

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

August 15, 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, August 15, 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 led by Maggie Brown, followed by a moment of silence in remembrance of the tragic passing of Congresswoman Jackie Walorski and her staffers Zach Potts and Emma Thompson along with Edith Schmucker.

Mr. Hixenbaugh opened the floor to any comments that any of the members of the council wished to make with regard to the tragic loss that the community had suffered and he invited Clerk Block and Mayor Wood to share any thoughts that they had as well.

Mr. Bellovich stated it was a very tragic loss that the state of Indiana and the United States incurred when Jackie, Zach Potts, Emma and Mrs. Schmucker were killed in the accident. Mr. Bellovich stated he had known Jackie for about 7 years and speaking from the standpoint of being a military veteran, she had done an awful lot for the veterans in Northern Indiana and across the state and she would certainly be missed. Mr. Bellovich stated young Mr. Zach Potts came into the GOP of Saint Joe County a couple of years ago and he had been like a whirlwind getting a lot done and having a lot of energy for the GOP there in the county and he would also be missed.

Mayor Wood thanked Mr. Hixenbaugh and stated it was very thoughtful to have the remembrance that evening. Mayor Wood stated it was a tragic event, followed by a week of a lot of sorrow and sadness. Mayor Wood stated they had heard from family and staff specifically of the congresswoman but also of families who were involved that were very appreciative of the city of Mishawaka for all that the city did to make to make the event surrounding the funeral easier for them. Mayor Wood stated he heard an awful lot about how proud they were of the city of Mishawaka specifically. Mayor Wood stated they also heard from the Capitol Police and they had members of Congress there and these kinds of events were no real rarity for them and they dealt with a lot of communities and specifically said that this one was among the best at helping to organize and just the amount of professionalism that was on display from the Mishawaka Fire Department, Mishawaka Police Department and others involved and he wanted to state that first of all. Mayor Wood stated personally, it was certainly a tragic loss as well and it showed that at any moment in time you could be called home. Mayor Wood stated he got the opportunity to meet Jackie and came up together in over 22 years now where he had known her since before she was involved in politics back when she worked in local media. Mayor Wood stated he got to know her early on in his council days and watched her rise at the local office then at the state office and finally the federal office. Mayor Wood states she was a very difficult person to replace in every one of those offices she served in and that was because she brought a lot of passion and a true commitment to serve. Mayor Wood stated whether you agreed with her politics or you did not, you always knew where she stood and he appreciated that about her and as somebody who disagreed with her on occasion, he always appreciated that about her. Mayor Wood stated she preferred to think of how she helped Mishawaka specifically and when he thought back about

how she changed Mishawaka, it had been for the positive. Mayor Wood stated they were a better city because of her leadership. Mayor Wood stated first of all, she brought her offices there and she could have opened an office anywhere but chose Mishawaka to do it which was a good service to their constituents, the same citizens that they all served. Mayor Wood stated she was a friend of veterans and when you thought about it what they had there and what they were blessed with and what was unique to Mishawaka to have was the VA clinic. Mayor Wood stated the VA clinic would not be there but for two things. Mayor Wood stated first of all, it took the feds to propose the project to work towards it and it at the same time, there was a lot of competition for that clinic there in the region. Mayor Wood stated it was located very specifically where it was because the city worked to clear a site and have it ready in their medical campus and secondly, it took somebody pushing on the federal end and Congresswoman Walorski was a champion not only of that center but that center in Mishawaka. Mayor Wood stated he would say that there was some opposition to it being Mishawaka from the then governor himself and from a senator who did not want to see it but thought that there were other places that it might be more appropriate. Mayor Wood stated Jackie was able to get her way in that and he thought Mishawaka was better for it and he thought their veterans were better for it. Mayor Wood stated she was very personable too and she was a friend of law enforcement and they had a good relationship on the law enforcement side of things as well. Mayor Wood stated she was just a regular person and he stated the last time he saw her in person, she was with her mom shopping at Lowe's and the last time he spoke with her, she was in Washington DC and she called him very specifically to say that she saw a press conference he had done with regard to the Merrifield Park fight that they had and she said she was proud of the way Mishawaka handled it. Mayor Wood stated she expressed the fact that she appreciated the common sense and them taking the stand that they did. Mayor Wood stated here she was, dealing with all of the big issues in DC and she certainly did not have to call and share that message and there was a million other things she could have been doing but for her to pick up the phone and do that, was very classy. Mayor Wood they also lost two of her staffers and they were kids who were his kid's age and some of their kid's age and it was just tragic all around. Mayor Wood stated the families were certainly struggling with how to cope and comprehend, but it was these kinds of events that really made you grateful for what you had and it certainly reinforced his priorities which were God, family and Mishawaka. Mayor Wood thanked the council for the opportunity.

