REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

March 21, 2022

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, March 21, 2022 at 7:00PM. The meeting was called to order by Council President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance.

Clerk Block called the roll.

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, 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.

Due to the cancellation of the regularly scheduled council meeting scheduled for March 7, 2022, there was no acceptance of the council minutes.

Clerk Block read the following appeals, letter and public hearing by title.

A public hearing on Vacation 2022-01 required by State Statute on behalf of DEV 4506 Lincolnway East, LLC for the Right-of-way vacation for planned adjacent car wash development (Drive & Shine) located at Wayne Street and Pennsylvania Avenue (undeveloped).

Steve Ruby, Abonmarche Consultants, spoke in favor of **Vacation 2022-01**. Mr. Ruby stated he was representing the Drive 'N Shine facility that evening. Mr. Ruby stated the owner was purchasing land adjacent to the properties on the other side of Wayne Street, which would require the vacation of the street and set improvements there as well as along Pennsylvania Avenue.

Jim Schoen, Miami Club Drive, spoke in opposition of **Vacation 2022-01**. Mr. Schoen stated he was not exactly in opposition or in favor of the Vacation, but he wanted to make sure a concern was considered in the vacation of the street. Mr. Schoen stated he specifically wanted to address the fact that he was visually impaired and could not drive, so transpo as well as the trolley was his mode of transportation. Mr. Schoen stated there was a bus stop he wanted to draw their attention to and it was right around the location were the facility would be. Mr. Schoen stated it was very important for individuals, like himself, who needed those bus stops and the trolley to get where they needed to go. Mr. Schoen stated it was very important to him, because it was the only one in that vicinity with it being a very busy and dangerous intersection for pedestrians. Mr. Schoen stated he just wanted to make sure that there would be nothing done to impede the availability to it for the disabled pedestrians to wait for the bus there. Mr. Schoen stated he did not know exactly how it would change, but he also wanted to know if Maycog was contacted on this vacation issue with Maycog being the administering agency that oversaw transpo and the trolley. Mr. Schoen stated again that he was not speaking in favor or against the Vacation, but wanted to call their attention to that bus stop right about where Wayne Street would egress onto Lincolnway West on the northwest corner of Bittersweet and Lincolnway West.

Mrs. Voelker thanked Mr. Schoen for bringing that to the council's attention.

Kristin Stape, 4112 Vistula Road, spoke in opposition of the Vacation. Ms. Stape stated she did not want the Drive 'N Shine there. Mr. Hixenbaugh stated at that point they were only talking about the vacation of the street which was a technicality of Indiana law. Mr. Hixenbaugh stated later on in the meeting, they would be talking about the rezoning and the fact that Drive 'N Shine was asking to be located there. Mr. Hixenbaugh stated they were just talking about the streets that would surround the property and whether they ought to be vacated or closed to public use. Mr. Hixenbaugh stated he would let her know when they got to the point where she could talk about that.

Steve Ruby, Abonmarche Consultants, once again, spoke before the council and addressed Mr. Schoen's points regarding the bus stop and Maycog. Mr. Ruby stated the bus stop location would not be changed in any way with the vacation of Wayne Street and it was just to reduce traffic flow. Mr. Ruby stated there would be no conflict there and they would be improving the walks to and from the Lincolnway portion or southern portion of the site as well as the eastside pf the site along Bittersweet. Mr. Ruby stated in fact, they would improve pedestrian movements along the property limits, which did not exist at that point. Mr. Ruby addressed the second concern stating they had not contacted Maycog yet because they did not plan to alter the bus stop location. Mr. Ruby stated it would remain the same.

Mrs. Voelker asked about the bus stop stating it was at Wayne Street, where it became a private driveway, and asked if that private driveway would be the drive in and out of Drive 'N Shine. Mr. Ruby stated the Drive 'N Shine driveway was currently located off of Bittersweet and would remain there. Mr. Ruby stated the All Star Car Wash existing there was utilizing the same driving way, so they would not be changing the flow onto Lincolnway.

