REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

October 3, 2022

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the New Mishawaka City Hall and via telephone on Monday, October 3, 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, followed by a moment of silence in remembrance of Mike Faulkner, who was a friend to many and beloved in the city of Mishawaka. Mr. Faulkner was a lifelong resident who served as Parks Superintendent for many years and then went on to a distinguished career with School City of Mishawaka as an Assistant Athletic Director and Director of Operations. Mr. Hixenbaugh offered condolences on behalf of the council to Mike and his family.

Clerk Block called the roll.

Roll Call.

Present: Mrs. DeMaegd (P), Mr. Banicki (P), Mr. Hazen (E), Mr. Mammolenti (P), Mr. Emmons (P), Mr. Bellovich (P), Mr. Compton (A), 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.

Mr. Hixenbaugh stated for the record their colleague Tony Hazen was participating in the meeting remotely. Mr. Hixenbaugh stated unfortunately, given one of the idiosyncrasies of state law with regard to remote participation on the part of governmental officials because that evening's agenda had an item on it that fell into the category of the establishment of a fee after consulting with their council attorney, Mr. Hazen would be participating remotely but would not be able to participate as a voting member of the meeting from that point forward. Mr. Hixenbaugh stated he had a conversation with Tony before the meeting about it and appreciated his understanding as they would work through it that evening.

Minutes for the Regular Meeting of September 19, 2022 were approved as received from the Clerk's Office.

Clerk Block read the following petition by title.

Petition No. 2022-18	PUD Amendment for a restaurant with Drive- Thru Reduced Parking and Fiber Cement Board- 5540 N. Main St.

A public hearing on Vacation 2022-02 required by State Statute on behalf of Thomas McLauglin, Cory Smith & Erin Corcoran, the first east/west alley, north of Wilson Blvd. between Lot 44 and (Combined lot) 45, 46, and 47 in Battell's 2nd addition.

Brian McLauglin, 515 Clay Street, spoke in favor of the Proposed Vacation. Mr. McLauglin stated they were just vacating the alley between theirs and their neighbor's house. Mr. McLauglin stated by getting it vacated, that would keep the city from having to repave in that alleyway and the other adjacent alley.

Mrs. Voelker stated she got the chance to talk to Mr. McLauglin one day when she was wandering by one day and they took a look at the alley and he showed her the problems he was having and she appreciated him taking the time to do that. Mrs. Voelker stated she would be voting in favor of it.

The public hearing was closed on the matter and pursuant to state law, they would vote on the related ordinance later in the evening under ordinances in the second reading.

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

PROPOSED ORDINANCE NO. 2022-34

AN ORDINANCE FIXING SALARIES OF CERTAIN ELECTED OFFICIALS IN THE CITY OF MISHAWAKA FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023
Elected Officials Salary Ordinance for 2023
(Assigned to Budget & Finance Committee)

PROPOSED ORDINANCE NO. 2022-35

AN ORDINANCE FIXING SALARIES OF ALL SWORN EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT FOR PUBLIC SAFETY, MISHAWAKA PARKS DEPARTMENT, ELECTED OFFICALS AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA FOR THE YEAR BEGINNING JANUARY 1, 2023
Civil City Employee Salary Ordinance for 2023
(Assigned to Budget & Finance Committee)

PROPOSED ORDINANCE NO. 2022-36

AN ORDINANCE FIXING THE SALARIES OF ALL SWORN PUBLIC SAFETY OFFICERS FOR THE CITY OF MISHAWAKA, INDIANA FOR THE YEAR BEGINNING JANUARY 1, 2023
Public Safety Salary Ordinance for 2023
(Assigned to Budget & Finance Committee)

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

RESOLUTION R2022-24

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA INTRODUCING AN ORDINANCE FOR ANNEXATION AND ADOPTION OF A WRITTEN FISCAL PLAN FOR PROPERTY LOCATED AT 14325 CLEVELAND ROAD GRANGER, INDIANA INCLUDING 4 TAXED PARCELS AND THE ADJACENT CLEVELAND ROAD AND CAPITAL AVENUE PUBLIC RIGHT-OF-WAY
Fiscal Plan for Annexation 14325 Cleveland Road

Ken Prince, Director of Planning, spoke in favor of **RESOLUTION R2022-24**. Mr. Prince stated the first thing he needed to clarify, with a lot of people there that evening to talk about the potential annexation of the property on Cleveland Road, that the purpose of a fiscal plan was to identify the city's cost associated with the annexation and not whether or not the annexation should be approved. Mr. Prince stated as the council knew, it was part of each annexation request they routed and solicited input from each applicable department that was required to provide service for the property should it be annexed and in this case, it was routed to Engineering for the evaluation of sanitary sewer, transportation and drainage issues, Mishawaka Electric for electric service, Mishawaka Fire for fire and ENMF services, the Parks and Recreation Department for park services, the Police Department for police services , Street and Central Services for road repairs, Maintenance for waste disposal and they contracted that service out but they solicited a response for the services as well. Mr. Prince stated their Wastewater Treatment Department for wastewater treatment through Mishawaka Utilities and From the Mishawaka Utilities Water Division for Water Service. Mr. Prince stated each applicable department with the exception of Mishawaka Electric who noted that American Electric Power had not been willing to compromise or lose any of their properties due to the annexation, so when they changed the state law a number of years ago, their boundaries were essentially locked for electric service. Mr. Prince stated outside of that, each department had identified that they could provide service within the confines of their existing city budget and to put that into perspective, the proposed property was 60 acres and this was about half of 1% of the 18 square miles that existed in the city. Mr. Prince stated you could see the actual impact of the annexation of those 60 acres was relatively deminomous. Mr. Prince stated with that, a key principle of any development proposed annexation was that the infrastructure required was installed with the cost of the development. Mr. Prince stated the real cost that would be millions of dollars for the property was the extension of sewer, water and road improvements associated with the development and those were specifically going to be borne by the developer. Mr. Prince stated as identified in the Draft Commission Conditions of Approval of the Planned Unit Development, the developer was required to perform a traffic study. Mr. Prince stated that dictated the type and scope of the improvements that would occur concurrently with the proposed development. Mr. Prince stated as he would anticipate on this project, there would be turn lanes with not only a center turn lane but a designated right turn lanes. Mr. Prince stated if a traffic warranted, they would bear that cost as well as part of the development. Mr. Prince stated in terms of the annexation specifics, the property was 27.1% contiguous to the city and this was an excess of 12.5% minimum required by Indiana Code. Mr. Prince stated there was a little over 2100 linear feet of property adjacent to the city along its northern border which was adjacent to the Indiana Toll Road, which was annexed as part of the Beacon Parkway property annexations. Mr. Prince stated for reference, the closest point other than the adjacent boundary was the south border or south of Cleveland Road was the north part of the Penn Family Farm, which was about 1300 feet south of Cleveland Road. Mr. Prince stated this would also likely the route the developer would take to extend sewer and water to the property and it was the closest point. Mr. Prince stated he was happy to answer any questions.

Mr. Hixenbaugh reiterated that they were only talking about the fiscal plan, so he asked that comments about the annexation itself be held until they got to that appropriate point agenda. Mr. Hixenbaugh stated they were happy to hear from them but if they could, stick to the topi then they would move into the broader discussion later.

Question was called for at 7:17PM for **RESOLUTION R2022-24 Motion carried by unanimous roll call vote (summary: Yes = 7).**
Yes: Mrs. DeMaegd, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 7-0.

RESOLUTION R2022-25

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA DECLARING CERTAIN AREAS WITHIN THE CITY OF MISHAWAKA, INDIANA COMMONLY KNOWN AS VACANT LAND BOUND BY WEST FRONT STREET, NORTH HILL STREET, WEST FIRST STREET AND NORTH SPRING STREET TO BE AN ECONOMIC REVITILIZATION AREA AND ECONOMIC DEVELOPMENT TARGET AREA FOR PURPOSES OF A REAL PROPERTY TAX ABATEMENT FOR FRONT STREET, LLC AND OR ITS ASSIGNS.
Declaratory Resolution for Tax Abatement for Front Street, LLC. And/or ITS Assigns – W. Front, N. Hill, W. First and N. Spring Streets

Derek Spier, City Planner, spoke in favor of **RESOLUTION R2022-25**. Mr. Spier stated before them that evening was a petition for a tax abatement that was submitted by Front Street LLC and this was a block that was immediately adjacent to City Hall right to the northwest. Mr. Spier stated the proposal consisted of a mixed-use building and it was a four-story, 79,000 square foot building with a first floor, restaurant, along with commercial and residential units. Mr. Spier stated the upper floors were going to be exclusively residential and the bottom floor would include 4600 square feet of commercial space for three tenants, 106 to 109 apartment units in the entire building and there would be a rooftop deck and a 110 parking space surface parking lot. Mr. Spier stated construction was anticipated to begin in November with a 15-month construction schedule. Mr. Spier stated the completion of the project was expected in spring of 2024 and construction costs were estimated to be approximately $25 million. Mr. Spier stated when the developer brought the project before the Redevelopment Commission in April, there was not an intent to file an abatement however, since that time, there had been inflationary pressures and increased cost of financing. Mr. Spier stated it had changed the project so it led to the filing of the abatement and the developer did proposed initially a much larger abatement. Mr. Spier stated they prepared a 10-year abatement at 100 percent but what they encouraged was that they file what had historically been approved for residential property tax abatements in which they had two in the downtown area and one that was recently from the Mishawaka Inn that was done and all three of those were 5-year abatements. Mr. Spier stated the purpose of the abatement was not to further incentivize the project but to help mitigate the increased cost of the financing to allow it to move forward and the project was located within a TIF district. Mr. Spier stated the last Monday, the Redevelopment Commission considered it and forwarded it to the council with a favorable recommendation and this was just the first of a two-step process, so this was the declaratory resolution and it just established the TIF area. Mr. Spier stated if it was considered and approved that evening, a more detailed financial analysis would be brought before the council in two weeks when the confirming was out and would answer any questions they had.

Mr. Hixenbaugh thanked him for the information he always put together on the proposals and made a reference to a statement he made about the staff report regarding the change in market conditions and the cost of development that had occurred since this was originally considered. Mr. Hixenbaugh stated he loved this idea, thought it was a great location and would be an added benefit to Mishawaka, but asked how did the market forces that the developer was now subject to impact development in a site where originally they were not going to ask for a tax abatement and now they were. Mr. Spier stated Pat Matthews was present that evening and he could speak on the specifics on that but that was one of the conversations they had with staff as far as change in the market from April. Mr. Hixenbaugh stated he appreciated that and supposed there was no need to labor the point that evening but as the process proceeded, he was inclined to support it but would like to have a little more conversation with regard to how it was. Mr. Hixenbaugh stated they made a big investment in the River Center and they had incentivized other development and now, things were really starting to cook down there. Mr. Hixenbaugh stated anecdotally, people asked from time to tine what they needed to provide the same incentives now that they provided in the past since people were already building and there was already that positive momentum. Mr. Hixenbaugh stated perhaps at the next stage of the process as they advanced, if he or the developer could talk a little bit more about why was it that they still needed to incentivize and to support development in an area that appeared to the common man to be taken off and going strong. Mr. Hixenbaugh stated he thought there was an argument or an explanation to be made but he'd rather have Mr. Spier and the developer make it than for him to make it.

Mr. Mammolenti stated he shared the same thoughts and concerns as Mr. Hixenbaugh and prior to his comments, Mr. Spier made a statement that really stuck his interest and he was going to ask him to repeat it. Mr. Mammolenti stated it was something along the lines of this was to incentivize the project and it was to continue to allow it to move forward in the process. Mr. Spier reiterated that statement back to Mr. Mammolenti.