Clerk Block stated she was sad out of town last week and was not able to participate in any of the events in honoring Jackie and her heartfelt sympathy went to her husband and her mother, who was still alive and it was hard to imagine losing a child. Clerk Block stated she knew many of them in the room probably did know what that was like but she had known Jackie probably for most of her life and they were not on the same political spectrum, but that did not matter when they saw each other and they had relatives together despite not being related personally but she did see her on several occasions. Clerk Block stated with Zach, she saw him probably at least once a month for the last couple years at election board meetings and he was always cordial and very, very professional and very nice and he was just two weeks away from his wedding. Clerk Block stated she did not know Emma or the lady driving the other car but these events did make you realize how fragile life was and that they should all appreciate their families and appreciate each other and appreciate the camaraderie that they had, even if they may not all have the same political beliefs. Clerk Block stated politics were completely out of this and it was just a very tragic event and lives were changed forever.

Mr. Hixenbaugh closed by expressing on behalf of the Mishawaka Common Council their condolences to the families of all who were involved and lost their lives in this tragic incident. Mr. Hixenbaugh stated they will be in their thoughts and prayers and in particular, if he could exercise a moment of personal privilege, he wanted to express his personal condolences to Mr. Dean Swihart, Congresswoman Walorski's husband who many of them knew as a long time distinguished educator for the School City of Mishawaka. Mr. Hixenbaugh stated during the media coverage of the tragic event, he heard reference to the fact that what stood out in the minds of many was that Congresswoman Walorski lived a life of service to the community and he thought that applied to all the others who were involved in this as well. Mr. Hixenbaugh again offered the council's condolences to the families of all who had been impacted by it and may they all rest in peace.

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 (A), 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 August 1, 2022 were approved as received from the Clerk's Office.

Clerk Block read letters from the Board of Zoning Appeals and the City Planning Commission regarding their recommendations from their August 9, 2022 meetings.

Honorable Members:

A regular meeting of the Mishawaka Board of Zoning Appeals was held on the above referenced date at which time the following Use Variances were considered:

Appeal No. 2022-27	An appeal submitted by Sharon A. Helman requesting a Use Variance for 1017 East Jefferson Boulevard to allow a food truck in the parking lot.
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The Board, with a vote of 3-2, recommended approval subject to the following conditions:

1. The truck shall be located a minimum of 10' from the north property line.
2. Hours of operation shall be no more than six hours per day, three days per week.

3. Use Variance shall expire one year from the date of Common Council approval.

Appeal No. 2022-29 An appeal submitted by Princess City Properties LLC requesting approval of a Use Variance at 702 South Logan Street to allow retail sales in I-2 Heavy Industrial District.

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

Respectfully,
Kari Myers, Administrative Planner
Secretary, Board of Zoning Appeals

Honorable Members:

A regular meeting of the Mishawaka Plan Commission was held on the above referenced date at which time the following proposed ordinances were considered:

Petition No. 2022-08 A petition submitted by CAT Mishawaka, LLC, requesting to rezone Lot 1 of CAT Mishawaka, LLC's Minor Subdivision from C-2 Shopping Center Commercial District to C-1 General Commercial District for speculative outlot.

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

Petition No. 2022-09 A petition submitted by Chris A. and Susan Skodinski requesting to rezone 2212 Lincolnway West from C-1 General Commercial District to R-1 Single Family Residential District.

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

Petition No. 2022-10 A petition submitted by Brandon S. Cripe & Dawn Renee Cripe & Chloe Ann Cripe requesting to rezone 805 South Logan Street from I-1 Light Industrial District to R-1 Single Family Residential district.

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

Petition No. 2022-11 A petition submitted by Robert Wright, Gary Wright, Rosalie Mc Cay-A Revocable Trust & as Trustee, and George A. Walker, and Virginia & Terry DeFreeuw Family Trust & as Trustee and Carolyn Bulkin and Jerome Francis Walker each with 1/5 interest, Lane Wright, Pauline Dora, The Wright Family Revocable Living Trust, Reserving Life Estate during natural life, requesting to

annex and zone 14325 Cleveland Road, Granger, to S-2 Planned Unit Development for commercial use.

The Commission, with a vote of 6-1, recommended approval subject to the attached conditions.

Petition No. 2022-12 A petition submitted by Pierre Smith & Germaine Smith requesting to rezone 911 North Main Street from C-1 General Commercial District to R-1 Single Family Residential District.

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

Petition No. 2022-13 A petition submitted by LaFree Properties, LLC ½ INT & Piraccini John A. and Jayne L. ½ INT requesting to rezone 3605 Bremen Highway from C-2 Shopping Center Commercial and C-7 Automobile Oriented Restaurant Commercial District to C-4 Automobile Oriented Commercial District.

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

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

PROPOSED ORDINANCE NO. 2022-19

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

**Rezone C-2 shopping center commercial to C-7 Auto Oriented Restaurant for speculative outlot – Lot 1 CAT Mishawaka, LLC. Minor Subdivision
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2022-20

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

**Rezone from C-1 (Existing Insurance Office) to R-1 Single Family Residential (Conversion back to house) – 2212 LWE
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2022-21

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 I-1 Light Industrial to R-1 Single Family Residential for an existing house – 805 S. Logan St.