Ken Prince, Director of Planning and Community Development, spoke on **Vacation 2022-01**. Mr. Prince began stating it was great to see Mr. Schoen and noted exactly what Mr. Ruby said and that this would actually improve the situation regarding accessibility. Mr. Prince stated twith the amount of traffic on Wayne Street, it essentially would become a private driveway. Mr. Prince stated the existing bus stop would not be altered and the additional sidewalk should improve accessibility to that corner. Mr. Prince also stated that the bus stop locations were independent of anything the city did, so Maycog was the entity responsible for installing those and if they wanted to, they could adjust them how they would like. Mr. Prince stated what was being proposed did not inherently alter what they currently had at all.

The public hearing was closed on **Vacation 2022-01** and they would revisit the issue under ordinances on second reading, not only with regard to the vacation of the street but also with the rezoning issue.

A letter from the Board of Zoning Appeals regarding their recommendations from their March 08, 2022 meeting.

Appeal No. 2022-02	Use Variance to allow microblading at an existing salon – 3931 Lincoln way East – That Hair Place
Appeal No. 2022-04	Use Variance to allow microblading at an existing salon – 1238 University Dr.

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

<u>RESOLUTION R2022-03</u>

A RESOLUTION OF THE CITY OF MISHAWAKA COMMON COUNCIL ESTABLISHING A MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT AREA WITHIN THE RECENTLY DESIGNATED REDEVELOPMENT PROJECT AREA

Ken Prince, Director of Planning and Community Development, spoke on **RESOLUTION R2022-03**. Mr. Prince stated going back to the early 2000s; the city adopted a riverfront district primarily for the purpose of establishing an area where lower priced liquor licenses could be obtained by state law. Mr. Prince stated liquor licenses were all regulated to the state and this was an avenue they saw that could increase the availability of a lower priced liquor license, which would go in hand with the development of restaurants and businesses. Mr. Prince stated they had a disproportionate number of restaurants relative to their population so that increased the price and made it harder for those restaurants that wanted to open and have a liquor license. Mr. Prince stated that was the reason this was proposed at the time and at that time it was primarily for downtown. Mr. Prince stated what they found during that time was they had repeated inquiries of people wanting a liquor license but they were not located in the area. Mr. Prince stated they decided they would expand in 2018 and take what they thought the limits were so they could remove the argument of being out of the district and put in the maximum area as required by state law. Mr. Prince stated they followed the floodplain identified by the flood insurance rate maps which they did not look at careful enough, because there was an area on the eastside of town where the water body went outside of the flood limit area. Mr. Prince stated this amendment would broaden the district to include the additional area based on the water body going outside of the floodplain and expanded the area along Lincolnway, specifically the Curve

Café. Mr. Prince stated with the passage of this; they would be able to have a liquor license at a reduced rate along with the other businesses impacted along Lincolnway in that area.

Mr. Hixenbaugh thanked Mr. Prince and his staff for their work on this. Mr. Hixenbaugh then stated as Mr. Prince mentioned, they were creating the riverfront district to the maximum extent as they interpreted Indiana law and asked if he would agree with him when saying that they did not grant the liquor licenses in that district, so an individual or entity who wanted to apply for it had to go through a separate regulatory process through the state of Indiana. Mr. Prince stated that was correct and he noted that there were other regulations every business had to follow in order to apply.

Question was called for at 7:20PM for **RESOLUTION R2022-03 Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 9-0.