Pat Matthews, representative of Front Street LLC and the development project, spoke in favor of **RESOLUTION R2022-25**. Mr. Matthews first congratulated the council everyone for the beautiful new city hall. Mr. Matthews stated they were developing the Front Street building to be named later and the property development would be about 108 units and almost 80,000 square feet. Mr. Matthews stated it was a unique project and they had a very strong, market rate studio apartments. Mr. Matthews stated the project was originally slated for 2020 and back in 2019, it was their original intent to provide market rate development without any financial assistance or ready grants and they were ready to go. Mr. Matthews stated their initial pre-covid estimate not including land, soft cost or financing was about $10 million back in 2019 and they'd already invested significant expense in design. Mr. Matthews stated then the city asked them to move the building by 35 feet to the east in order to accommodate the planned North Hill expansion and widen the street and they were excite about this and wanted to be a good neighbor and partner and went back. Mr. Matthews stated they wanted to accommodate this request. But then covid hit. Mr. Matthews stated since 2019, they had experienced significant cost escalation both in terms of labor and materials but also in the significant increase of cost of financing. Mr. Matthews stated their most recent construction estimate had increased more than 48% since the 2019 budget. Mr. Matthews stated they performed a market study in 2019 and recently had that study updated and the market study that was updated in June stated that the demand for market rate apartments was likely to exceed supply over the next five years in St. Joseph County. Mr. Matthews stated they believe Mishawaka wanted the new market rate units to be built in the downtown area of Mishawaka. Mr. Matthews stated it was often which came first, commercial or housing and it was always housing. Mr. Matthews stated they respectfully requested that the Mishawaka Redevelopment Commission which they had already been with and the council grant them a request for a 5-year property tax abatement and he was happy to answer any questions.

Mrs. Voelker asked if he could give her the data behind the 48% increase from the market study. Mr. Matthews stated that was their vertical construction costs, so that would be from the foundation up to the roof. Mrs. Voelker asked for clarification if that did not include financing. Mr. Matthews stated that was correct and it was just an estimate or their bid from their general contractor.

Mr. Bellovich asked if that cost included labor as well. Mr. Matthews stated that would be construction labor and not necessarily operating labor. Mr. Matthews stated once the project was complete, they would have operations going on.

Mr. Hixenbaugh thanked him for the information he shared and stated what he would take from what he shared with them that evening was that even with the positive development that had taken place in close proximity to the site, there were still some challenges to developing their project down there and asked if that was accurate. Mr. Matthews stated that was 100% accurate and they were still experience challenges in supply chain issues and delays which were costly and they were experiencing issues in cost escalation and what he referred to as bricks and sticks and materials, cost of vendors, painters, drywallers, electricians, etc. and cost escalation in financing. Mr. Hixenbaugh asked wouldn't that be true for wherever they were building and if there was anything unique to the site that was being considered and if there were any particular challenges to the site itself. Before Mr. Matthews answered, Mr. Hixenbaugh made it clear that he loved the concept and thought it would be a great addition to the community and was excited it was going to be a part of downtown Mishawaka. Mr. Matthews stated generally when he was building, the vertical cost they were talking about were the same whether you would be in their current space or two blocks down the street. Mr. Matthews stated there were certainly issues with respect to that individual lot and they still had several hurdles to go through with planning of the North Hill Street Expansion and they had some water issues and they did not realize that the elevation of the water table was as high as it was. Mr. Matthews stated they also had some risk with respect to site mitigation and they did some test digs and still uncovered debris that remained from the demolition 20 years ago. Mr. Hixenbaugh stated just so he understood, there was still some challenges presented by the parcel that would not be present in other places if they had chosen to build and asked if that was accurate. Mr. Matthews stated that was accurate and also wanted to make a comment with respect to the layperson. Mr. Matthews stated people who were not familiar with development and look out there and see how beautiful it was and see what a great job Mishawaka had done, did not realize the amount of effort and work that went into these projects both on behalf of the city and the developer. Mr. Matthews stated they had been working on this project for years. Mr. Hixenbaugh stated they appreciated it and it was why he asked those kind of questions, since he did not do his work and liked to further his understanding of it. Mr. Matthews stated they were not really comparing apples to apples and when the units were built or the existing development was done, it was a different world than it was today.

Mr. Banicki stated looking through five of the top vendors that he talked about having, it looked like a couple of them were construction groups out of the state and asked if they would have local people working on this or would there be general contractors hiring local people and how it would work. Mr. Matthews stated that was correct and they would have general contractors hiring local vendors. Mr. Banicki asked if there was no one closer than Wisconsin or Michigan capable of doing this and was it a bid process. Mr. Matthews stated it was a bid process and they bid DJ that had done work down there in the area and majority.

Mr. Mammolenti asked if this was still currently city owned property and they did not own that lot yet. Mr. Matthews stated that was correct and they had not closed on the parcel.

Mr. Hixenbaugh thanked Mr. Matthews for his patience with them and appreciated the information. Mr. Matthews thanked the council for consideration.

Mayor Wood welcomed the council to the new city hall building and spoke in favor of **RESOLUTION R2022-25**. Mayor Wood stated this, as Mr. Spier said, was not precedent setting downtown and in fact they had done this very abatement for a somewhat similar kind of development residential mixed use on the north side of the river at Mishawaka Avenue. Mayor

Wood stated while it was rare that they did a residential abatement and even rarer that he would speak in favor of one, he told them that downtown was a different kind of issue. Mayor Wood stated as Mr. Matthews mentioned, this was a former industrial site turned industrial wasteland turned somewhat clean site, but you were still encountering things that were buried in the past. Mayor Wood stated Mr. Matthews also mentioned they were at least partially responsible for the delay because they were going to do an infrastructure street improvement on Hill Street in front, so that caused a little bit of a redesign and a little bit of a time delay as well. Mayor Wood when looking around the north side of the city in particular, you look at Grandview where there might be similar kinds of character projects up there with mixed use, residential, restaurant and maybe others in that area. Mayor Wood stated the abatements were done in Greenfield where they could maybe assist with some infrastructure along the road, but it was much easier and much more cost effective to build in areas like that where there were no such obstruction that they were going to and have encountered there. Mayor Wood stated downtown, they had not seen a new residential development happen without incentives. Mayor Wood stated The Mill did not have direct incentive from the city but it likely would not be there without regional cities injecting about $5 million into that as well as some other city infrastructure that went into that. Mayor Wood stated in The Mill phase two, they received several million dollars in industrial tax credits because of the very site that it would occupy was a former industrial site. Mayor Wood stated the stated had a program that also incentivized redevelopment of old industrial properties into new uses and so the developer in that case was successful in getting some of those funds from the state but he just wanted to share with them that they did not support these things often but when they did it was for very good reason. Mayor Wood stated also this was phased in new taxes and was not the city just opening up the checkbook and writing a big check to the developer and this was going to be privately owned with the city selling the property. Mayor Wood stated he was certain it would succeed.

Mr. Mammolenti thanked everyone who presented and gave their thoughts. Mr. Mammolenti stated just because this was a declaratory resolution, he would be voting in favor of it and he would have to do some research and have some conversations with some folks if he was going to be in favor of the confirming resolution. Mr. Mammolenti stated he knew they had done them in the past as the Mayor mentioned, but he personally thought this area was already booming and he did not think that there really was an incentive to come down there and Mr. Spier said himself it was not to incentivize but to allow the project to move forward and that was where his struggle lied. Mr. Mammolenti stated it would be going against what he had approved and voted for in the past for tax abatements but he would vote in favor of the resolution that evening even with being very unsure of how he would move forward in this process and wanted to make that known.

Mrs. Voelker stated the property had not produced any taxes at that time and had not produced any property taxes for 40 years, so she thought it was about time the city of Mishawaka got revenue from the property that they had been taking care of for 40 years. Mrs. Voelker stated secondly, she just wanted to comment that Mr. Matthews said that in the next 5 years, there was going to be a shortage for this type of housing in their area and they were building a community in the downtown area that she believed would support that housing and thirdly, she wanted to express her appreciation for the risk they were taking and not everyone would be willing to take a risk such as this one. Mrs. Voelker stated she would be supporting this.

Mr. Hixenbaugh thanked everyone for the information they shared including Mr. Matthews and he could understand both perspectives of Mrs. Voelker and Mr. Mammolenti and would also vote to advance this process. Mr. Hixenbaugh stated he felt like the Mayor's comments were very helpful as well in terms of tying this back to the site itself and the industrial nature of the site and he looked forward as they moved into the next stage of the hearing perhaps hearing more about the challenges. Mr. Hixenbaugh stated Mr. Matthews, Mr. Spier and Mayor Wood did a good job, but really talking about the challenges that were unique and a reality to the sight was what would be important to him. Mr. Hixenbaugh stated he thought this was the type of project they wanted to invite into Mishawaka and this would round out their downtown and some further conversation about why it was that tax abatement was a benefit that needed to be part of the package should be discussed. Mr. Hixenbaugh thought they were close but some further conversation as they moved forward would be helpful. Mr. Hixenbaugh stated he would be voting in favor of this and looked forward to ongoing dialogue.

Question was called for at 7:40PM for **RESOLUTION R2022-25 Motion carried by unanimous roll call vote (summary: Yes = 7).**
Yes: Mrs. DeMaegd, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 7-0.

<u>RESOLUTION R2022-26</u>

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA DECLARING A CERTAIN AREA IN THE CITY OF MISHAWAKA, INDIANA AN ECONOMIC REVITALIZATIONN ARE HELIOS HYDRAULICS, AMERICAS, LLC 1811 NORTH HOME STREET
Declaratory Resolution for a Tax Abatement for Helios Hydraulics Americas, LLC – 1811 N. Home Street

Derek Spier, City Planner, spoke in favor of **RESOLUTION R2022-26**. Mr. Spier stated this resolution pertained to two petitions for a tax abatement that had been submitted by Helios Hydraulic Americas, LLC and they recently purchased Daman Products. Mr. Spier stated they manufactured hydraulic manifolds and they were located at 1811 North Home Street and they had been at that facility since 1977. Mr. Spier stated with the acquisition, they were proposing to expand the facility including a significant building addition and installation of new equipment to expand their current product lines and create new product lines. Mr. Spier stated the total investment in both real estate and manufacturing equipment was $16.3 million. Mr. Spier stated the real property improvements were estimated at $4.8 million and the building expansion would include an approximate 53,000 square foot addition to the west side of the building. Mr. Spier stated the personal property abatement was for $11.5 million of primarily new manufacturing equipment and a very limited amount of IT equipment. Mr. Spier stated construction on the building addition and equipment installation was supposed to begin that year and completion of the entire project was anticipated during the second quarter of 2026. Mr. Spier stated Helios Hydraulics currently employed 139 employees and with the abatement, they anticipated on adding an additional 73 jobs as a result of the expansion. Mr. Spier stated per the anticipated capital investment employment growth, the staff was recommending a five-year abatement for both the real and personal property. Mr. Spier stated for the real property abatement, they recommended the standard phase in and that was the 20% decline every year of the five-year abatement, so it would be 180, 160 and so forth over the life of the abatement. Mr. Spier stated for the equipment, they were recommending a little bit higher instead of the standard 20% decline and they were recommending a 10% decline just to do the levels of investment because of the $11.5 million and that was a little bit larger of an investment than they'd seen in some of the manufacturing they considered and approved. Mr. Spier stated this was also specifically just for the declaratory resolution so if approved that evening, they would put together a more detailed financial analysis on the tax impacts that this would have to the property and to the city. Mr. Spier stated he would answer any questions they had.

Mr. Bellovich asked if he could mention the number of jobs once again. Mr. Spier stated they had 139 total and they said they were estimating an additional 73 jobs.

Mr. Hixenbaugh thanked him again for the information and stated it was always very helpful.

Lori Sweitzer, Helios Americas, spoke in favor of **RESOLUTION R2022-26**. Mrs. Sweitzer stated she had a representative from Daman Products and another representative from Helios with her as well. Mrs. Sweitzer stated they were looking at expanding their hydraulics product line and were looking at a couple different states and would like to do business in Indiana. Mrs. Sweitzer stated like Derek mentioned, it was a $60 million expansion and they intended on investing in their business and their motto was in the region for the region and so so they would like to expand on that. Mrs. Sweitzer stated they would be using a local contractor to do the expansion and they used local suppliers and anticipated that it would significantly increase their volume to those local suppliers and create at least 73 more jobs. Mrs. Sweitzer stated they only did a five-year forecast but they thought it would go up over that time period.