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2022-22

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY IN THE CITY OF MISHAWAKA, INDIANA PROVIDING ZONING CLASSIFICATION THEREFORE Annexation and Rezone to S-2 PUD for commercial use – 14325 Cleveland Rd.

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2022-23

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

Rezone from C-1 to R-1 to rebuild single family residential house – 911 N. Main St.

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2022-24

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

Rezone from C-2 Center Commercial & C-7 Auto oriented restaurant to C-4 Auto Oriented Commercial for Drive N’ Shine Car Wash Facility – 3605 Bremen Highway

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2022-25

AN ORDINANCE TO ESTABLISH THE CEDAR STREET MULTIPLE SITE DISTRICT WITHIN THE CITY OF MISHAWAKA, INDIANA.

Establishing the Cedar Street multiple site a Historic District

(Assigned to Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2022-26

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.

**Amusement and Entertainment Ordinance
(Assigned to Public Health and Safety Committee)**

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

RESOLUTION R2022-17

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: 1017 EAST JEFFERSON BOULEVARD, MISHAWAKA, INDIANA.

Use Variance to allow Food Truck in the parking lot of Pilo's Body Shop – 1017 E. Jefferson Blvd.

Pablo Bueno, the owner of Pilo's Body Shop and Auto Sales LLC at 1017 E. Jefferson Blvd., spoke in favor of **RESOLUTION R2022-17**. Mr. Bueno stated he planned to add a food vending truck to his property and wanted to explain how it would be beneficial to them. Mr. Bueno stated the initial intention was to help draw business to the location, but now they would have dual purposes. Mr. Bueno stated it would also serve as a supplement income to his business due to economic hardship. Mr. Beuno stated as they were aware, the US economy had shrunk for a second quarter according to the Bureau of Economic Analysis and the past six months of contraction had indicated recession. Mr. Bueno stated their main income was from Pilo's Body Shop and the auto sales department had declined since the pandemic due to the rising cost of vehicles and of course, the computer chip. Mr. Bueno stated like all business, the body shop had fluctuated in their five plus years of business in the city of Mishawaka. Mr. Bueno stated although they had been able to survive over the past years through the pandemic, they were now concerned about their livelihood due to the already mentioned shrinking economy. Mr. Bueno stated Pilo's Body Shop had unfortunately become part of the statistics that faced their economy, such as staff shortage, inflation impact and many other unprecedented challenges that they might already know from the broken record they heard on the news across the nation every day. Mr. Bueno stated they had in fact not seen a new customer in the past five to six weeks, which they prayed would change for the better soon and it had over the past week. Mr. Bueno stated regarding their use variance which they had submitted an official proposal, he wanted to address some concerns from the Planning Department. Mr. Bueno stated according to the Planning Department, they were concerned about parking and he could assure that this would not be an issue. Mr. Bueno stated business had never been high enough, therefore, they had yet to run out of parking and they always had eight to ten parking spaces available. Mr. Bueno stated even at their busiest, they only got one to two customers per day, most of the time per week. Mr. Bueno stated most of the food orders would be placed by phone or online which meant most of them would be ready to pick up and go. Mr. Bueno stated they created a system that allowed

customers to be directed accordingly to and from their vehicle. Mr. Bueno their customer or customers would enter through a designated entrance and exit through a designated exit. Mr. Bueno stated drive up customers would be given a pager to take to their vehicle and would sound off when their order was ready and once the order was ready, they would drive up to pick up the order and go. Mr. Bueno stated because their vending food truck operation would be designed for to-go orders, there would be no interference with the shop operations as there would be designated parking spaces for both businesses. Mr. Bueno stated they had thought through and through and would adjust accordingly. Mr. Bueno stated he had mentioned this would be a form of supplement to his business that would allow customers to continue to eat local. Mr. Bueno stated this would also give an opportunity to his sons Ernesto and Jose, who had experienced economic challenges themselves and they would be working in the truck. Mr. Bueno stated it would help Ernesto fund his studies and business that would also give him hands-on experience while learning good business, ethics and customer relations. Mr. Bueno stated his son Jose, a single father whose employer cut his work and he was in the RV industry, which the council may have already heard about the closing of multiple plants laying off hundreds of personnel. Mr. Bueno stated mostly, he wanted to teach his family not to fall victims of malicious acts of today's youth and be veered in a positive direction in life. Mr. Bueno stated the hours would be 2 to 8, three days a week.

Mr. Compton wanted to ask about his existing business and believed a came before them in the past to open the business. Mr. Compton asked if he personally came to them several years ago to open that business. Mr. Bueno asked if he was referring to Pilo's Body Shop or the body shop before. Mr. Compton stated it was a bread store and then they allowed a variance for a body shop and they asked specific questions about the business that was going to be done there and one of those questions was will there be auto sales and stated the answer was no. Mr. Bueno stated that would not have been him and that would have been the previous owner. Mr. Compton stated he understood, but the variance covered him and they were already operating, he thought, outside of the variance and to grant another one, he was not sure if that was what they wanted or if that was what he was comfortable doing. Mr. Compton stated he understood that he may not have been the body shop owner who originally started that business as the body shop and maybe the owner of the building did not tell him he could not do that, but he was pretty sure if they looked back, the variance they passed previously said body shop only. Mr. Compton stated he would rely on some of his fellow councilmembers and their memories, but that was how he remembered it.