RESOLUTION R2022-04

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

Mayor Wood spoke in favor of **RESOLUTION R2022-04**. Mayor Wood stated this was a property they all knew well and many of them had special personal connection to it. Mayor Wood stated it was synonymous with manufacturing in Mishawaka going back to the late 1880s and it was the Dodge RMG site. Mayor Wood stated since the 1990s, it essentially had been decaying right on the edge of their downtown and had many service calls to the site over the years, including the second biggest buyer in city history. Mayor Wood stated it had been collecting artifacts there over time and the owners of the property, who were looking to sell the property, approached them. Mayor Wood stated before thinking about it, he said they would be interesting in buying it and after thinking about it more he was wondering why they would be interested, but it would get acquired if they did not buy it and continue to be a drag on city streets. Mayor Wood stated no one would do the improvements to it justice except the city of Mishawaka. Mayor Wood stated they were promised a good price and even if they were given the property for free, they would have to spend millions to clean it. Mayor Wood stated they were looking to acquire some of the property anyway with the need for city services. Mayor Wood stated they would like to expand their apparatus so they could have drive through opportunity at fire station #1 and they knew they needed a new salt barn and closed storage facility for the Central Services department. Mayor Wood that was one area where they could go and acquire property to do some of those improvements. Mayor Wood stated they would like have a road that connected Union Street and 7th to Laurel Street and 6th and this would give them that opportunity. Mayor Wood stated they knew this property could not be saved and knew it would take more resources than anyone could repair, therefore they thought it could be left to decay in which case the Code Enforcement department and Police department would be more involved there. Mayor Wood stated they thought it was their responsibility to add this to their acquisition list so they could acquire the property and control it's redevelopment with it being strategically located to their downtown. Mayor Wood it would figure to be a $13 million cleanup and investment into the site with it being about a 4-year period to get the site ready to be redeveloped. Mayor Wood stated with approval, they would do a purchase agreement and give the owner of the property a year to clear off the property of anything not of the structure. Mayor Wood stated the owner was knowledgeable of this and would be willing to grant them access any time while it would be in the process of being cleaned off and take position of it at the end of the year. Mayor Wood stated he or Ken Prince could answer questions and Mr. Prince would likely be the project manager. Mayor Wood stated they knew it was a big project and one of the most important ones, because of what it meant for the future of the Mishawaka along with how much it was a part of Mishawaka's past. Mayor Wood stated unfortunately, it was an industrial wasteland and there was no other way to put it than that and now was their opportunity to make it better for Mishawaka's residents.

Mr. Hixenbaugh thanked Mayor Wood for the information and stated the cleanup cost would far outweigh the cost of acquisition. Mr. Hixenbaugh asked with regard to the purchase price of the property if they were at a point where they could quantify it. Mayor Wood stated they agreed to the price of $250,000.

Mrs. Voelker made a comment stating it was such a hole in the middle of the city that it was not productive and a safety issue for everybody. Mrs. Voelker thought cleaning it up was important and putting a connecting street through there was going to be important for the growth of the city. Mrs. Voelker stated she thought in the long term, it would be beneficial for Mishawaka.

Mr. Emmons asked about the architectural building. Mayor Wood stated that was the former Dodge office building and it was owned by a different group and not part of the transaction. Mayor Wood stated they would look to square off some property lines as part of this to make sure whatever happened there benefited the neighbors and the office space around there.

Mr. Banicki stated they had gotten some assistance from previous insurance companies to help some cleanup and asked if that would be a possibility with this as well. Mayor Wood stated it would be a possibility and would look to secure some grant funding to help with their endeavors. Mayor Wood stated they had the skills to deal with this in house and with consultants to deal with this successfully. Mr. Banicki stated they could seek restitution down the road. Mayor Wood stated that could be in play.

Mr. Hixenbaugh asked Mayor Wood if he could talk about with the acquisition price and the remediation and cleanup cost what the source of the funding would be to take care of both of those operations. Mayor Wood stated it would be funded by TIF unless they could get other grant money, which they would pursue if it made sense. Mr. Hixenbaugh asked if they had the capacity within their TIF fund to cover these costs. Mayor Wood stated they did to cover the original acquisition cost and to cover the $13 million or so cleanup, they would have to rerack the deck which did not mean they would not be able to get it done, but they may have to postpone another project.