Mrs. Voelker stated the thing that stood out to her was she indicated that Indiana was a possible location for the business they were discussing and asked what other states they were looking at. Mrs. Sweitzer stated they were looking at Florida and Ohio as their two other states and their hydraulics business was in Florida at that time. Mrs. Voelker asked if this abatement did not go through, would that mean the expansion would take place in Florida or Ohio instead. Mrs. Sweitzer stated she thought that at that point, they would have to contemplate further within the organization whether or not they would expand in Indiana.

Mr. Emmons asked what the amount of money they were planning to invest was. Mrs. Sweitzer stated it would be $16 million with $11.5 million in equipment and $4.8 in building expansion.

Mr. Emmons asked what the square footage of their building was. Mrs. Sweitzer stated it was 75,000.

Chris Cole, Helios Technologies, spoke in favor of **RESOLUTION R2022-26**. Mr. Cole stated the earlier question was about other states and currently, Sun Hydraulics was the largest company they owned and it was in Sarasota where the headquarters for Helios was. Mr. Cole stated there was additional property there and prior to them finding Daman and negotiating that purchase, they already engaged with a builder to potentially build a facility there, but they held off on that and they wanted to build in Indiana, because this was where a lot of their customers were located. Mr. Cole stated they really believed in when they brought a company into their organization that they were part of their family and they wanted to invest locally where the company was. Mr. Cole stated they had already started the process of working with the local builder there to estimate costs and they were ready to go. Mr. Cole stated it was important that they looked at the tax abatement because it was a big part of their decision but if they were to vote against it, it did not mean they were going to go away. Mr. Cole stated they did not know when the answer to that would be.

Mrs. Voelker asked when he said they wouldn't go away, what that meant. Mr. Cole stated they were invested in Daman completely and it was about the level of expansion they would do.

Mr. Hixenbaugh stated he appreciated his candor and quite frankly, that did not change his opinion and would rather have him be upfront about that than try to indicate that they would pack up shop and that spoke highly of him and the organization that they were not going to hold employees hostage upon the tax appeal. Mr. Hixenbaugh thanked him for that.

Mr. Bellovich thanked them for coming that evening and he wanted to say that they had a very good labor climate in Mishawka and they never shut down. Mr. Cole stated the employment aspect was something that made them really excited about Indiana.

Dave Mischler, Outgoing President of Daman Products, spoke in favor of **RESOLUTION R2022-26**. Mr. Mischler stated he just wanted to let the council know that the reason they picked Helios was because of growth and what they would do not just for new employees but the opportunities for existing employees as well. Mr. Mischler stated they had strategic and definite plans in place on what they would do if they decided to move forward with them and they were clearly the number one candidate relative to employment both for their current people and the community. Mr. Mischler stated they typically hired unskilled labor for manufacturing and they had a robust training program and they put them through that to become really excellent machinists, so that had been their model since 1977 and they would continue down that path. Mr. Mischler stated they were head and shoulders above the other suitors.

Mr. Hixenbaugh stated Daman had been before the council in the past and asked to receive a tax abatement and it was referenced in the staff report and he thought Mr. Spier mentioned it but they surpassed what they told the council they would do in terms of the number of people they hired and the payroll that he brought online to Mishawaka. Mr. Hixenbaugh stated Daman was a success story and it looked like they found a good partner for the next step evolutionarily wise in the business so they appreciated what they had done to be good corporate citizens in Mishawaka.

Mrs. Voelker stated she happened to have a conversation with one of Daman Product now Helios employees and he was very excited about the future and she wanted to share that.

Question was called for at 7:54PM for **RESOLUTION R2022-26 Motion carried by unanimous roll call vote (summary: Yes = 7).**
Yes: Mrs. DeMaegd, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 7-0.

RESOLUTION R2022-27

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA AUTHORIZING THE CITY OF MISHAWAKA REDEVELOPMENT COMMISSION TO SELL MUNICIPALLY OWNED PROPERTY IN ACCORDANCE WITH THE CITY OF MISHAWAKA MUNICIPAL CODE CHAPTER 2 ARTICLE 5 DIVISION 3 SECTION 2-492 & 493
Authorizing the Sell of City Owned Property (Current Police Station)

Ken Prince, Director of Planning and Community Development, spoke in favor of **RESOLUTION R2022-27**. Mr. Prince stated the property was the soon to be former Mishawaka Police Station on 200 North Church Street. Mr. Prince stated in preparation for opening the new building, last winter they went in with an offering sheet and he needed to describe the process through the Redevelopment Commission. Mr. Prince stated normally, when you were a private entity and had a piece of property or land, you would hire a realtor and sell it to the highest bidder unless there were extending circumstances involved. Mr. Prince stated state law afforded the Redevelopment Commission additional latitude to prepare an offering sheet of what they saw wanted to see on the property as far as part of the potential sale. Mr. Prince stated as part of the potential sale consistent with their River Center master plan, they identified they wanted a mixed-use facility on that property and they identified that they wanted shared parking as part of their use of that facility because it was downtown. Mr. Prince stated they solicited proposals for the appraised value of $1.7 million and received one offer of $500,000. Mr. Prince stated the $500,000 also then, in terms of the offering sheet identified what they were going to be putting into the building for the remodel and that was $2 million. Mr. Prince stated the proposed user, Cressy Commercial for their corporate offices as well as for an unnamed restaurant wine bar, high-end that would go into that building. Mr. Prince stated Mr. Chris Fielding said he was going to attend that evening and Mr. Fielding could present the specifics of the proposal, but from the city perspective, city staff and administration perspective, they were very happy with the offer that they had because it fit into their master plan. Mr. Prince stated as they could imagine, they would not want to offer the police station for a remodel that wouldn't be consistent with their plan and because of that one offer they were recommending the sale of the property at the

$500,000 offer. Mr. Prince stated they had a development agreement that had been approved from the Redevelopment Commission with Cressy Commercial that was distribution and tonight was only asking for their authorization of the sale. Mr. Prince stated if the authorization was not granted, they would go back to the drawing board and look for another offer on the property but the intent would be to go out with a similar offering sheet at that time.

Mr. Hixenbaugh stated in the past when they had transactions come before the, there had been some that had been related to a purchase price much less than half a million dollars and he had always done a good job of explaining to them and the public why many times that was in the city's long-term best interest to structure a transaction that way. Mr. Hixenbaugh stated he agreed with that, but he was also pleased that this transaction had the half a million dollar price component and this again was another bit of good news for downtown Mishawaka and an exciting addition to what they could offer. Mr. Hixenbaugh stated he appreciated the fact that not every transaction was a dollar transaction and that they looked at things on a case by case basis and make decisions in the best interest of the community. Mr. Prince thanked him for that and noted the highest that they had sold any property down there previously was $20,000.

Chris Fielding, 318 E 3rd Street, spoke in favor of **RESOLUTION R2022-27**. Mr. Fielding congratulated the council on the new facility and it was much more representative of where they wanted their city to be in the next 20 years and thanked them for the investment. Mr. Fielding stated Cressy had long been part of the fabric of the community in Mishawaka going all the way back to University Park Mall, Edison Lakes, Main Street and half of Grape Road. Mr. Fielding stated this was just an investment in the community on their behalf. Mr. Fielding stated they had approximately 93 employees at that current time and their intent was to move out of Edison Lakes and move their headquarters into the facility in downtown Mishawaka. Mr. Fielding stated they believed with all of the apartments and multi-family development that was happening in downtown, the one thing that had been missing until the facility opened was a corporate presence in the downtown that had employees and customers spend their money from 8 to 5 versus retailers and restaurateurs waiting until 5 for people to get off and come to their establishment. Mr. Fielding stated they felt like this fit well into their master plan and they were very excited along with their employees and their board. Mr. Fielding stated this was a 50-year play and they had no intent of occupying the building and flipping it and they would be there for decades.

Mr. Mammolenti gave Mr. Fielding a sincere thank you for their investment and interest in supporting their downtown efforts and continuing their master plan and welcomed them with open arms if this passed.

Mrs. Voelker also offered her thanks for making an investment in Mishawaka and she could not wait for the wine bar to open.

Question was called for at 8:02PM for **RESOLUTION R2022-27 Motion carried by unanimous roll call vote (summary: Yes = 7).**

Yes: Mrs. DeMaegd, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 7-0.

<u>RESOLUTION R2022-28</u>

A JOINT RESOLUTION OF THE CITY OF MISHAWAKA MAYOR CLERK AND COMMON COUNCIL SUPPORTING INSPIRE MISHAWAKA IN ITS EFFORTS TO CATALYZE GROWTH AND ACTIVITY AND COMMERCE IN OUR HISTORIC DOWNTOWN IN PARTNERSHIP WITH THE INDIANA MAIN STREET PROGRAM Joint Resolution Supporting Inspire Mishawaka

Brian Tanner, 525 Calhoun Street, spoke in favor of **RESOLUTION R2022-28**. Mr. Tanner stated he was representing Inspire Mishawaka as the President of the Board of Directors. Mr. Tanner stated Inspire Mishawaka was a relatively new 501 C3 nonprofit community organization. Mr. Tanner stated it was something that was probably unrecognizable to most people but they hoped to change that rather rapidly. Mr. Tanner stated as was mentioned by Clerk Block in the premise of the joint resolution, they were seeking support of city elected officials for the actual intent of Inspire Mishawaka, with the primary intent being becoming a Main Street accredited community in the state of Indiana. Mr. Tanner stated unlike most nonprofits, Main Street accredited communities must have a strong partnership between Inspire Mishawaka and the elected officials and government as a whole. Mr. Tanner stated it was a program run by the Indiana Office of Community and Rural Affairs and it was a structured program that enabled all partners who became accredited to receive a resources support from many peer organizations which was approaching a little over communities in the state of Indiana that are accredited Main Street communities. Mr. Tanner stated one of the additional benefits to becoming a Main Street community was that it also opened up some tax incentives and potential grant opportunities specifically for historic properties and the downtown area. Mr. Tanner stated Inspire Mishawaka was an organization which grew out of a committee effort with the Mishawaka Business Association and that was an organization that had grown over decades and represented communities and businesses that simply do business in the city of Mishawaka. Mr. Tanner stated Inspire Mishawaka had a particular focus on downtown within a historic landmark district and with that strong partnership with the community in order to establish it as a Main Street accredited organization. Mr. Tanner stated this was a community-driven effort to supplement that and also provide some other incentives for the downtown community. Mr. Tanner stated he would answer any questions the council had.

Mr. Hixenbaugh thanked him for the information and for bringing this the council that evening. Mr. Hixenbaugh stated he knew that it started way back before the pandemic and then went in a slightly different direction based upon some other factors but thanked him and Mrs. Burbank and the other members of the board of directors of the MBA for following up on this and nudging it forward in the process. Mr. Tanner thanked the council, Clerk and Mayor for sponsoring their recent outdoor movie night event that they had several hundred members of their community at and was a successful event in part because of the support they provided.

Mrs. Voelker stated she was really happy that Inspire Mishawaka was moving forward. Mrs. Voelker stated after their meetings in 2019 and then COVID putting a stop to everything, she was really happy that they were able to get it started again and she knew it as chair of the Historic Commission. Mrs. Voelker stated she was looking forward to supporting them.

Question was called for at 8:08PM for **RESOLUTION R2022-28 Motion carried by unanimous roll call vote (summary: Yes = 7).**
Yes: Mrs. DeMaegd, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 7-0.

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

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.
VOTE ONLY

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.

Mr. Hixenbaugh stated they would move into a new public hearing on **PROPOSED ORDINANCE NO. 2022-22**. Mr. Hixenbaugh stated as Clerk Block accurately indicated, state law did not require them to reopen the public hearing but in light of their request that the developer participate in some further conversation with surrounding neighbors and with what looked to be an outstanding attendance at that meeting, they were going to open up another public hearing. Mr. Hixenbaugh asked if people could try not to be repetitive of what had already been shared with them.