Mr. Mammolenti thanked him for coming that evening and stated his description of his proposal was very detailed. Mr. Mammolenti asked about his hours and if 2 to 8 were correct, because originally it said 11 or 10AM to 8PM. Mr. Bueno stated after the Board of Zoning Appeals meeting, they agreed on the 2 to 8 hours now. Mr. Mammolenti also asked where he would plan to keep the food truck parked when it was not in operation. Mr. Bueno stated in their property and there were six parking spaces on the northwest end of the property and there was four more parking spaces directly in front of the property on Jefferson. Mr. Bueno stated there were also eight more parking spaces along the eastside of the building as well. Mr. Mammolenti then asked if it would not move inside or behind and if it would remain in the same spot. Mr. Bueno stated the truck would be on the northeast end, ten feet from Jefferson Boulevard and it would go from point A to point B and point B to point A even when it was not in operation, because they might move it around the city if other locations were allowed and they have still yet to get to that point.

Mr. Banicki asked if this was limited to a one-year deal for this particular variance. Mr. Bueno stated they challenged him to one year to try it out and he accepted it because he was confident of what he was proposing that evening. Mr. Bueno stated he had been in business for many years with managing his shop, auto sales, managing a radio station and he came from a long line of managers. Mr. Bueno stated he would like to say that he was a good manager and did things well and was capable of addressing things and taking charge when he needed to. Mr. Banicki asked about the one year because he would have to come back before the council and if things were not working out, then they could say he was done. Mr. Bueno stated he was still committed to it. Mr. Banicki asked if he was willing to agree to the set hours in the proposal as the only hours he could operate on the property. Mr. Bueno stated they agreed from 2 to 8 Thursday and Friday and he was given two days of the week to choose and he choose Thursday and Friday. Mr. Banicki stated he did not want it to vary with the operation of the truck being on a Monday and a Tuesday one week and then a Thursday and Friday the next week, hypothetically. Mr. Bueno stated once he established the dates, that was it and he was willing to commit to it. Mr. Banicki stated Mr. Compton was correct in saying that at one point that was in fact zoned for car sales about that was taken away probably before he had gotten there, so it was an illegal use of the property and they saw that. Mr. Banicki stated he has been in the automotive business for 44 years and sometimes when you got slow business, you tried to do what you could to make ends meet, but the reality was it was limited. Mr. Banicki stated what they were asking was he meet the requirements that were agreed upon before he even took over, because it was not zoned for car sales. Mr. Bueno asked for clarification if he had to do away with the car sales. Mr. Banicki stated absolutely, because it was not part of the variance and actually they could close him down but they would not want to do that. Mr. Bueno stated he did not know what to say and he was a licensed state dealer and they had spent a lot of money to get where they were at. Mr. Banicki stated maybe he could work through the Planning Department to see what it would take to do that and when you were looking at so many different businesses on such a small piece of property, it just made it tough. Mr. Bueno it was something he really would have to think through.

Mr. Hixenbaugh stated he appreciated the creativity of his proposal and as a father of two sons, he was always in favor of putting two boys to work anything that something could be done to make that happen. Mr. Hixenbaugh stated as somebody who had sat through multiple hearings in multiple years on this property, it bothered happen that it did not appear the current use was consistent with the expectation of the council and that was an issue they would have to work through. Mr. Hixenbaugh asked if he was currently serving food out of the truck on the site. Mr. Bueno stated he had not been. Mr. Hixenbaugh then commented that he was like Mr. Compton and Mr. Banicki in the fact that he was a little uncomfortable because of the history of the property in question and it looked like things were currently headed in a better direction, but as an elected official and an attorney, he was not real comfortable with the vagueness he was hearing with regard to the hours of operation and what day of the week it was going to be and how long it was going to be. Mr. Hixenbaugh stated his preference was that they had black and white expectations, not just for their purposes but also for his purposes so that there was not any misunderstanding coming a year from then when it came back before them for review. Mr. Hixenbaugh stated he would like to see a specific schedule with regard to the days of the week and he wanted to see specific hours of operation and in his opinion, was that he thought the staff recommendation that the hours be less on Saturday than they were during the week made some