Ken Prince, Director of Planning and Community Development, added on to the Mayor's comments regarding funding. Mr. Prince stated they had a discussion with the state brownfield coordinator and they were excited to hear about this potential acquisition for the city. Mr. Prince stated regarding funding, they were looking at about a $5 million expenditure in the state that would be available to be applied for and unfortunately they would be lucky to get around $1 million for the acquisition. Mr. Prince stated that money would only be for the environmental portion of the cleanup. Mr. Prince made a distinction on the insurance and stated this was a much different facility than what Uniroyal was, when they left unpaid taxes and a much larger environmental mess. Mr. Prince stated would be environmental cleanups but it was a $6 million demolition cost but it was a much better site overall than the environmental mess the EPA had to fund millions of dollars to clean up Uniroyal. Mr. Prince stated he did not envision the EPA getting involved in this cleanup. Mr. Prince stated they would pursue all avenues but he wanted to make the distinction for the record, because the owners took care of a great deal of asbestos and the tanks along with other chemicals on the property.

Mr. Compton stated there was a lot of history there as the Mayor said and his father worked there, his father in law retired there, his brother in laws and he also worked there as a electrician doing service work there several times in his career. Mr. Compton stated it was a place he did not like to see go and a place he remembered watching hundreds of men coming out of the building when he and his mother picked his father up from work. Mr. Compton stated unfortunately nothing was forever and this was the right way to go about improving it. Mr. Compton stated he liked the fact that they were doing this and other communities would let things sit for way too soon. Mr. Compton stated the timing was right and he supported it. Mr. Compton thanked the Mayor for bringing it forward.

Mr. Hazen agreed with Mayor Wood and Mr. Compton and stated this was the time they needed to jump on it. Mr. Hazen stated he knew it would cost them a lot of money, but he guaranteed there were people waiting in line to buy it if the city did not and let it sit there for another couple of decades. Mr. Hazen stated he totally supported the resolution.

Question was called for at 7:39PM for **RESOLUTION R2022-04 Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 9-0.

RESOLUTION R2022-05

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: 3931 Lincolnway East, Mishawaka, Indiana
Use Variance to allow mircoblading at an existing salon – 3931 Lincoln way East – That Hair Place

Steve Cook spoke in favor of the resolution on behalf of his wife Linda. Mr. Cook stated because of several things in the work environment, they made some changes and decided to go to independent contractors. Mr. Cook stated in doing that, two young women were leasing from them and the microblading was one more piece they could add to their abilities to service to their customers that other salons were doing in the city of Mishawaka.

Mr. Compton stated the council would see another one of these right after this resolution and they had seen microblading variance requests in the past. Mr. Compton asked why this had to come before the council. Mr. Hixenbaugh deferred to Mr. Prince, but stated technically under the zoning code and the law this was considered more akin to a tattoo then it was to a cosmetic activity. Mr. Hixenbaugh stated they thought long term it would be something they should look at to fit into the existing zoning ordinance structure without having people come before the council for the use variance, but they were not there yet with the existing body of law. Mr. Hixenbaugh stated when looking at the staff report, this was in close proximity of a park and school which typically was not what their zoning ordinance would anticipate would be the case, right or wrong. Mr. Hixenbaugh stated they would have to address it as time allowed.

Question was called for at 7:45PM for **RESOLUTION R2022-05 Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 9-0.

RESOLUTION R2022-06

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: 1238 East University Drive, Granger, Indiana
Use Variance to allow microblading at an existing salon – 1238 East University Dr.

Tyler Foley, 1238 E University Drive, spoke in favor of **RESOLUTION 2022-06**. Mr. Foley stated they were requesting the use variance because their services were growing and microblading was becoming a popular business. Mr. Foley stated they requested and were approved in 2020 for their other location and were asking for the same thing at their Granger location.

Question was called for at 7:47PM for **RESOLUTION R2022-05 Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, 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. 2022-04

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.
Rezone from R-1 SF Residential to R-3 MF Residential for 8 Residential homes & Accessory Building – NE. Corner of E. Jefferson Blvd & Maplehurst Ave. –Troop Town (Petitioner requesting withdrawal)

Mr. Compton made a motion to honor the Petitioner's request to withdraw the proposed ordinance, with a second from Mr. Banicki. A motion was made and seconded to approve the withdrawal of **PROPOSED ORDINANCE NO. 2022-04** at the request of the petition. A roll call vote was then held and the matter passed unanimously, making the withdrawal official.