Stephen Studer, Kreig Devault Law Firm, spoke in favor of **PROPOSED ORDINANCE NO. 2022-22**. Mr. Studer stated first having appeared countless times in the old chambers for over two and a half decades, the new facility was absolutely beautiful and the council along with the administration should be rightfully proud and wished them a congratulations. Mr. Studer stated at the September meeting, they requested that the owners and respective developers meet with the neighbors of Juday Creek and they did that when he and Mr. Danch met with them on September 2nd for approximately two hours. Mr. Studer stated prior to that, Mr. Prince had responded to written questions from the Homeowners Association and answered approximately 17 questions in writing and some of the questions came up that evening but Mr. Prince had done an admirable job of responding to the questions. Mr. Studer stated he and Mr. Danch met with approximately 50 members of the Juday Creek Homeowners Association with the bulk of the questions regarding traffic and they explained that before the development were to move forward that a traffic impact study would be conducted at the developer's cost and that was clearly a condition that was set forth. Mr. Studer stated the other concerns had to do with them believing no one was looking out for their interests and they replied that Mr. Prince and his staff did an incredible job of requiring nearly two and a half pages almost thirty different conditions as a requirement for the annexation and rezoning to come into the city of Mishawaka. Mr. Studer stated they were excited about this project and excited about adding almost 60 acres to the city of Mishawaka, therefore they asked for a favorable vote that evening and he would answer any questions.

Mrs. Voelker asked about one of the guidelines that the city put in place with it saying filling stations shall be prohibited and she asked on the site itself, if there would be fuel tanks or how would cars get fuel. Mr. Studer stated he did not know that answer whether there would be on-site fuel tanks for the automobile mall but there would not be any filling stations and the conditions people put on fuel tanks were incredibly safe compared to what they were 15, 20 years ago. Mr. Studer stated they used double wall tanks and alarm systems. Mr. Studer stated he was sure any fuel tanks would be on site to fuel automobiles for their use would take into account all environmental requests for both the state and the city.

Mr. Mammolenti thanked him for being present that evening and also taking the time to meet with the neighborhood association per request by the council. Mr. Mammolenti stated he knew it was very well attended and he thought they provided some information that they were looking to receive. Mr. Mammolenti asked since that evening and the meeting itself, if he had been in contact with anyone from the association in regards to any concerns that they had or any additions or subtractions to Mr. Prince’s extensive list of guidelines. Mr. Studer thanked Mr. Mammolenti for attending the meeting and stated he likely remembered that they were specifically seeing if there were any parts of project that they may be able to improve upon. Mr. Studer stated with traffic, they could not really address it until the impact study was completed. Mr. Studer stated that was the coast of $100,000 or more for a traffic impact study for that area and Mr. Prince already alluded to the public turn lanes, center lanes and possibly signalization, all of which had to be underwritten and paid for by the developer. Mr. Studer stated they asked that night if there was anything specific about the project and they did receive some positive responses after the meeting that they appreciated the fact that it was coming in as a planned unit development as opposed to that property becoming a piecemeal, acre time, two acres of time etc. and he thought most of the attendees recognized it would not be farm land forever given the beacon project to the north of the toll road. Mr. Studer stated now that it was contiguous to the city that this was going to be developed in some manner. Mr. Studer stated several members commented that they appreciated the fact it was a planned unit development. Mr. Studer stated they had not heard as far as they knew one word yet from any of the attendees that night and they answered all of their questions the best they could. Mr. Studer stated they respected the fact that they were all there and appreciated the fact that they were all there and there was some confusion as to why they did not receive notice earlier and they explained at the time why it did not happen but they were thankful for the opportunity to meet with fifty plus people that evening for almost two hours. Mr. Studer stated he thought it was well attended and both parties were respectful of one another and hoped they answered as many questions as they could but there were some questions they did not have an answer for at that time either for competitive reasons or because they wouldn’t have the answers until the annexation and rezoning took place in order for the developer to actually put real dollars into the project.

Joe Grabel. 602 Lincoln way West, spoke in favor of **PROPOSED ORDINANCE NO. 2022-22**. Mr. Grabel stated he appeared before the body and its predecessors countless times in capacity as a real estate broker and then the capacity as a real estate developer but in this case, he was just coming before them as a common citizen in Mishawaka. Mr. Grabel stated he had no financial stake in the development and was not involved in the brokerage. Mr. Grabel stated he thought that it was important that if the city was not growing, the city was dying and sometimes they failed to recognize that. Mr. Grabel stated this was an incredible opportunity and there were instances like in South Bend when they had the opportunity to have University Park Mall and they chose not to because they did not want to extend the infrastructure and he thought University Park Mall had been a huge boom. Mr. Grabel stated he grew up in Winding Brook and there were people in Winding Brook opposed to Edison Lakes and he heard them speak about how the traffic was going to negatively impact Winding Brook. Mr. Grabel stated his parents still lived in Winding Brook and they loved living there and Edison Lakes was not in any vision a detriment. Mr. Grabel he was there when folks spoke against the Meijer project and they were told that there was going to be an increase in crime and likewise, the apartment complex behind Meijer on the south side there was going to see a dramatic increase in crime and the traffic would be unmanageable and he thought it had be an incredible asset to the community. Mr. Grabel stated he was there as a citizen of Mishawaka and was excited about the development, excited about seeing more growth for Mishawaka and he encouraged folks as the came up with their potential opposition to ask themselves how many of them were citizens of Mishawaka.

Mr. Mammolenti thanked Mr. Grabel for his comments and opinions. Mr. Mammolenti asked based on his experience and expertise as a real estate agent how he would foresee some of the concerns the folks had that it would have a negative impact on their property home value. Mr. Grabel stated he wanted to clarify by saying he sold commercial real estate for a living and he was not a residential real estate broker. Mr. Grabel stated with that said, he appeared as an expert witness on numerous occasions including the lawsuit related to the bridge that crossed from Kamms Island where the condominium owners next door claimed the pedestrian traffic would have a detrimental impact and they conducted a study and demonstrated that the units had actually out appreciated those. Mr. Grabel stated the same thing was true for Winding Brook, which performed extremely well and oftentimes when these kinds of developments occurred, they actually enhanced value and Mr. Matthews did a development in South Bend that was somewhat controversial at the time. Mr. Grabel stated there were homeowners that showed up complaining and were worried that the intensive residential development for his project would be detrimental to their property value and most of those homes traded for less than $200,000. Mr. Grabel stated the homes Mr. Matthews built were $500,000 or more and they were on, in many cases, considerably smaller lots. Mr. Grabel stated his experience was often times those concerns were wildly overblown, especially a market like they were in today.

Martha Bennett, 53131 County Kerry Drive Juday Creek Estates, spoke in opposition of **PROPOSED ORDINANCE NO. 2022-22**. Mrs. Bennett stated they were not talking about Grape Road, Winding Brook or the UP Mall. Mrs. Bennett stated they were number 7 to take occupancy in Juday Creek with farms all around them, just the right spot closest to everything that they could possibly want and moved in 35 years ago. Mrs. Bennett stated they knew this would probably happen, but she had a good feeling she was speaking for most of them that evening in saying a car dealership widening the road, bringing in more lights and had only one way in and one way out of the neighborhood and it was a pretty safe neighborhood for that reason alone and they liked it that way. Mrs. Bennett stated they did not completely understand what the car dealership entailed, because they really did not know there was a meeting before and it was a surprise. Mrs. Bennett stated when you added fueling, the potential of another stop sign and another road back there, whether or not they were going to connect it, the lines did not add up and they knew it was going to be developed into something because that's what they did. Mrs. Bennett stated she wanted it considered and taken into close context of what this was going to do as they moved forward and decided what was going to be right there and how they would develop it and what it was going to mean. Mrs. Bennett stated they did not want another Grape Road right there or another UP Mall across the street from there or a car dealership. Mrs. Bennett thanked them for their time.

Sean Hawkins, Juday Creek Blvd, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-22**. Mr. Hawkins stated there were 4 families that were going to be most adversely affected by this. Mr. Hawkins stated if this did go through, the roadway needed to be widened. Mr. Hawkins stated he appreciated that this could have happened and yes, they moved in there knowing it would get developed and it was not going to be that way forever. Mr. Hawkins stated was curious as to why it had to be a car dealership. Mr. Hawkins stated there was the place right across from Meijer, the agricultural property that was sitting right there that was prime area for a car dealership. Mr. Hawkins stated if they moved forward with any of the development, he would ask that first the traffic study be put ahead of any development and put some skin in the game. Mr. Hawkins asked if they had or could also look at an environmental impact study. Mr. Hawkins stated they had issues as homeowners with the aquifer that had been polluted by the county property across the street. Mr. Hawkins stated putting a commercial property where they were going to have high traffic with cars, potential fuel there as well as a body shop so there would be all kind of solvents and there would be a garage where you had solvents and chemicals that were being used and what about those getting into the aquifer. Mr. Hawkins stated he also saw where there was suggestion of using retention ponds and was curious how that would not get down into their aquifer. Mr. Hawkins suggested they do more homework first and look at the traffic study ahead of any movement and then do an environmental impact study. Mr. Hawkins stated going forward, he also wanted to suggest that they put the property use for development for homeowners, for apartment complexes and they knew that they were short on that and not short on car dealerships.

Mr. Banicki asked if instead of a car dealership, what if a Menards wanted to go in there and they had a bunch of truck traffic, then what would they say about that. Mr. Hawkins stated he should have been clearer about it but they did not want to see a commercial property there and that part of town was still farmland outside of their commercial area on the outer bubble. Mr. Hawkins stated they would prefer to see homes whether that be apartments or single-family dwellings, something along those lines and not something that would increase traffic. Mr. Hawkins stated they already had issues getting out of the neighborhood from about 4:30 to 6:30 and once the holidays and Black Friday hit, making a left turn out of there was even more difficult. Mr. Hawkins stated they had done such a great job of developing that area and pulling traffic off the toll road and out of Elkhart County that they were the thoroughfare. Mr. Hawkins stated Douglas was supposed to be a thoroughfare, but Cleveland had really been the main artery. Mr. Hawkins stated anything that could be done to lessen the amount of traffic was preferred and he could not see how they would push this forward without doing the traffic study to determine the impact of this. Mr. Banicki stated if somebody wanted to buy this piece of property and they wanted to sell it to someone, maybe someone in commercial business, they would be getting paid and should be able to sell it. Mr. Hawkins stated they should be able to sell it and should be able to develop it, but be a good neighbor. Mr. Banicki stated he did not think they were bad neighbors yet. Mr. Hawkins stated there were several things he would not go into at that time like property values because he was sure other people would want to discuss that. Mr. Hawkins stated the potential loss they could take in their respect property values could be substantial. Mr. Banicki stated he kind of understood a bit, because when he bought his house he lived in the county and all of the sudden got annexed into the city of Mishawaka but it turned out being a great thing. Mr. Hawkins stated the difference was, they were not getting annexed yet but eventually they probably would be getting taken over. Mr. Banicki stated they were expanding. Mr. Hawkins stated he understood and they were not trying to slow Mishawaka down, but he was also asking consideration for the people who were there first.

Mrs. Voelker commented Mishawaka would not take them over and they would never annex property that did not want to be annexed. Mrs. Voelker then asked if he could explain to her their water problems. Mr. Hawkins stated the county had not admitted to it yet and they went back and forth on it, but for years they stored their salt on grade so they had higher levels of sodium and chloride in their water. Mr. Hawkins stated the garage itself, it was his understanding, for years there was not a concrete floor where they did repair work so diesel, fuel and solvents leached down into the ground and they would be directly affected by this with the car dealership moving in there. Mr. Hawkins stated they had homes with high level of salt and residents if they were on a low sodium diet, they were warned not to drink the water and this is where the concern lied. Mr. Hawkins stated with the commercial property going there, this could further make the problem worse.

Mr. Mammolenti asked how many homes there were at the Juday Creek Estates. Mr. Hawkins stated 137. Mr. Mammolenti stated he was looking at the aerial view and tried put that into the proposed annexation in his mind and he was trying to wrap his head around that amount of homes or apartments he said that they wanted there as opposed to the car dealership. Mr. Mammolenti stated in his opinion, he would think that would create more traffic in the same fashion as they were having the current issues and now was thinking of it as just another Juday Creek across the street. Mr. Hawkins stated it was a possibility and they were just speculating and stated they needed to put a traffic study in. Mr. Hawkins stated they knew there was a safety factor at hand here with increased traffic and knew that there would have to be threshold for accidents or for something to happen before the next step was taken and would rather that not happen.

