep them safe and well fed. Mayor Wood concluded thanking everyone once again for allowing the kids to serve in this way.

Mayor Wood called the kids up by name in alphabetical and accepted their oath along with a pin then returned to their seats, followed by standing together when everyone had their oaths and read off their oaths. Immediately following that, the kids adjourned upstairs to elect officers and receive their orientation.

Mayor Wood announced the sponsoring of a home in the city at the Mishawaka habitat work project that day. Mayor Wood stated they were building six homes for families in need and they got an awful lot of work done that day. Mayor Wood invited the council and any of their staff to come out from 8AM to 4PM. Mayor Wood stated they would be out there all week and hopefully would see them out there.

Mr. Mammolenti expressed his gratitude for all Mayor Wood, Jamie Wood and Lou Ann Hazen did and there was no doubt, why the youth council was the envy of many around the state. Mr. Mammolenti stated he looked forward to seeing the next project. Mr. Mammolenti concluded stating if it was anything close to what they did with Heroes Park, it would be no short of amazing.

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

PROPOSED ORDINANCE NO. 2021-31

**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.**

**PUD Amendment to remove restrictions as a Senior Only Complex to become Market Rate
Non-Age Restricted – Whispering Pine Apartments
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2021-32

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.

Rezoning for redevelopment with three tenant Commercial Building – 422 W. McKinley Ave.

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2021-33

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.

Rezoning from C-1 General Commercial & R-1 Single Family Residential to C-6 Linear Office Commercial – 821 W. Jefferson Blvd.

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2021-34

CIVIL CITY BUDGET AND TAX LEVY FOR 2022

(Assigned to Budget & Finance Committee)

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

RESOLUTION R2021-21

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, IDNIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT: 318 & 320 W CLEVELAND RD. GRANGER, IN

Use Variance to allow Dog Grooming and Cat Boarding – 318 & 320 W. Cleveland Road – Gordon’s Grooming

Mr. Compton made a motion that the council postpone the variance request to the next meeting on October 11th until they had a representative from Gordon’s Grooming to discuss the matter with the council. Mr. Banicki seconded the motion and Clerk Block called a vote on the motion.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).
Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mr. Hixenbaugh. The motion passed 8-0 and **RESOLUTION R2021-21** was postponed to the next common council meeting.

RESOLUTION R2021-22

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: 422 W. MCKINLEY AVENUE MISHAWAKA, INDIANA

Use Variance for a three-tenant building, one with Drive-Thru Window – 422 W. McKinley Ave.

Jeff Ballard, Danch Harner & Associates, spoke in favor of **RESOLUTION R2021-22**. Mr. Ballard stated the contingent purchaser and owner of the property contacted the current owner with the goal of developing a proposed three-tenant building to house a restaurant facility with a drive-thru, retail store and a small sit down restaurant on that parcel. Mr. Ballard stated they met with staff and determined the procedure to go through the rezoning process and request land use variances to allow the restaurant facility with the drive-thru and having three-tenant in a single building with the C-1 commercial zoning they were going through as well. Mr. Ballard stated that was the summary and would answer any questions.

Mr. Compton asked if this was a spec building and if there were tenants lined up. Mr. Ballard stated he heard tell of Starbucks and that was the only tenant he was aware of, but he could not commit to that.

Question was called for at 7:35PM for **RESOLUTION R2021-22** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mr. Hixenbaugh. The resolution passed 8-0.

RESOLUTION R2021-23

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, INTRODUCING AN ORDINANCE FOR ANNEXATION, ADOPTING A WRITTEN FISCAL PLAN, AND A DEFINITE POLICY FOR ANNEXATION FOR THE PROPERTY: A 9.15 ACRE PARCEL LOCATED NORTH AND EAST OF 1420 INDUSTRIAL DRIVE AND WEST OF BYRKIT AVE.

Fiscal Plan for Annexation for 58200 Block Rd. W. of 1405 & 1505 Byrkit Rd.

Ken Prince, City Planner, spoke in favor of **RESOLUTION R2021-23**. Mr. Prince stated the parcel before them for annexation was over 9 acres and as required by state law they had to identify any expenditures or additional expenditures required as part of the annexation process.