PROPOSED ORDINANCE NO. 2022-06

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.
Rezone from R-1 & C-4 to C-4 Auto Oriented Commercial for proposed Car Wash Drive N' Shine – NW corner of Lincoln Way & Bittersweet Rd.

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.

Steve Ruby, Abonmarche Consultants, spoke in favor of **PROPOSED ORDINANCE NO. 2022-06**. Mr. Ruby stated as previously mentioned, there was a few things going on here regarding the properties to the west of the main property that was purchased and the owners were looking to acquire those properties. Mr. Ruby stated they were currently zoned the Residential R-1 designation and in order for him to operate the business, they needed this to be rezoned to C-4. Mr. Ruby stated this would allow them to improve the sequence for the post-car wash, similar to the other Drive 'N Shines in the area. Mr. Ruby concluded stating allowing the rezone would allow them to properly use the car wash facility.

Mrs. Voelker asked if the properties to the west were purchased yet or if that was dependent on the rezone. Mr. Ruby stated the purchase was dependent on the rezone.

John Piraccini, Coldwell Banker Commercial Real Estate Group, spoke in favor of **PROPOSED ORDINANCE NO. 2022-06**. Mr. Piraccini stated Mr. Turani purchased this sometime last year and as the council knew, this was a bit of a rundown corner currently. Mr. Piraccini stated during the process, they met with him and sorted out the layout and began to meet with the neighbors of the properties that would be purchased. Mr. Piraccini stated they then met with Ken Prince a couple times and he recommended Ms. Gilbert to work out the situation with her property being on the corner there. Mr. Piraccini stated they then took care of the landscaping needs and also worked with the liquor store next door about a vacation with that. Mr. Piraccini stated they were in the process of closing on two of the properties in the next couple of days and one property waiting on the tenant. Mr. Piraccini stated they met with the neighbors, at Mr. Hazen and Mr. Mammolenti's request at the Fire Station and had a good meeting. Mr. Piraccini concluded stating this would improve the corner considerably.

Mr. Mammolenti made a comment thanking Mr. Piraccini on behalf of himself and Mr. Hazen for attending the meeting and answering all of the questions from their constituents. Mr. Mammolenti stated he did a great job. Mr. Piraccini stated they always liked to get the neighbors informed as soon as possible and it was a productive meeting.

Kristin Stape, 4112 Vistula Road, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-06**. Ms. Stape stated she had lived in the area for three years and she liked the neighborhood how it was. Ms. Stape stated it was not too busy, but when you looked at Bittersweet and Lincolnway it was considerably busy with all of the businesses and restaurants in that vicinity. Ms. Stape stated it was congested and had enough cars going around the area and Drive 'N Shine would just increase the congestion and possibly cause accidents. Ms. Stape stated they did not need it on Bittersweet and the Main Street location was a much bigger area than what would be on the corner of Bittersweet and Lincolnway. Ms. Stape stated they did not need another car wash there with the only location of the American Classic Car Wash being the area car wash in her opinion. Ms. Stape stated there were already plenty of other car washes in Mishawaka and they did not need another one.

Mrs. Voelker had a question for Mr. Ruby regarding traffic congestion. Mrs. Voelker asked if he could talk about that and how Drive 'N Shine might impact traffic on that corner. Mr. Ruby stated currently the way they addressed the driving and mobility into and out of site, was they had stacking lanes on the location they were proposing three lanes wide and well over 150 feet. Mr. Ruby stated there would be plenty of places to pull off to the side as well, which would alleviate the stacking concern. Mr. Ruby stated it would address upwards of 20 vehicles stacking in that location as well as the line into the car wash as well.