Matt Smith, 53154 County Kerry Drive Juday Creek Estates, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-22**. Mr. Smith thanked them for postponing the discussion on this and they were appreciative of the council taking the time to do so. Mr. Smith stated he was also the HOA president for Juday Creek and while the Danch group did reach out to them per the council's recommendation after the fact, it was he himself that conducted the meeting. Mr. Smith stated he put the schedule together, worked with the Juday Creek Golf Course to establish a location for the meeting and since then they had not heard a thing from the developer or from the law firm representing them. Mr. Smith stated so while they were very appreciative of their time that evening, they had not heard any sort of follow up since then. Mr.

Smith stated he was from Mishawaka born and raised and wanted to raise a family in the area, so he was a proponent of Mishawaka but he thought where the disconnect was forming was yes, traffic was going to be repeated multiple times and this was an island community out there where they served. Mr. Smith stated it was already mentioned the city did not have interest in the 136 homes and tax value that would bring but it was coming in around them kind of on the north edge. Mr. Smith stated they would have to traverse through open cornfields that were still undetermined with what their use would be to make the final connection to allow the property group to develop. Mr. Smith stated understanding that investment was on the developer to do so, that was a timeline that put the project out many years. Mr. Smith stated he thought what they would find many of them asking that evening was they could slow down a little bit and this was not something that needed to come to fruition in the next 2 or even 5 years. Mr. Smith stated he did not see the harm in slowing this project down and covering all of the bases. Mr. Smith asked that be taken into consideration as well as the water issue. Mr. Smith stated the county was working with them on the water and they were doing a great job of helping them understand what the remediation process looked like for them but it was a very real impactful problem in their neighborhood and they felt this project in particular may have an impact on that. Mr. Smith stated this was a unique project that for where it was located and they had several other areas in the community that could be developed in similar fashion with much less expense to the developer and would not entail some of the other environmental impacts they saw in their neighborhood and community. Mr. Smith stated they wanted what was best for their neighborhood and community and understood things were going to develop, but they were not sure if this was in the overall best interest in their community and the one thing that concerned him was this was not just projected to be a car dealership or a car lot, there were several other layers of commercial zoning that were mixed into the staff report and it felt like a microcosm of what could happen over the next 10 years, as opposed to if there were a very directive project, they would see more comfort from some of the residents. Mr. Smith thanked the council again for allowing to voice their concerns and they greatly appreciated it and it certainly would not be overlooked by any means.

Mr. Mammolenti thanked Mr. Smith for his efforts that evening and the work he put forth for the meeting at Juday Creek. Mr. Mammolenti referred back to Mr. Smith's statement regarding not hearing back from Mr. Studer and his group after the meeting and they had the very informative meeting with a lot of concerns and information given. Mr. Mammolenti asked if they gave Mr. Studer and his group any questions or concerns that they could work on or any questions after reading the staff report. Mr. Mammolenti stated he was concerned that neither party had reached out since that meeting. Mr. Smith stated that was a fair statement and thought from their perspective it was a 'we were here first' type of approach and this was a project they would want to present to them as a neighborhood or as an area to the them as a council. Mr. Smith stated in his opinion, it really should fall to their responsibility to initiate those conversations and initiate the responses. Mr. Smith stated they did send a list of questions and concerns over that was not a fully exhausted list and that night he felt got a little of topic, because he was just trying to keep it on cue there but it was getting heated and things were becoming repetitive. Mr. Smith stated they also had to be respectful of the space provided to them from a timing perspective, so no he did not think anything was really resolved and they came away a little more inquisitive on what the next step would be from the group and how they would approach it. Mr. Smith sated there were comments about potentially adding a stoplight for the neighborhood and was curious who that would fall on. Mr. Smith stated it was worth noting that the section of land where their entrance was located would remain county, at least that was his understanding, and so as you were heading to the west you would come up over the toll road and as soon as you crossed the bottom of the bridge, traverse back into the city of Mishawaka. Mr. Smith stated to the east out of their neighborhood, it was currently county to the Capital Road intersection. Mr. Smith stated his understanding was with the annexation that would pull a Mishawaka responsibility into maintaining that property of the roadways after they made the additions and modifications that were needed and so one of their concerns became whose responsibility was that section of the road there that serviced their neighborhood. Mr. Mammolenti believed he spoke for not only himself but for the majority of the council when saying the reason that meeting occurred was because when a developer tended to come to them and one of them ask them if they had met with the association or the surrounding neighbors and in this case they had not yet, so that was why they postponed and promoted and encouraged the meeting in hopes that when this happened in the past, their hope was the developer and residents could come to a solution or negotiation. Mr. Mammolenti stated he made some suggestions to some folks there to look over the staff report, look over some of the restrictions, stipulations and perhaps add some that they wanted, delete some that they would like and then go back to the developer and then it was his hope that they would attend the council meeting and the dialogue would continue and come to an agreement. Mr. Mammolenti stated he was a little disappointed in the fact that that dialogue had not continued and kind of stalled. Mr. Smith stated in fairness, while they appreciated the extension and continuance, it was still a very narrow window of time with that meeting taking place September 22nd and it was now October 3rd and they did not have a ton of time to traverse through it.

Mr. Emmons asked when they had that meeting, if he felt that they did come to some kind of consensus and that there was some give and take with some of the concerns they had and they were met and was anything agreed upon or was it just kind of a one-way street. Mr. Smith stated he did not think any consensus was made there and felt more of their neighborhood was against it after the meeting because he felt they hid a little bit behind the council's recommendations and relied on the two and a half pages of what Mishawaka was doing to protect them and that was not intended to be a negative towards the council, they certainly appreciated them, but he felt there was not any effort put towards helping them or supporting them. Mr. Emmons stated he kept bringing up a car dealership and immediately focused just on the dealership but nothing else. Mr. Smith stated that was mainly it and there was slight discussion in the layering of the additional zonings that had been requested for the property, but primarily it was focused around the auto mall as they called it. Mr. Emmons asked if they had another meeting if he and the rest of the parties involved could come to more of a consensus and addressing more concerns than just the one auto concern. Mr. Smith stated he thought it went back to the fact that it felt like they were putting the cart before the horse and they wanted some studies done to make sure this was what the area needed to grow. Mr. Smith stated the other concern, from his perspective, was the relocation of a current automobile park and what happened to that property in existence now and those tax dollars were just shifted from one location to another and then turned that into a development there. Mr. Smith stated he did not know that to be true, but that would be his assumption. Mr. Emmons stated so he addressed with them their concerns about not addressing some of the things such as traffic flow. Mr. Emmons asked how they related to that. Mr. Smith stated everything was deferred to the traffic study that would be done, so it was a kind of hands off of them saying they would get to that part later and himself and the rest of the neighbors were looking for some firmer answers. Mr. Emmons asked if it reached a give and take at all. Mr. Smith stated the conversation did not get to that point and felt they showed up to present their side of it and they were kind of just pushing back on their side of it. Mr. Emmons asked if having another meeting would solve those concerns. Mr. Smith stated potentially it could and a group of neighbors would be open to that.

Mr. Hixenbaugh wanted to make sure he was fully understanding what he shared that evening and stated in terms of changes they would ask the developer to consider, what he heard him talking about was the timing of the traffic study versus the annexation and the project moving forward. Mr. Hixenbaugh asked if he would like to see the traffic study first before any activity occurred. Mr. Smith stated he thought so and he would state that as a resident as he had not had the chance to meet with their board on it but as a resident and neighbor in the community, he would say yes. Mr. Hixenbaugh asked if there were any other tangible items like that that he was aware of or he had communicated to him by one of the neighbors that they would ask them to consider. Mr. Smith stated from his understanding, there was also a natural gas line that ran underneath the roadway there. Mr. Smith stated it was a 12 or 14-inch main that serviced from Elkhart County through that corridor of St. Joe County and he would like to see what that would do to the job and how that would impact things. Mr. Smith stated also, the widening of the roadway there and not only was that coming into backyards and there would be a personal impact from a financial standpoint on the homes, buy they needed to know how that would impact children playing in the backyards there. Mr. Smith stated the Capital and Cleveland intersection was extremely narrow and tight and so his understanding was there was a potential for a roadway extension to grab Douglas and make that connection outside of that intersection there, which could defer the traffic down but that would only solidify his point on why a dealership in that location if it was going to divert traffic away from that location. Mr. Hixenbaugh appreciated his comment with regard to the gas line because that triggered another tangible item he heard from him and the other speakers as far as the generalized environmental concern was because of what he showed them on the map he had and what he experienced as a neighborhood. Mr. Hixenbaugh stated he also heard him and others say they would like to hear a little bit more about that concern and how this proposal would impact the environmental integrity of the neighborhood. Mr. Smith stated he would think they would expect that as well, with all due respect, given the recent purchase of the Juday Creek Golf Course for the wellfields underneath there and the aquifer the city would now be pulling from was a deeper aquifer, but nonetheless if they contaminated the one above, it certainly could find its way in the other aquifer. Mr. Hixenbaugh stated he agreed with that and once they heard from all of the other speakers and it was time for the council to ask questions, he was going to ask the developer's attorney to address that and when it came to traffic, he would ask their staff who put together the report and mentioned traffic in the report and talk a little bit about that. Mr. Hixenbaugh stated just as a general comment, he appreciated the dialogue with regard to holding another meeting and he was certainly never adverse to that as a concept as long as there was a reason for it and going back to Mr. Mammolenti's comment, he appreciated the fact he facilitated the meeting and did what he did but it had been his experience that when people want to compromise whoever has some ideas would reach out to the other and he wasn't as worried as who called who but that it did not take place and quite frankly, he held everyone equally accountable for that. Mr. Hixenbaugh stated that's what he was trying to get at with what the areas of lingering concern that needed to be vetted through were and they would try to work through it that evening and see where it went. Mr. Smith appreciated the council for their time.

Matt Davis, 53178 County Kerry Drive, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-22** and stated he was also an officer on the HOA. Mr. Davis stated he thought in the sentiments they were hearing that evening, there was a lack of trust on how this project was going to move forward on behalf of the development team. Mr. Davis stated that was in place due to how they had gotten to that spot and thought what they'd see from himself and the other neighbors would have to do with the timing and how it felt like the project had been pushed very quickly on them even though he knew it wouldn't feel like that from the council. Mr. Davis stated this did not rise to their attention until very recently. Mr. Davis thanked Councilman Banicki directly for recommending the meeting that happened on the 22nd as well as President Hixenbaugh for pushing it forward and that was really the first step in dialogue. Mr. Davis stated there had not been dialogue since that point and they were residents in the neighborhood, not lawyers and they did not deal with developments, commercial or otherwise, and they did not know what they were supposed to do through the process. Mr. Davis stated this was a planned unit development that they should have had lots of information on what to do when approaching neighborhoods that might have a concern with a plan that was going into place. Mr. Davis stated whether they reached out or the other group reached out, they hoped there would have been some outreach and direction on how to move this forward. Mr. Davis stated being able to say one meeting from now like Mr. Emmons stated and having things figured out; he did not think that was realistic but he did think there was an opportunity for the dialogue to figure out a pathway where both parties felt their voices were heard and that the development was able to take place at a certain point and time. Mr. Davis stated it felt like along the process, the development team had done the minimum required by the law in the run up to this and this was why it had been delayed until that evening for the public hearing. Mr. Davis stated they only reached out to properties 300 feet within the development site and in fact, at the meeting on the 22nd, Mr. Danch said he would have reached put to the HOA had he known there was an HOA. Mr. Davis stated anyone could google Juday Creek Estates and in the top 10 responses, you would see that Juday Creek Estates had an HOA and it was not difficult to find out. Mr. Davis asked they allow some time for that trust and collaboration to take place. Mr. Davis stated they all thought the developer, being that they did these all the time, would be the proactive step and that did not mean they would not own responsibility for doing something, but at the end of the day it felt it had been pushed upon them.