sense, so if it was going to be no more than four, no more than six, he would like to the hours spelled out. Mr. Hixenbaugh stated if they just talked about the number of hours, it could pose some problems if he were open for three hours but it was 9 to midnight, not that he was assuming he would do this and that there would frankly not be a market for it. Mr. Hixenbaugh stated he did not hear that that was his intent, but that was why he thought that this needed to be spelled out and needed a resolution for this to pass that would have all of the concrete details in there and rather than him being put on the spot to think all of that through that evening, he would rather wait and make sure that they had the verbiage correct in the ordinance and that they were comfortable with it and that they had their council attorney take a chance to look at it and make sure he had a chance to think through what was going to make sense. Mr. Hixenbaugh stated from his perspective if he had to vote on it right now with all of the uncertainty, he would be forced to vote no. Mr. Hixenbaugh stated he did not know that that would be his vote with all of the questions answered and if it was all in writing, but at that point he would vote no and it was nothing against Mr. Bueno and he liked his proposal. Mr. Hixenbaugh stated it was just about the history here that worried him and asked if he would be willing to agree to table this matter until their next council meeting which would be right after Labor Day in September so that he could think through what his operation would look like and they could revise the resolution to reflect the specific details. Mr. Bueno stated if he waited any longer, that was going to push him into winter and then nothing was going to happen because there was going to be a positive winter as well. Mr. Hixenbaugh stated he understood that and it would be up to one of his colleagues whether they wanted to make a motion or not and whether the council wanted to approve it but just so he knew, it was nothing against him and he liked his idea but at that time, based on what they heard that evening and the way the resolution was drafted, he was going to vote no on this. Mr. Hixenbaugh wished him well and stated if he obtained a majority vote, hopefully there would be an ability for people to come visit his business at some point. Mr. Hixenbaugh thanked him for his answers.

Mr. Mammolenti asked for Mr. Bueno's sake, if this went to a vote that evening and it did not pass, how long he would have to wait in order to apply again. Mr. Trippel stated he believed it was six months and Mr. Prince agreed with that sentiment. Mr. Hixenbaugh clarified that if the matter had received an unfavorable vote, he would have to wait six months to come back in front of them again. Mr. Hixenbaugh told Mr. Mammolenti the floor was still his. Mr. Mammolenti stated he just wanted to make sure Mr. Bueno understood that if he wanted to proceed or if there was no motion that evening and it went to a vote and he did not take Mr. Hixenbaugh up on the offer that he would have to wait the additional six months. Mr. Bueno stated if that was the case, he would like to think it through and come back to the next meeting. Mr. Mammolenti stated with that being said, with him in understanding of the potential situation that evening, he made the motion that they postpone the issue to their next scheduled council meeting which was the day after Labor Day September 6th. The motion was made and seconded to postpone the public hearing of **PROPOSED RESOLUTION 2022-17** until their next regularly scheduled council meeting on Tuesday, September 6th at 7PM in the Council Chambers.

Mr. Emmons made clarification that at the zoning board meeting it was discussed about the number of hours and he was limited to basically 18 to 20 hours. Mr. Emmons asked if that was correct and that had not been stipulated that evening but at the meeting, he was required to say he'd have between 18 and no more than 20 hours. Mr. Bueno stated even at 6 hours a day, three

days a week, it's only 18 hours. Mr. Emmons he was just saying that that was stipulated. Mr. Bueno stated he was not planning to run a full-time business there.

Mrs. DeMaegd stated she had seen the food truck would be parked on Jefferson and asked how he would have signage for it. Mr. Bueno stated the food truck itself would have big signs.

Mr. Hazen stated he was confused a little bit and stated right now, he was not zoned to sell vehicles and asked if Mr. Prince could answer his question.

Ken Prince, Executive Director of Planning, stated in 2009, according to the staff report, staff identified that both the body shop and car sales were a permitted use from the resolution back in 2009. Mr. Prince stated he did not have a copy of that resolution but he was emailing Krista to pull it, scan it and he would forward it to the council for review. Mr. Prince stated he believed car sales were in fact permitted and that was not a violation based on the staff report that was produced.

Mr. Bueno wanted it clarified if he was in fact permitted. Mr. Hixenbaugh stated that was correct and Mr. Prince believed that the auto related uses were appropriate and he did not have the underlying document that was passed by the council way back when but they did not have that in front of them at that time. Mr. Hixenbaugh stated even if the document was there, that would not address his personal concern with regard to lack of specificity with the hours of operation. Mr. Hixenbaugh stated he was willing to assume the auto-related use was okay but he was not going to forget the history of problems with the property that went way in the past before he took control of it. Mr. Hixenbaugh stated he was not going to hold him accountable for that but he did want to make sure they knew what they were getting into because it appeared things were going much better on the site than in the past and he would hate to see any type of misunderstanding happen. Mr. Hixenbaugh stated some time to allow them to do that additional research and some time for him to communicate with Mr. Prince the specific days of operation and specific hours of operation would be helpful to all of them. A voice vote was held for the motion and the motion to postpone the issue to their next scheduled council meeting Tuesday, September 6th was passed.

RESOLUTION R2022-18

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: 702 SOUTH LOGAN STREET Use Variance to allow retail sales in I-2 Light Industrial District – 702 S. Logan St.

Brian Winan, 1820 South Bend Avenue and owner of Princess City Properties that owned the building in question, spoke in favor of **RESOLUTION R2022-18**. Mr. Winan stated the building had a nice area in the front for retail sales and it was zoned I-2 and they were asking for only part of the building based on parking restrictions, the front 3300 square feet, be allowed to be a variance of C-1 so they could have retail sales. Mr. Winan stated they met the parking requirement of parking spaces and would like to do what was proposed at the table that evening.