Mr. Prince stated they had been through this many times, they routed these to every applicable department in the city, and they each identified that they could serve the property under their existing budget. Mr. Prince stated the area was 64% contiguous to the city and it was part of a larger island they would expect to come into the city at a different time. Mr. Prince stated what was happening was Jamil Packaging had been looking at their long term needs and wanted to buy this parcel for their future expansion, even though they had no immediate plans to build a building or move forward with the expansion and really just wanted to lock up the property. Mr. Prince concluded stating he would answer any questions.

Question was called for at 7:38PM for **RESOLUTION R2021-23** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mr. Hixenbaugh. The resolution passed 8-0.

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

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.
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, Clerk Block polled the council on the committee report.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mr. Hixenbaugh. The committee report passed 8-0.

Question was called for at 7:41PM for **PROPOSED ORDINANCE NO.2021-30** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus becoming **ORDINANCE NO. 5757**

PRIVILEGE OF THE FLOOR

Kate Koontz, Lacy Hahn, Janet Hyduck-Whitfield, Jeffery and Kristie Miller, and John Banes expressed their frustration regarding the escalation of crime in the 1st district neighborhood, particularly at 427 W. 7th Street.

Members of the council thanked the residents for making them aware of the issues. They expressed to the residents that this was the right thing to do and to call the police when they saw suspicious activity.

UNFINISHED BUSINESS

A motion was made by Mr. Compton to bring RESOLUTION R2021-21 back to the floor, as they were able to make contact with the petitioner. With a second from Mr. Banicki, Clerk Block polled the council on the motion.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mr. Hixenbaugh. The motion to place the proposed resolution back on the agenda passed 8-0.

RESOLUTION R2021-21

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, IDNIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT: 318 & 320 W CLEVELAND RD. GRANGER, IN

Use Variance to allow Dog Grooming and Cat Boarding – 318 & 320 W. Cleveland Road – Gordon's Grooming

Mark Shay, 466 South Prospect Avenue in Elmhurst, Illinois, spoke in favor of **RESOLUTION R2021-21**. Mr. Shay stated his family owned Centennial Place and his tenant was Gordon's Groomers who was acting for the variance to perform grooming and boarding services in their two units that they leased from them at 318 & 320 West Cleveland Road. Mr. Shay stated Gordon's had been with them as a tenant for two years and they sold retail pet supplies as well as performed services for dog grooming. Mr. Shay stated they wanted to expand into cat grooming in a separate facility and board cats only indoors as well with no outside activity in either space. Mr. Shay concluded stating they wanted it to get done as soon as possible.

Question was called for at 9:06PM for **RESOLUTION R2021-21** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mr. Hixenbaugh. The resolution passed 8-0.

Clerk Block thanked Chief Deputy Raven Boston for working so diligently with Mr. Shay to get him back on the agenda for the council. Mr. Mammolenti thanked Raven as well.

NEW BUSINESS

Mr. Emmons acknowledged that he would be starting his monthly meetings once again and that he had been holding them for 17 years. Mr. Emmons stated they missed last year because of the pandemic and hoped to continue these monthly meetings. Mr. Emmons stated he would get guest speakers who were interested in the community as well as solving some of the problems

occurring in the district and city of Mishawaka as a whole. Mr. Emmons stated he would invite city officials and others who were needed to address situations. Mr. Emmons stated they would be honored with the Mayor's presence at the next meeting to give a synopsis of the State of the City Address from the prior year and would be there to answer any questions the community had. Mr. Emmons concluded stating the meeting would be at 7PM at St. Bavos School and the meeting would be held every month on the third Thursday, except for December. Mr. Emmons stated City Planner Ken Prince was lined up to be the guest speaker in October to speak about the development of the City of Mishawaka downtown and surrounding area. Mr. Emmons stated every month they would try to have something very pertinent to the citizens of Mishawaka and he encouraged all to attend. Mr. Emmons concluded stating he was looking forward to seeing everyone on Thursday.

Mr. Mammolenti thanked Mr. Emmons for his continued efforts in reconvening the neighborhood meetings and all he did.

Mr. Mammolenti announced the Twin Branch neighborhood watch meeting and the guest speaker would be Lieutenant Reppert to cover local crimes that occurred in the last month. Mr. Mammolenti concluded stating all were welcome.

Clerk Block reminded the council and everyone the regular council meetings in October would be held on October 11th and October 25th. Clerk Block also announced that Monday September 27th at 5:30PM, they would have the American Rescue Plan informational meeting at City Hall.

ADJOURNMENT 9:10PM

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

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