Mr. Banicki appreciated him saying he did not know the process and things of that nature and asked if there were any attorneys that lived within the 136 homes in their neighborhood. Mr. Davis stated they had one attorney. Mr. Banicki asked if he was willing to help them with some of these type of things. Mr. Davis stated yes, he had helped on other matters in the past. Mr. Banicki stated when he lived in the neighborhood and they were getting ready to be annexed, they retained an attorney and everyone kicked in a few bucks to make sure they had the negotiating power, so he could appreciate that he did not understand the process but the attorney may know a little bit or be able to contact somebody that could. Mr. Banicki stated when some of those negotiations were happening, he did not know if it was easier having minimal amount of people at the table or having 100 people there. Mr. Banicki stated he would think having more people there would make communication easier. Mr. Davis stated he agreed and it spoke to the importance of the timeline they were talking about, with them just having the meeting on the

22nd and to go from that to getting everyone's thoughts together as a board to figure out what their stance was going to be to try to put forward those suggestions to be included in the planned unit development was a pretty escalated timetable. Mr. Davis stated being asked to do all of that in two weeks was not realistic to him and it certainly did not materialize and that was why they were asking for a bit of a delay so there could be some common ground. Mr. Banicki stated he was not sure how many days they were into this, but the council had x amount of days to react and they could not continue it indefinitely, so sooner or later they had to make some determinations. Mr. Davis asked they vote it down, and he knew that put a one-year pause on things but he saw this as a decade-long development and he did not think that would be a big ask for the pause. Mr. Davis stated they would like to see some of the specific concerns heard from the neighbors happened before the development moved forward. Mr. Banicki stated he thought that they had a little better control if it were to be annexed into the city and they could do this in the county right along Capital Avenue or somewhere else and not meet the rules and regulations that they had. Mr. Davis stated that was a risk they put in place, but thought they would all be comfortable with that risk for a one-year delay. Mr. Banicki stated yes and no, and stated they could not guarantee their prices wouldn't go up as far as construction costs were concerned. Mr. Davis stated with his professional life in Greenfield startups, you planned on a lengthy timeframe and it was budgeted for and he did not think a year would be a lengthy delay.

Tim Buczynski, 14700 County Kerry Drive, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-22**. Mr. Buczynski stated he had lived in Juday Creek Estates for 32 years and was an HOA board member. Mr. Buczynski stated Mr. Studer had spoken earlier that Ken Prince had been involved with the HOA and to his knowledge, the HOA weren't involved with any of this until after they heard about it on the news and the staff report actually went out and got a favorable ruling from the council prior to any involvement from the neighborhood. Mr. Buczynski stated after that happened, there was a single homeowner that did contact Mr. Prince but he was not a board member and they did not receive any response related to that, so as a HOA and a neighborhood, they had not had any direct involvement with Mr. Prince or the developer. Mr. Buczynski stated he believed here were a few inherent problems with the project going where it was and it was not so much that they just did not want it there, but there were some specific things. Mr. Buczynski stated it was going to be a 51 acre auto park and within about 500 feet of their entrances and as discussed earlier, they only had one entrance to the neighborhood. Mr. Buczynski stated the developer actually mentioned that generally speaking when you had a neighborhood put in, there was at least usually two entrances and that was not done in their neighborhood when it was developed back in the 80s and that was the first problem. Mr. Buczynski stated the second problem was the development proposed to go on the north side of Cleveland Road was proposed to have two entrances and it was pretty much landlocked to the east, west and north which would result in two entrances going onto Cleveland Road. Mr. Buczynski stated when having the meeting with the developer, the subject of possibly having a traffic light going in there came up and the developer seemed to be interested in that and said it could be looked into. Mr. Buczynski stated the traffic study not happening until later was a problem because they did not fully know if something was going to happen. Mr. Buczynski stated the only thing he was thinking about was that about 500 feet or so to the west of their entrance, there was a bridge that went over the toll road and even if there was a traffic light put in there, he thought with the volume of cars it would be so backed up and cause a traffic hazard.

Mr. Buczynski thanked the council for the opportunity to talk about this some more and listen to their comments.

Tressa Decker, 53095 Juday Creek Boulevard, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-22**. Mrs. Decker stated she was also a Mishawaka girl, cared very much about the city and appreciated all the council was doing throughout this process. Mrs. Decker stated she wanted to point out a couple of things in addition to what they already had heard. Mrs. Decker stated in the proposal that was shared with them at their meeting and the previous council meeting, the proposed development was described as 52 acres and on the sheet that the developer gave at their common meeting it said 50.15 acres and now that evening they were hearing 60 acres. Mrs. Decker stated she was just pointing that out for their reference and wanted some clarification on what the amount of land that was being proposed for annexation was. Mrs. Decker stated the other thing was Mr. Grabel made a comment that if the city was not growing, it was dying and she believed it and they wanted Mishawaka to grow and it was amazing to see the different developments happen, but this particular location for this particular development did raise questions. Mrs. Decker stated they had a two-lane road that was a major artery between St. Joe County and Elkhart and they had a uniquely developed subdivision with one exit point and she was concerned that the description they received from the developer said that Mishawaka would be responsible for the road in front of the development and the county would be responsible for the roads on the sides. Mrs. Decker stated she was concerned about the continuity on Cleveland Road between the Capital intersection and the Fir Road intersection. Mrs. Decker stated it sounded like they had the wide intersection at Capital that narrowed to two lanes quickly right after that intersection and might widen out to four lanes then narrow back up to two lanes before you got to the bridge to go back over the toll road. Mrs. Decker stated all of that traffic merging and expanding was going to happen right in front of their subdivision entrance since there was nowhere else for it to really happen. Mrs. Decker stated that was a huge concern and had not been spoken to and wanted to know if there was a possibility of a continuity conversation and wanted to know how they would have continuity and safety on that road, with that being the main road they were on every day. Mrs. Decker stated she also wanted to point out that PHM school buses were up and down Cleveland Road on all three of their bus routes for elementary, middle and high school routes in and out of Juday Creek Estates, so another consideration for that was how access would be affected with that kind of development right there. Mrs. Decker appreciated Mr. Mammolenti attending their meeting and appreciated all of their time.

Roger Lumm, 53208 Saint Matthews Court Juday Creek Estates, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-22**. Mr. Lumm stated he was not an HOA board member but he was the originator of all of the questions. Mr. Lumm thanked Ken Prince for responding to the questions and they had heard nothing from Danch other than what they talked about in the meeting at Juday Creek and that was one of the concerns they had in lack of trust. Mr. Lumm stated that was the only point he wanted to make and they were not developers and they did have a lawyer in their neighborhood, but they did not want to incur more costs and he may not do this type of law. Mr. Lumm stated from his standpoint, he expected a response and got one from Ken but not from anyone else. Mr. Lumm stated if he wanted to live in Mishawaka, he would move there but he did not want to and he did not think any of them in the Juday Creek

Estates did but they were now becoming an island with Mishawaka surrounding them. Mr. Lumm stated the biggest issue though was the lack of response to their questions.

Mr. Hixenbaugh wanted to go on record in saying he had not been involved in one conversation with regard to the annexation of this subdivision and in his time on the council, he did not recall one involuntary annexation that they had entertained in front of the council. Mr. Hixenbaugh stated this was a voluntary annexation with this landowner having asked to have the property come into Mishawaka and that was overwhelmingly so unanimously always the case in his experience, but he appreciated his concern. Mr. Lumm stated Ken Prince made a comment saying the same thing in his written response along with the redirection of the road to get around to Douglass overpass for the railroads and in all of this, he responded and he gave him all the credit in the world. Mr. Hixenbaugh stated he was also on that email and thought he did a fine job and thought his questions were very well posed and hopefully it game him some comfort hearing the same thing from Mr. Hixenbaugh as he did from Mr. Prince.

Brian Tanner, 525 Calhoun Street, spoke in opposition to **PROPOSED ORDINANCE NO. 2022-22**. Mr. Tanner stated he was not planning on speaking on this topic, but he was speaking simply as a tax paying resident of Mishawaka. Mr. Tanner stated the comment was made how great Edison Lakes was and he could not agree more with the aspect that he worked in Edison Lakes but if they were going to talk about how grand it was, they must also accept the fact that the corporate founder of Edison Lakes development was moving to downtown Mishawaka. Mr. Tanner stated he found that great but you could not exactly use it as a universal accolade as to how great the north side of Mishawaka was. Mr. Tanner stated University Park Mall may have started a tremendous amount of growth on the north side of Mishawaka, but if you had been there recently there were a lot of vacant stores, large vacant stores, and some of the infill within the mall was borderline flea market, so you could not exactly talk about the grandeur of University Park Mall that was years ago, you must talk about that today whenever it came to the commercial development of the north side of Mishawaka. Mr. Tanner asked the council to consider that there had been a lot of legal meandering toward dark store reassessments and legal challenges to the assessed value of dark stores and big box stores in the city of Mishawaka as well as the whole region and quite frankly the country. Mr. Tanner stated this development would not be under consideration if not for a dealership which already existed in the city that was spending a considerable amount of money for this development to move from their current location, unless it were an expansion. Mr. Tanner stated if this was a move from a current location inside the city of Mishawaka that created a significant vacancy and exacerbates the legal capacity of big box stores along their major commercial corridors on the north side of town to devalue their assessed values, which meant it was in decreased capacity for the city of Mishawaka to collect what was already its tax base through the corridors. Mr. Tanner stated the cost for infrastructure was not just upfront, so even though this was a new development and the developer would be responsible for the cost of installation of new infrastructure that was only representative of the upfront cost. Mr. Tanner stated as Mr. Prince mentioned, this was one half of 1% of the landmass of the city of Mishawaka but they were talking about several million dollars worth of infrastructure to build not just roadways but sewer, water and other utilities to extend to this location and that was also landlocked to already county established properties that limited the amount of development that could happen inside Mishawaka, which limited the ability of Mishawaka to capitalize on any future development in the area to offset those long-term maintenance and eventual replacement costs to that infrastructure. Mr. Tanner stated a growing city did not have to be outward and it could be inward, upward and could be in place of where it was at currently. Mr. Tanner stated that was the extent of how he believed the project would affect himself and other existing tax paying residents of Mishawaka, even though this may be on the opposite side of where he resided, it had a tangible financial impact on himself, other residents and quite frankly other business owners in the city. Mr. Tanner stated it was not that he was against the development, he just thought these were considerations that must be weighed on every development that was in Greenfield areas outward from the current boundaries of Mishawaka.

Mr. Hixenbaugh thanked Mr. Tanner for sharing his thoughts and just had a couple of follow ups. Mr. Hixenbaugh stated he suspected he would agree with him particularly since he was a former member of the council that that type of expansive review he encouraged the council to do had long been their practice and they did consider these issues from all angles. Mr. Hixenbaugh asked if he agreed with that. Mr. Tanner stated he agreed. Mr. Hixenbaugh stated while he made some valid points and he appreciated him sharing them with the council, asked if he also would agree that it was not an either or whether a city could develop internally or externally and that ideally, high quality well thought out development could take place in both manners, not to the detriment to anyone within the city but that it was not an either or dichotomy that both can occur at the same time. Mr. Tanner stated he did agree with that and also would counter that there was a tremendous amount of developable land to this order of magnitude immediately adjacent or within the city of Mishawaka boundary as it stood. Mr. Hixenbaugh stated it was a point he agreed with, but also asked if he would agree that part of the American dream was for an individual who had an opportunity to sell their property, be able to exercise that opportunity and be able to benefit themselves and their family. Mr. Tanner stated he did not content or did he wish to debate constitutional law, property rights and the strength of them throughout the land that they loved and this was strictly his opinion as it applied to the consideration of costs and the long-term expenses that were interred to the city by way of a development of this nature. Mr. Hixenbaugh asked finally if he would agree with him that when property was annexed into the city and then ultimately developed, that also had a positive impact on the community with regard to maintaining stable financial posture and a stable tax rate, so while there were some expenses that were attended to this and they already heard earlier in the evening that in the opinion of all of their departments that there was not going to be any quantifiable expense per se that Mishawaka was going to incur here. Mr. Hixenbaugh asked if he would agree that there was also a countervailing benefit to the city when there was growth internally and on their outskirts. Mr. Tanner stated yes to a degree and the analogy that he would refer to was that in the 1970s, the federal government provided a lot of subsidies to expand infrastructure for water, wastewater and things of that nature that a many communities are paying for today without the capacity or ability to pay for that growth, so sometimes induced growth that did not pay for itself was bad growth. Mr. Hixenbaugh stated he agreed and they could find examples on either side of the equation but his focus was not what was on the 1970s and was on what was in front of them that evening and appreciated the information he shared with them. Mr. Tanner thanked them for their consideration and appreciated the time.