Mr. Emmons asked if he could expound on exactly what kind of retail sales he was planning. Mr. Winan stated at that time, they were planning to sell household items as they listed in their paperwork. Mr. Winan stated they had a person in there using it for storage at that time that bought out of state sales and household items. Mr. Winan stated they did not know that they were going to stay as a retailer but that was where they left was at household items. Mr. Emmons asked how much of it was used. Mr. Winan stated it could be new and they just wanted to open it up for their real estate agent, John and Anthony Piraccini to be able to open up that lease to other options other than the I-2, which had not worked out since he owned the building since 2019. Mr. Emmons asked if there would be any outside sales. Mr. Winan stated there would not be any and everything would be enclosed inside and it had a nice showroom as he had seen. Mr. Emmons asked if he was sticking to the covenant of no sales of fireworks other than what was permitted by the city of Mishawaka. Mr. Winan stated that was correct and there currently was an ordinance which he believed was either two or three months before the 4th of July and not that he would use it but there was also an ordinance to sell Christmas trees in November or December on the same property. Mr. Emmons stated he did not know whether those were outside or not and thought they had to be inside. Mr. Winan stated he was not worried, because they had not sold Christmas trees there ever. Mr. Emmons stated his main concern was that he did not want stuff outside being displayed and sold and asked if everything would be inside and what his hours were. Mr. Winan stated it would be and whatever the retail would be for that particular item and he did not know, typically household items would be 9 or 10 to 7 or eight in the evening and maybe even less in that area. Mr. Emmons stated he had a problem with him not knowing what the hours were and thought he should have had the hours in there so that people knew and the community itself knew and so they were consistent, set hours. Mr. Emmons stated he thought the council needed to know what those hours were if he was going to have a retail business at that location. Mr. Winan stated they could set it to close by 8PM and not open before 7AM if that worked. Mr. Emmons asked what the days of operation would be. Mr. Winan stated he wouldn't want to limit it and would do seven days a week. Mr. Emmons stated it seemed to him from the statement that was made at the meeting of the Planning Commission, he was a bit wobbly compared to what he was that night and he had problem with that and he was kind of changing his thinking. Mr. Winan he did not recall a difference in what he was saying from that meeting until the one that evening. Mr. Emmons stated it was the uncertainty of the hours of operation and he was leaving it hanging. Mr. Winan stated nobody asked for the hours at that meeting, so he did not change his mind on anything.

Mrs. DeMaegd asked if this would be like an antique mall or something of that nature or if the business would involve new furniture, tables, lamps and objects like that. Mr. Winan stated it was household items and what they did were there were used, antique, resale and it really depended on the tenant that would lease the property. Mr. Winan stated they were just trying to give the opening to the real estate agents to be able to go out and market this.

Mr. Hixenbaugh stated it was going to sound like he was being asked the same questions, but he was still fuzzy to the idea and concept and wanted to see the building reused, but he was struggling with how he would explain to somebody who asked what was going to be done there and what the household commodities were. Mr. Hixenbaugh stated he heard somewhat of an antique, resale possibility and it may be that the concept just was not flushed out and the market was going to tell him what a willing tenant would want to do there. Mr. Hixenbaugh asked how

he identified household commodities as being what it was that he wanted to identify as being the rental space. Mr. Winan stated it seemed like the most neutral, neighborhood friendly type of commodity to be sold there. Mr. Winan stated they had a sea store across the street so he did not think that would not be a good idea and it was not equipped to be a restaurant either. Mr. Winan stated they did not want to bring in anything controversial, so it really made sense for household items. Mr. Hixenbaugh stated when you thought about what he envisioned taking places, what wouldn't be sold that he normally would think would fall within the definition of household items. Mr. Winan stated things such as cold drinks, food, fireworks outside of the time that was already permitted, automobiles, automotive products, along with hairdressers, barbershops and insurance agencies would not be involved there. Mr. Hixenbaugh stated he was still a bit fuzzy on the details but he was clearing the picture up and appreciated his patience in answering the questions. Mr. Hixenbaugh asked for clarification if this could be new household items if a tenant wanted to lease the space from him. Mr. Winan stated absolutely it could be used for that. Mr. Hixenbaugh asked if it could be furniture. Mr. Winan stated yes. Mr. Hixenbaugh asked would it be landscaping and architectural materials. Mr. Winan stated no. Mr. Hixenbaugh stated it sounded like they were honing in on furniture and those items that would be used in the interior of the homes and stated he appreciated Mr. Winan's patience in helping him get to the endgame there.

Mr. Mammolenti asked for clarification regarding inbound and outbound freight or delivery trucks of the material and if they would operate during those hours as well. Mr. Winan stated yes and he would not want to receive or unload or load after hours and there was a loading door on the north side of the building that they could load in and out of. Mr. Mammolenti stated he understood that but also understood the difficulty in transportation issues they were currently having, so they tried to set shipping and receiving hours. Mr. Mammolenti stated he would appreciate if he or whoever let the folks know that their receiving hours were within those hours of operation.