Mr. Hixenbaugh thanked Ms. Stape for her comments and stated she did a nice job. Mr. Hixenbaugh stated in response to Mrs. Voelker's question that one of the things which was very common to hear was that they had too many of what was being proposed, whatever that may be. Mr. Hixenbaugh stated it was understandable to a certain extent, but they were not allowed under Indiana law to make decisions based upon that. Mr. Hixenbaugh stated when you had a willing seller who wanted to sell their property to a willing buyer, it was difficult for them to stand in the way of that. Mr. Hixenbaugh stated even if they did agree with her, the law did not allow them to make decisions based upon that factor and they all took an oath when they took office to follow the law. Mr. Hixenbaugh stated her points were well taken and appreciated her, but based upon that fact he continued to believe that this project would not only address some of the aesthetic issues but also the traffic concerns as well. Mr. Hixenbaugh stated he appreciated the information heard that evening, but would be voting in favor of the proposed ordinance.

Question was called for at 8:01PM for **PROPOSED ORDINANCE NO. 2022-06 Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus becoming **ORDINANCE NO. 5783**.

PROPOSED ORDINANCE NO. 2022-07

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.
Right of Way Vacation for Planned Adjacent Car Wash Development Drive N' Shine – Wayne & Pennsylvania Ave.

Mr. Emmons 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.

Steve Ruby, Abonmarche Consultants, spoke in favor of **PROPOSED ORDINANCE NO. 2022-07**. Mr. Ruby stated pertaining to the right of way vacation, this would allow the Drive 'N Shine property to require the other properties and unify the property as one.

Mr. Hixenbaugh stated there was information provided to them with the staff report on the impact of the neighborhood and there were findings they had to make under state law in order to vacate a public right of way with regard to negative impact on the surrounding neighbors. Mr. Hixenbaugh asked Mr. Ruby to touch on what impact this vacation would have on the residential property immediately to the west and others who lived in close proximity to this. Mr. Ruby stated the current Wayne Street was a north south cul-de-sac and serviced three of the residents as well as the tenant immediately west off of Lincolnway. Mr. Ruby stated as part of working through the agreements with the different ownerships, some were in purchase agreements and others would come to an agreement on how to address the Wayne Street vacation and access to their properties by allowing private drive access, improving landscape and improving aesthetic features within the adjacent land use there with nice screening, nice fencing, nice buffering and additional landscaping. Mr. Ruby stated Pennsylvania was undeveloped, so there was no access through Pennsylvania and because of that, there was not a driver access point to Wayne Street off of Bittersweet and did not impact a lot of the circulation through that area. Mr. Ruby stated as far as the surrounding areas, they believed they would be improving the transportation circulation around the site because they were not having a secondary entrance point after just to the west of Bittersweet. Mr. Ruby stated it addressed a rundown facility and would strongly improve the area and surrounding neighborhoods. Mr. Hixenbaugh asked if it would be a fair summary that if the vacation of a right of way were approved, no adjoining land owner would be landlocked as a result. Mr. Ruby stated that was correct. Mr. Hixenbaugh stated the other issue outlined in the staff report was the commitments that his client was willing to make with regard to landscaping and improvements to the private drive to the west of the property. Mr. Hixenbaugh asked if he could talk a little more about those commitments. Mr. Ruby stated the owners were present that evening and the commitments they made were to improve the fencing along there, improve their drive so it became a private drive instead of a shared public street and the owner was willing to pay for all of those set improvements to their properties as well as the adjacent car wash facility. Mr. Hixenbaugh asked if his client would provide written commitments that further flushed out the conditions prior to the actual vacation of the right of way. Mr. Ruby stated that was corrected and those commitments had been made and signed off by the owners as well as the landowners themselves. Mr. Hixenbaugh asked if he was authorized by his client to make those commitments so when he stood in front of the council and say certain things would be done, he had the authority to give them peace of mind that they will be followed. Mr. Ruby stated that was correct,

Mr. Mammolenti stated he drove by the location that day and recalled seeing it in operation and did not know if that was under the agreement until the property closed and asked how long it had been operating. Mr. Ruby stated he could not speak to that and Mr. Piraccini would be better suited to answer that. Mr. Piraccini it had been open for a while and it was going to run until this got done and then check with the council.