Mr. Hixenbaugh had a few questions for Mr. Studer. Mr. Studer offered clarification for some of the comments that were made with Mr. Buczynski stating that as a member of the Homeowners

Association, he did not receive a copy of written comments from Mr. Prince. Mr. Studer stated he was happy to introduce to the record a letter from Mr. Lumm and an email from Mr. Smith thanking Mr. Prince for the response amongst other things. Mr. Studer stated so in fact the HOA did receive these written comments and wanted that on the record and did not want them thinking a non-board member, Mr. Lumm who initiated the comments, did not share the information but Mr. Smith was actually an attendee. Mr. Studer also stated there were a number of people who received the email in Mr. Prince's written conversations and his comments regarding the 17 questions. Mr. Hixenbaugh stated he appreciated that and it was duly noted, but at that point in time he had little interest in who notified who via email or otherwise about anything there and wanted to focus on the issues in front of them and answer some of the questions. Mr. Hixenbaugh stated having had interaction with him in the past, he knew that he practiced in the area of environmental law in addition to other areas he practiced in. Mr. Hixenbaugh stated they had heard some concerns that evening with regard to the development as it impacted environmental related concerns in the vicinity and asked if he could address those. Mr. Studer stated he would be happy to and began with just for the terms of background, he represented the city in connection with the removal of 57 buildings from downtown Mishawaka and he also helped form the Regional Water Sewer District for this county and still acted as counselor to them. Mr. Studer stated Mr. Prince noted in his comments that they had more septic systems in this county more than any other county in the state of Indiana, which was a huge concern and one of the issues that Mr. Prince addressed that he was insisting as part of his recommendation for the annexation and the rezoning to go forward that they bring sewer and water at the expense of several million dollars. Mr. Studer stated when people were concerned about where did the stuff go and if it would go into their sewer system and Mishawaka had a very strong ordinance with respect to what went with the sewer and they were going to be committed and had to follow Mishawaka's ordinance with respect to sewer. Mr. Studer stated they were bringing sewer and water to the site and yes they were retention ponds but there were two conditions, 12 and 13, that Mr. Prince addressed in terms of the storm water detention and that was only for storm water detention. Mr. Studer stated as they all knew, the city required that any rains that fell upon the property could not be put in the sewer system. Mr. Studer stated those waters had to be retained on site and that was standard procedure for every development within the city of Mishawaka but in terms of anything with anything to do with environmental issues, thy would have sewer on site and that was a condition to bring the project to Mishawaka and costed several million dollars. Mr. Studer stated as Mr. Hixenbaugh mentioned, there were taxes that would be paid by the development to support those utilities and that was why the fiscal plan which was adopted 7 to 0 that evening indicated that all of those departments could support services to the community. Mr. Studer stated they did not have environmental concerns and those were going to be addressed and Mr. Prince gave him conditions of the recommendation. Mr. Studer stated as Mr. Hixenbaugh indicated, he had been an environmental lawyer for a number of years of there was no realistic concern about what was going to happen at the site. Mr. Studer stated there was actually probably more issues with the farmland with chemicals being placed on the farmland than it would be from sewer and water being placed out there. Mr. Studer stated in terms of the salt condition brought up, that was a county issue and they had nothing to do with it and they understood there was a concern with well systems and that's what they were trying to help bring to the community. Mr. Hixenbaugh asked if he could address the specific, well-taken point raised by several speakers with regard to the natural gas line and how that would be impacted, if at all, by this development. Mr. Studer stated they were aware of that and Mr. Danch was aware of that line and lines could be moved if they had to be moved. Mr. Studer stated it was part of the traffic impact study and all those issues had to be addressed. Mr. Studer stated the traffic impact study should be conducted by a professional organization paid for by and to be conducted in large part by the city and the county because of the joint ownership of some of the roads there. Mr. Studer stated they worked with them all the time and the city worked with the county in terms of maintaining the road but that road could have to be developed in a connection with the traffic impact study and that may require civilization as Mr. Prince noted and their people would have to pay for that, with this being a multi-million dollar project. Mr. Studer stated as far as the comments about the one-year pause not hurting the project, he made clear that the project would not be there in a year and this was a time critical project that needed 50 acres. Mr. Studer stated the development was 50 acres but the annexation was 60 acres and it could include other areas of property that through the annexation laws they had to acquire as well, which made the difference between the 50 and 60 numbers. Mr. Studer stated they were only building 50 acres but had to acquire 60 acres and acquire the roadway as well, just like Beacon had to acquire that portion of the toll road in order to get continuity in the south side of the toll road. Mr. Hixenbaugh stated one of the other points brought up that he thought was a legitimate question was with regard to the acreage and it may seem inconsequential to folks but he did not at all dispute that he would want to know that he was receiving accurate information if he was in their shoes and suspected he would as well. Mr. Hixenbaugh stated when looking at the staff report, it referred to this at 51.528 acres and asked what they were talking about here as far as the acreage on the site. Mr. Studer provided the council with a site plan which was also presented to the members of the public at the HOA meeting as well.

Mike Danch, Danch Harner Associates, spoke in favor of **PROPOSED ORDINANCE NO. 2022-22**. Mr. Danch stated he was representing the petitioner in this case. Mr. Danch stated the 50 acres was basically the development itself and what Ken had also asked them to do was take an additional land for Capital Avenue so that took in both sides of Capital Avenue and it had a varied right of way in some places or more. Mr. Danch stated they also had to take in both sides of Cleveland Road along their entire frontage so that was what they called gross acres, net acres as far as the 50 acres went.

Mr. Hixenbaugh went back to Mr. Studer and asked if there was anything else he wanted to add for the record in terms of a response to what they had heard that evening. Mr. Studer stated he thought one of the last speakers said it best and they did look for compromises and asked specifically what they could do to make the project more palatable and the answer was they did not want commercial property. Mr. Studer stated they were of the opinion that if you put high-density residential there as an alternative there would be even more traffic and more issues. Mr. Studer stated this site would not generate nearly as much traffic as 50 acres of residential property would. Mr. Studer stated beyond that, it became clear to them at that meeting and that night as well that many homeowners simply did not want commercial property there and did not want to be encroached by Mishawaka and they appreciated that, but one of the comments was made that there were other places to put this. Mr. Studer they all knew that in the real estate market, you had to have willing buyers and willing sellers and they don’t always get a chance. Mr. Studer stated there may be another 50 acres in the city but it was not available and there might be 50 acre sites outside of the city and there were a lot of 50 acre sites in the county and other nearby areas. Mr. Studer stated this particular developer wanted to be in Mishawaka and was willing to spend millions of dollars to do so and make this a first-class development with very expensive conditions as well. Mr. Studer stated the developer wanted to be annexed into the city and it was important to them to be part of the city and they understood there were people who did not want the project in the city but they thought this was a great project for Mishawaka. Mr. Studer stated from their perspective, they did not hear one argument that evening that this was not good for the city of Mishawaka, it may not be good for the people of Juday Creek and they may not want that but they thought this would be good for the city and encouraged the council to vote in favor of this.

Mr. Mammolenti thanked him for the clarification and answers to Mr. Hixenbaugh's questions. Mr. Mammolenti asked if they had given the name of the dealership or the group or whomever was taking up that business at that time. Mr. Studer stated they had not and for competitive reasons, he could not comment on that and he could not even comment on the speculation made there that evening. Mr. Studer stated all he could tell them was it was a first class operator and would be an incredible citizen of Mishawaka. Mr. Studer stated they were not at liberty to discuss the actual name of the ultimate user. Mr. Studer stated this was a very expensive project.

Mr. Emmons stated they only had so many car dealerships and asked if he was going to take all of the dealerships from Grape Road and come over to the property in question and have all that property vacant and asked if they were trading one spot for another. Mr. Studer stated he did not think they were. Mr. Emmons asked if they would be stuck with all of that open land that was car dealerships because they wanted to be all together. Mr. Studer stated that there was a risk and this was not approved, they may end up in that situation except they would not have a new dealership. Mr. Studer stated car dealers now were under such strict restrictions in terms of what the dealerships looked like, what they could handle and this was a new age for automobiles with electric vehicles coming on board and a lot of things had to change. Mr. Studer did not think they would end up with that problem, candidly. Mr. Emmons stated his concern was they would have big box stores empty. Mr. Studer stated many of the dealerships were not owned by the dealerships and taxes went on whether the dealership would be there or not and the owner would have to still pay taxes.

Mr. Prince commented that the 60.01 acres that was referenced in the fiscal plan was the annexation area which did not include any of the toll road and did include all of Cleveland road and did include the portion of Capital and that was because it was required by law that when they were adjacent to a roadway and they annex, they had to take the entire roadway. Mr. Prince stated that was the difference in that portion and he did not confirm it with Mr. Danch but it was very common with areas like this that the legal description would go to the center line of the road, so a bit of the discrepancy could be that the legal description went to the center line of Cleveland which was why there was the 52 versus the 58 acres but they were very defined and they knew exactly what area it was. Mr. Hixenbaugh stated one of the other valid questions that was raised earlier that evening was what had to do with the roadway itself and the maintenance of the road and if there was going to be a stoplight erected whether it be St. Joe County or the City of Mishawaka that would be involved or perhaps both and asked if he could address those concerns. Mr. Prince stated they had many situations where jurisdictions changed going throughout the city, if you drove up and down Fir Road, you would see a widened outward development that had happened and then went back to two lanes. Mr. Prince stated another example was when you went south on Main Street to Church Street to Union Street to Bremen Highway, all the same road going to the bypass, it reached that point. Mr. Prince stated it was a turn back from the state, so when it ceased becoming a state road and came back to the city, they had been incrementally improving it. Mr. Hixenbaugh stated one of the other points that had been erased and he knew he didn't draft the staff report but was sure he was very familiar with it, with regard to traffic which was a valid concern and as he understood it, that individual's reading of the staff report was that this development would exacerbate traffic in the area. Mr. Hixenbaugh stated as he read the staff report, it indicated that with the development that was taking place in that general vicinity beyond this particular site that the volumes of traffic would remain relatively consistent or continue to increase which was building upon an increase in traffic that was taking place over 15 years. Mr. Hixenbaugh asked if it was a foregone conclusion that this development in and of itself would exacerbate the traffic concerns out there or was it part of the general trend. Mr. Prince stated development by its nature, single family or other was going to inherently increase the number of trips per day that a road was traveled. Mr. Prince stated over time, even in the time Juday Creek had been there, there had been drastic improvements to Capital Avenue and if you could imagine in terms of how traffic engineers route traffic, think of the impact putting in Capital Avenue made to the overall transportation network and at the same time you had the county considering relocating Cleveland to bring it down to Douglas knowing that was the main commuter line to Elkhart connecting to the major arterial line that connected South Bend, the north side of Notre Dame to Mishawaka. Mr. Prince stated in terms of the development of the 50 acres, if you had apartments on it, if you had single-family on it, everyone one of those compared to the farm field that was there now was going to increase to amount of traffic to that area and the question was how you dealt with it over time. Mr. Hixenbaugh asked for those who did not deal with these issues as frequently as he did, was it unusual for the traffic study to take place in the sequence that had been proposed there after the annexation and as the site plan was being developed. Mr. Prince stated he could tell them that a year would be completely unreasonable and normally how these developments came to fruition was at the conceptual level, which was where they were currently at, and before anything was proposed, the landowner and perspective developer had to come to some sort of agreement and that agreement had a short window whether the decision was made to purchase or to let the property go. Mr. Prince stated that was where the developer was at and they did not inquire because it was not relevant to the decision making process. Mr. Prince stated that short window was where they were now. Mr. Prince stated the decision the council was making right now was really one whether the commercial development should go or if there's modifications to the conditions that made this development palatable. Mr. Prince stated when you looked at the expansion of Cleveland Road over time, what was likely to happen was nobody wanted to condemn property from existing landowners and the developable property on the north side. Mr. Prince stated the expansion to that road would be pushed north and not pushing south but that did not mean the existing right of way was not going to be used or have sidewalks or have infrastructure in it. Mr. Prince stated the other thing regarding the Juday Creek subdivision, the reason why was not because they did not want it in Mishawaka, but because of state law they had to bring it up to current city standards and it was a financial improbability. Mr. Hixenbaugh asked again with regard to the sequence of the traffic study, was it or was it not unusual for the traffic study to be conducted at this point. Mr. Prince stated no, you never wanted to spend the money and even from the city and developer standpoint, it would be highly unusual to spend that kind of money on a traffic study for something that you would have no clue. Mr. Prince stated to spend what would likely at least 6 months to put that traffic impact study together only to come back after you spent $100,000 and ask the fundamental question conceptually should this be a commercial development or not. Mr. Prince stated the traffic impact was an engineering solution and not the decision making the council was being charged with.