Question was called for at 8:00PM for **RESOLUTION R2022-18 Motion carried by unanimous roll call vote (summary: Yes = 8).**

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

RESOLUTION R2022-19

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, CONSENTING TO AND ACKNOWLEDGING HOUSE ENROLLED ACT

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Matt Lentsch, Executive Director of Development and Legislative Affairs for Mishawaka Utilities at 1712 East Lasalle Avenue, spoke in favor of **RESOLUTION R2022-18**. Mr. Lentsch stated he was before them with something that none of them had maybe seen in their lifetime and that was the elimination of a tax and the House Enrolled Act 1002 was passed by the House and had passed legislative session to eliminate the URT, the Utilities Receipt Tax and obviously had ramification for their ratepayers and this tax that they charged and passed on no longer would be in effect. Mr. Lentsch stated they could celebrate a tax that had been eliminated and they could

pass on then the savings to their ratepayers. Mr. Lentsch stated he appreciated the opportunity to come before them to say the House Act had been passed and he appreciated the fact that they all were able to hear it and they were asking the council to consent and acknowledge this act so that they could communicate it and pass on the savings. Mr. Lentsch stated he would be happy to take any questions.

Mr. Hixenbaugh thanked him for his work and this and for bringing it to them and thanked Mr. Trippel as well for his help in drafting the resolution and just putting the fine point on it. Mr. Hixenbaugh stated if passed, this would acknowledge the reduction of 16 cents on the drinking water as an approximate monthly savings for most ratepayers and \$1.35 of the electric portions of the utility bill again, for most ratepayers. Mr. Hixenbaugh made a comment that as always, when someone from utilities was present, they would be remised if they didn't thank Mishawaka Municipal Utilities for the fine work that their utility employees did to make sure they had continuity of service that was the envy of all surrounding communities. Mr. Hixenbaugh asked Mr. Lentsch to pass that along to everybody who had a role to play in that and they appreciated the work they did on a daily basis to keep the utilities arriving at all of their doorsteps. Mr. Lentsch stated they had a lot of good people in the city of Mishawaka and a lot of continuity that many communities around the area and around the state would be envious of. Mr. Lentsch stated they measured their outages in minutes, not hours or days and they needed to make sure that they kept the integrity of utility strong so that they could continue that for years to come.

Question was called for at 8:04PM for **RESOLUTION R2022-19 Motion carried by unanimous roll call vote (summary: Yes = 8).**

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

PRIVILEGE OF THE FLOOR

Hayley Nice, 443 Ballard Avenue, spoke under **PRIVILEGE OF THE FLOOR**. Ms. Nice stated she was there that evening because she was very upset about overturning of Roe V Wade by the Supreme Court in June. Ms. Nice stated pregnancy was a big ask for anyone to take on and they could not fathom the reasons one would need or want an abortion. Ms. Nice stated cities all over the country either had passed legislation to help protect reproductive rights and bodily autonomy. Ms. Nice stated with their gerrymandered republican super majority that was hell-bent on stripping Hoosiers of their ability to make decisions with their doctor, pregnant people across the state and in neighboring states, some as young as 10 years old and whose body would most likely struggle through pregnancy and childbirth, were left with few options to fight for their freedom to make safe, legal healthcare decisions. Ms. Nice stated as a married woman, she'd like to plan her family and have a future where if she had a daughter, she would have the freedom to choose for any reason when she wanted to be pregnant. Ms. Nice stated banning abortion not only affected pregnant people but also disabled people and already there were instances of people with cancer, arthritis, lupus, psoriasis and more patients that had needed medications but had been denied. Ms. Nice stated the abortion ban bill that had been passed banned the medications necessary for a safe abortion and abortion care and also banned abortion clinics who performed 98% of abortions in their state. Ms. Nice stated the legislative government

was not made of doctors and should not be limiting how doctors could give care to their patients. Ms. Nice stated 20% of pregnancies failed and had complications that could harm an assigned female or birth person. Ms. Nice stated with all of this being said, she hoped the city council considered protecting access to abortion in Mishawaka. Ms. Nice stated she was happy to help craft the legislation or collaborate with members of the council on the matter and she highly suggested that the councilmembers take a look at the Grace Act that was passed in Dallas, Texas. She also brought up an issue that in South Bend, all of the bus stops had benches and shelters but in Mishawaka the bus stops did not and people had to sit out there for at least a half hour if they just missed the bus.

Mr. Hixenbaugh thanked her for her comments and they would take those thoughts under their advisement on both of her points. Mr. Hixenbaugh asked with regard to the second issue was whether that was a function of what Transpo, the combined public transit agency put in place, whether it was a municipal function but they would certainly look into it nevertheless.