Mr. Emmons stated Drive 'N Shine was a very classy operation and the facilities there were second to none, but they were building more and more and seemed to have trouble with staffing. Mr. Emmons stated they did not have the staff to honor what they were selling even though you were paying the premium price. Mr. Emmons stated that was a concern. Mr. Piraccini stated they had always paid $15 to $16 an hour to workers and that may be the nature of the beast with most employers trying to get people. Mr. Emmons stated the prices were not lowered and yet you could not get in easily. Mr. Emmons asked to pass that on. Mr. Piraccini stated this would not be like the facility on Main Street, but smaller and more efficient. Mr. Piraccini stated he would pass Mr. Emmons' concerns on.

Question was called for at 8:11PM for **PROPOSED ORDINANCE NO. 2022-07 Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mrs. DeMaegd, Mr. Hazen, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus becoming **ORDINANCE NO. 5784**.

PRIVILEGE OF THE FLOOR

Brad Addison, 1322 Cantondale Lane and Principal of Emmons Elementary School, spoke under privilege of the floor. Mr. Addison stated he was present as an informational session and brought to their attention an event that was three years in the making and was finally being brought to fruition. Mr. Addison stated Emmons Elementary was selected as the ISTA Outreach To Teach Grant Recipient back in 2019 and the grant, along with the event, was supposed to be fulfilled in April of 2020, but unfortunately they had been postponed for a full two years due to the pandemic. Mr. Addison stated this was an opportunity for young, up and coming educators to do an outreach project for a deserving school and they were selected out of quite a few different submissions. Mr. Addison stated the focus of the grant was to give basically a base lift to a deserving school that incorporated about 100 to 120 volunteers, with many of them being educators from around the state of Indiana from institutions such as Manchester, Vincennes, Evansville and several others. Mr. Addison stated they were looking at donations to help take on the project and were certainly open to any volunteers that would want to help them on April 9th to complete any of the projects. Mr. Addison wanted to bring the information to the council and certainly bring support and awareness to the School City of Mishawaka and make them aware of the opportunity to have the event at their school. Mr. Addison handed out information to the council and would answer any questions they had.

Mr. Emmons thanked Mr. Addison for the presentation and asked what kind of lift he was talking about as far as inside or outside. Mr. Addison said both and they could not necessarily do many large-scale construction projects because these were college kids involved and liability as well. Mr. Addison stated a lot of it had do with painting, landscaping and refurbishing of basic things within the building. Mr. Addison stated one of the focuses was the teacher's lounge and trying to give back to the teachers who were dedicating their lives to the youth of their community. Mr. Addison stated they were welcome to come visit if they had not been in their building and most of it was built in the 1950s with just some sprucing up needed. Mr. Emmons stated he was very familiar with the school and asked if it would be just a one-day project. Mr. Addison stated it would be a one-day project on April 9th with prep work that went in beforehand. Mr. Addison stated luckily this would occur during their spring break and they would be able to really get things ready the right way. Mr. Emmons stated he would be happy to volunteer. Mr. Addison stated the information was on the handouts and he could register there to get involved.

Mr. Mammolenti thanked Mr. Addison for the presentation and more importantly thanked him and his wonderful staff at Emmons for all they did. Mr. Mammolenti stated his wife was a substitute teacher there sometimes and she held them in very high regards. Mr. Addison stated they certainly appreciated her help.