Janet Whitfield-Hyduck, 622 West 8th Street, spoke under **PRIVILEGE OF THE FLOOR**. Mrs. Whitfield-Hyduck first shouted out Joe Van Nevel and Code Enforcement, because they had a meeting with the West End Neighborhood Watch Group and he discussed some of the issues in their areas with him and Code and she was happy to see that over the last couple weeks because she saw neighbors who she had never seen out in their yards cutting their grass and trying to make it presentable. Mrs. Whitfield-Hyduck Mr. Van Nevel, Vic Kasznia as well as their staff for going out and doing what they did to get out and help make a difference in their community because their area had been looking bad and it truly was a great area and could sense that something was starting to happen.

Connie Johnson, 1719 Pamela Street, spoke under **PRIVILEGE OF THE FLOOR**. Mrs. Johnson stated she spoke with Mr. Emmons in the past week about Southwest Little League or Mishawaka Little League at 1104 Carlton Street and the city, from her understanding, were trying to build houses back there instead of leaving it as a little league. Mrs. Johnson stated she understood they had a lease on it in the city of Mishawaka and they broke their contract by letting what they called a travel league play back there and they did not have enough income to run to little leagues. Mrs. Johnson stated she did not understand why the city did not like the travel league, because all of the kids were older than 13 years of age and couldn't play at the little leagues anymore with her nephew being one of those kids. Mrs. Johnson stated she knew they did not have it on the agenda yet and Mr. Emmons stated it could take a while but they seemed like they were moving way faster. Mrs. Johnson stated she had been in Mishawaka all her life, since she was born and a lifetime resident and she did not want to see that area turned into a housing project and would affect her property value, whether it be cheap housing or expensive housing. Mrs. Johnson stated that was a big concern to her since she had lived there all her life. Mrs. Johnson ended asking the council if they knew what exactly was going on with the property at that time and what the plans truly were.

Mr. Hixenbaugh appreciated her being there that evening and appreciated her comments and addressed her concerns stating from a council standpoint, at least he had not heard from many others or approached even informally with regard to a plan for the development of that property. Mr. Hixenbaugh stated he was unaware of any of the circumstances and he was sure she could

understand that anything involving two little leagues and a travel team was a private contractual matter that they would have to work out in terms of a lease and whether it was violated or not. Mr. Hixenbaugh stated in terms of plans for the property, the council had not been made aware of any specific developmental property or proposals unless someone else was aware of something that he was not. Mr. Hixenbaugh made a suggestion for her stating Ken Prince would be a great resource for this type of issue and suggested after the meeting if she wanted to touch base with Mr. Prince he may be able to shed light on what the plans were for the property and would make the council of it as well and they would keep their eye on what was going on over there, because they all had a vested interest in good solid development everywhere, including at the old little league site.

Mr. Prince stated the issue with the little league was not the fact that it was baseball, but that they worked the partnership with East End to have that not for profit little league use those fields and so traveling teams were for profit and they felt like it was inappropriate to have for profit teams use public land in that matter. Mr. Prince stated that was the fundamental rub regarding the lease that their legal department had been working on with the little league. Mr. Prince stated at the same time, the reason why there were survey crews out there was that Habitat for Humanity would like to do a partnership on that property and for them to even submit a plan for them to consider, they would have to do that survey and they had encouraged them to do so and to put together a plan and once they had that plan, there would be a public hearing process and public meetings regarding what that plan was for everybody to weigh in on but they were just not at that point yet.

NEW BUSINESS

Mr. Emmons announced a change in their neighborhood meeting on August 18th and they were changing from having a tour because there were so many people that wanted to do it that the Mayor advised the new City Hall was not completed yet to have so many people come through with the installation of the furniture and things sitting around and everything, so they would have to postpone that to a later date. Mr. Emmons stated at the August 18th meeting instead, they would have a K-9 presentation about drugs, how they identified the drugs and so forth which should be pretty interesting. Mr. Emmons stated all were welcome and that meeting would be held at St. Bavos at 7PM on August 18th.

Mr. Compton wanted to apologize to the council and found the minutes in April of 2011 and they did approve auto sales and there was question about and he was hoping he could apologize to Mr. Bueno as well, but it appeared he was no longer present. Mr. Compton stated this still gave Mr. Bueno his opportunity to get his ducks in a row and he planned on stopping by his business, since it was right down the street from him.

Mr. Mammolenti thanked several of the folks who were involved making the National Night Out at Twin Branch park possible and it was a great success and it would not have happened without Rich and Carol Mullins who had been organizing it for 30 years who did an outstanding job. Mr.

Mammolenti also thanked Lieutenant Reppert who was present that evening who did a lot of work behind the scenes and also thanked the Mayor along with Police and Fire for showing up that evening. Mr. Mammolenti stated there was a wonderful turnout and thanked everyone for a great job.

Mrs. DeMaegd echoed Mr. Mammolenti's thanks for the National Night Out with the West End Neighborhood Watch. Mrs. DeMaegd stated they had a great showing and lots of people were interested and hopefully, they would get some more neighborhood watch groups going in the city.

ADJOURNMENT 8:22PM

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

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