Mr. Hixenbaugh thanked ISTA and for everyone involved in doing the hard work, including Mr. Addison. Mr. Hixenbaugh stated he knew there was an obligation on the part of the principal in the school chosen and although it was an honor, he juggled a lot of other responsibilities as a principal and thanked him for his work. Mr. Hixenbaugh stated he was sure his printed information had guidance with regard to how people could donate, but for the sake of anyone doing this live or view the livestream; he asked who they should contact to make a donation. Mr. Addison stated they could log on to the Indiana State Teacher's Association website and on the front part of their webpage, there was an outreach to teach tab with links to the donation portion of the site. Mr. Hixenbaugh thanked him for the presentation and information as well as for the work he was doing at Emmons Elementary.

Mayor Wood reminded the council that the annual State of the City address was next week at 6PM in the Council Chambers. Mr. Hixenbaugh thanked Mayor Wood and stated they were looking forward to it.

Betty Karinen, 431 West Lawrence, spoke under Privilege of the Floor. Ms. Karinen stated she realized the zoning for Troop Town had been approved, but she wanted to speak as a marine veteran and a veteran volunteer in the area. Ms. Karinen stated she worked with many veteran organizations in the area for the last decade and got out in April 2012. Ms. Karinen stated she prided herself in helping in getting veteran organizations to work together. Ms. Karinen stated she was a recovering alcoholic and when she got home in 2012, her family helped her and she was lucky to have family to give her the support she needed. Ms. Karinen stated she wanted to address the council on the location and take the seriousness of this. Ms. Karinen stated she was a firm supporter in Mishawaka Troop Town with it being the third in the country and she bought a brick to help support Mishawaka Troop Town. Ms. Karinen stated because of the importance of it, she did not think they should shoot themselves in the foot in the community and do it insufficiently without having full knowledge of substance abuse when it came to transitional housing and mental health issues. Ms. Karinen stated there was a chronic issue in the veteran community with the socialization of drinking and when she was getting out of the military, she was trying to get help with her drinking which was almost impossible while she was active duty. Ms. Karinen stated it was not until she got out when it was even remotely possible for her to get sober and sustain sobriety. Ms. Karinen stated she had seen this in several different organizations she worked with and it was very disheartening. Ms. Karinen stated with the location being right next to the VFW, they are almost giving them a written invitation for that to be their community with the bar establishment in there. Ms. Karinen stated she could now with almost 9 years of sobriety walk into a bar, specifically going to the level-up program at the VFW once a month, but she also had a substantial amount of sobriety under her belt and the veterans that would live in that transitional housing did not have that sobriety under their belt. Ms. Karinen stated they would have no business being in or near a facility like that and she personally had relapsed several times because of it. Ms. Karinen stated this could diminish her reputation in the community for speaking out on this and was nervous to get in front of the council at all and she did not want it to come off as her being against it, but she does want it to be done correctly so other communities could mirror what they would do. Ms. Karinen was concerned if the council or city would do anything to mandate Troop Town's qualifications as far as suicidal awareness training, substance abuse training or anything like that. Mr. Hixenbaugh stated the city was not the operator of Troop Town at that point and they did approve the rezoning for the second site, not the one where the petition was withdrawn that evening but for the original site. Mr. Hixenbaugh stated in terms of the operation, how that plays out remains to be seen. Mr. Hixenbaugh suggested that she deal with the operators of Troop Town with regard to the issues, because as much as they appreciated the concern she was raising, that was not an issue for the city or council particularly and it was for those who would operate Troop Town to address. Mr. Hixenbaugh stated his own experience was they were very open to listening to those type of concerns and encouraged her to reach out to them. Mr. Hixenbaugh appreciated the concern she brought to them that evening.

NEW BUSINESS

Clerk Block reminded the council of meeting date changes for April with the April 4th meeting being moved to April 11th and the April 18th meeting being moved to April 19th.

Mr. Mammolenti notified his colleagues and the public that he would be chairing an American Rescue Plan Act and the Covid Relief Fund Committee would be hosting an evening with presentations from some of the local entities presenting to them perhaps asking for some of the funds. Mr. Mammolenti stated himself; Mr. Compton and Mrs. Voelker would be hosting that meeting on April 25th at 6PM in the Council Chambers.

ADJOURNMENT 8:27PM

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