Mr. Mammolenti asked Mr. Majewski if he could ask him a couple of questions regarding the aquifer and if he felt it was in any danger.

Dave Majewski, Mishawaka Utilities Water Division Manager, answered Mr. Mammolenti's questions. Mr. Majewski stated they were aware of the aquifer and the shallow aquifer was affected and it was a narrow plume. Mr. Majewski stated it was affected by the chloride and they were utilizing the deep aquifer and the penetration of the chloride they had done multiple tests of the aquifer before building the well field and was under construction now. Mr. Majewski stated they had not seen any issues of contamination with the deeper aquifer.

Question was called for at 9:49PM for **PROPOSED ORDINANCE NO. 2022-22 Motion carried by unanimous roll call vote (summary: Yes = 7).**
Yes: Mrs. DeMaegd, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh. The annexation ordinance passed 7-0, thus it became **ORDINANCE NO. 5805**.

PROPOSED ORDINANCE NO. 2022-30

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 Shopping Center to S-1 Extensive Open Space to remain a natural open space due to floodplain – V/L south of 4601 Grape 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.

Tony Ricano, 4609 Grape Road, spoke in favor of **PROPOSED ORDINANCE NO. 2022-30**. Mr. Ricano stated the council had the proposal in front of them and would take any questions the council had.

Mrs. Voelker thought it was genius of him to think about that property and how it could not be used to be developed and from a financial standpoint, to find a way to reduce his taxes to keep something there. Mr. Ricano stated that came from trial and error and he had a couple opportunities with Abonmarche and Danch Harner both came up each time and gave him the bad news that it was more in a floodplain and was not worth the effort. Mrs. Voelker thought it was smart.

Mr. Banicki appreciated him, because so many small things tried to build there on Juday Creek and that was one of the small creeks he always tried to protect. Mr. Banicki stated this was one they would not have to fight again and thanked him.

Mrs. DeMaegd thanked him as well.

Question was called for at 9:53PM for **PROPOSED ORDINANCE NO. 2022-30 Motion carried by unanimous roll call vote (summary: Yes = 7).**
Yes: Mrs. DeMaegd, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh. The annexation ordinance passed 7-0, thus it became **ORDINANCE NO. 5806**.

PROPOSED ORDINANCE NO. 2022-31

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.
Vacation of public right-of-way for 1st alley between lots 44, 45, 46 and 47 – Battell's 2nd Park Addition

Mr. Mammolenti reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried.

Mr. Hixenbaugh stated for the record earlier that evening, Brian McLauglin vacated the premises after he made his comments, so the record incorporated his earlier comments at the beginning of the meeting.

Brian McLauglin, 515 Clay Street, spoke in favor of the Proposed Vacation. Mr. McLauglin stated they were just vacating the alley between theirs and their neighbor's house. Mr. McLauglin stated by getting it vacated, that would keep the city from having to repave in that alleyway and the other adjacent alley.

Question was called for at 9:56PM for **PROPOSED ORDINANCE NO. 2022-31 Motion carried by unanimous roll call vote (summary: Yes = 7).**
Yes: Mrs. DeMaegd, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh. The annexation ordinance passed 7-0, thus it became **ORDINANCE NO. 5807**.

The chair entertained a motion to recess for 10 minutes before reconvening to hear about the city budget. The council recessed.

PROPOSED ORDINANCE NO. 2022-32

CIVIL CITY BUDGET AND TAX LEVY FOR 2023

Petitioner asked for amendment

The chair entertained a motion to delete the proposed ordinance in its entirety and substitute in an amendment as presented to the council by the Clerk and Controller that evening. The motion passed.

Mayor Wood, spoke in favor of **PROPOSED ORDINANCE NO. 2022-32**. Mayor Wood thanked the council for their involvement in this and this way far and away their biggest issue that they dealt with on an annual basis as far as time commitment and effort from their department managers and meeting with all of them throughout the process. Mayor Wood also thanked their Controller, Becky Maguire and her staff for the outstanding job they always do to put together all of the data and information that culminated in their seeing this. Mayor Wood stated as he said before and his predecessors said, budgeting was an art and not a science and they took their best guesses based on experience and tried to be prognosticators about what they were seeing with trends in the market and economy. Mayor Wood stated they knew that it was not an easy thing to do right now with inflation and they were all impacted by it at home which meant they were impacted by it over in the city with everything they purchased and it got challenging to purchase things, so they had to strategize a little bit. Mayor Wood stated he was very confident in their team of outstanding people coming together with the council's input and put it on paper as much as a family would around a kitchen table. Mayor Wood stated the budget would be balanced, as required by law and they would be eating into their cash reserves if this was approved which wasn't necessarily a comfortable position to be in. Mayor Wood stated they spent a lot of time over the last 5 or so years knowing the circuit break impacts were coming and they wanted to build up cash reserves in anticipation of using them down the road. Mayor Wood stated they always tried to budget conservatively and spend conservatively as well. Mayor Wood stated he would address the changes in the budget and all of their priorities started with this document. Mayor Wood stated they would invest more that year in Public Safety and that was the top priority. Mayor Wood stated Police and Fire was most important and they were proposing to increase their staff and that would translate to an $800,000 increase in the budget. Mayor Wood stated to cover that, they were using up some ARPA funds. Mayor Wood stated as they knew, they were in negotiations currently and that process would play out but it was their intent to higher new personnel in police and fire. Mayor Wood stated on the IT side, they were looking to add a new line item, worth $250,000, it was for service contracts and things such as security cameras among other things that would come out of that. Mayor Wood stated on the Engineering side, they were looking to add to the CEDIT budget $200,000 for a new project in Twin Branch Park and School area to make improvements there for pedestrian safety. Mayor Wood stated with Central Services, they were seeing a huge increase in gas expenditures as well as some other increases in materials and added $200,000 to the general budget and then also MVH they were adding $25,000 to an increased cost. Mayor Wood stated they were going to deploy a new ambulance and were going to a fourth full-time ambulance 24/7, 365 and would be buying a new ambulance. Mayor Wood stated they had put in $356,000 in the budget for that and also had a new light item in the budget which was EMS funding and would use some of that for a new ambulance and also were looking to do a new Tahoe in the fire department, new medic to refurb as well as some other equipment. Mayor Wood stated over on the Code Enforcement side, they were adding to CEDIT a Human Society line item, an increase of $117,723 to cover their service contract increase for animal control. Mayor Wood stated most of their Code vehicles were circa

2010 and were showing their wear, so they were putting in $150,000 to replace the old hybrid Escapes that had been in good service for them for a long time. Mayor Wood stated in the Controller's Office, where things such as insurance and all that were held, they were increasing their insurance premium line item by $200,000 and he thought that was huge as far as that being a fairly low amount of money to increase that thanks to the savings in partnership with their providers and it was a great thing. Mayor Wood stated on the capital side, they were increasing that by $250,000 and consulting by $150,000. Mayor Wood stated the new city hall would require a lot of supplies, whether from the letterhead or equipment and they were adding a city hall line item in CEDIT to make sure they were able to service and provide in the building for the things they needed. Mayor Wood stated they were making some changes in the personnel lines as far as some of the salaries and things like that and as they knew, they commissioned a study for compensation. Mayor Wood stated they compared themselves to many other communities around the state with very similar positions and like-sized departments and like-sized cities and found that by at large, they were mostly competitive with other communities that were similar, but did have some outliers and intended to attempt the outliers that year to bring them up to where they needed to be. Mayor Wood stated they were also looking to do just a couple of changes personnel wise as far as changing some job descriptions, one in the Building department and they should be pretty well aware of those. Mayor Wood ended there with the update and stated this was a huge team effort for them and this budget always was their priority to give them up to date, current and transparent information at their disposal. Mayor Wood stated they could call them anytime and if they had a question on it and they appreciated all of their department managers meeting with the council and the dialogue they had with them and fulfilling their obligations as a fiscal body. Mayor Wood offered another thank you to everyone involved and this set them up for success in the coming year as well as down the road and put them in position to grow.

Mr. Bellovich asked Mayor Wood what they were looking at next year for their Police Department as far as staffing numbers and he knew they were staffed at 108 currently and asked if they were looking to go higher than that in 2023. Mayor Wood stated all things were on the table and they were in the middle of contract negotiations and he wanted to protect the integrity of that negotiation, but he would tell him that all things were the table and were absolutely willing to go higher on personnel at the police department. Mayor Wood stated the art was in the negotiation though and it was always a give and take, as he knew and that was where they were. Mr. Bellovich asked what percentage of the insurance premiums were paid by the city versus the employee. Mayor Wood stated they were above 96%.

Mr. Hixenbaugh thanked Mayor Wood for the information and appreciated the time he and Mrs. Maguire and the department heads spent with them. Mr. Hixenbaugh stated it was always a valuable conversation from their perspective and hopefully it was from theirs as well with regard to issues financial and otherwise that they did not always have the chance to discuss. Mr. Hixenbaugh asked with regard to the limited number of positions he mentioned in the wake of the salary comparability's that would be adjusted, during the budget discussions some of them were still under review and had not finalized, so Mr. Hixenbaugh asked when he had a chance if he could provide the council with a finalized list of those.

Mr. Mammolenti gave a sincere thank you to the committee that met with the department heads as he knew those were very long evenings taken away from family and he unfortunately could not make them that year due to some conflicts but always enjoyed the dialogue with the department heads and wanted to thank everyone involved.

Mr. Hixenbaugh had a question for Mrs. Maguire.

Becky Maguire, City Controller, spoke under the public hearing for **PROPOSED ORDINANCE NO. 2022-32**. Mr. Hixenbaugh asked if she could touch on with regard to the budget, how if at all the money they were proposing to spend next year would impact the tax rate their citizens were subject to. Mrs. Maguire stated it was not the budget that impacted the tax rate and the tax rate was a simple equation of the max levy, which was the total the state allowed them to come up with to collect and that was divided by their net assessed value and that came up with their tax rate. Mr. Hixenbaugh asked how the proposed tax rate for the coming year would compare to this year's tax rate. Mrs. Maguire stated with the advertised tax rate, they always advertised high because if they did not and something happened to their net assessed value, they could not collect their maximum amount, so it was best practice and financial advisors recommended that in their calculation, they use a lower net assessed value and underestimate. Mrs. Maguire stated so, if something happened, they would still be collecting their full levy. Mrs. Maguire stated that being said, in her estimations this year their tax rate was approximately 2.0 and she expected their tax rate to be just under 2.0 for 2023. Mr. Hixenbaugh thanked her again for the work she did to help them move through the budget hearings and it was always appreciated. Mrs. Maguire stated it was always a team effort with her staff and of course, could not make it through without the Clerk's Office and she appreciated it.

Mr. Hixenbaugh stated pursuant to state law, they would close the public hearing and for the record, a vote would take place at a subsequent council meeting pursuant to state statute.

PROPOSED ORDINANCE NO. 2022-33

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA CHAPTER 62 ARTICLE 3 WATER SERVICE AND APPROVING THE OFFERING OF A WATER SERVICE LINE WARRANTY PROGRAM TO CUSTOMERS OF THE MISHAWAKA MUNICIPAL UTILITIES

Mrs. Voelker reported the Committee of Public Improvements recommended this proposed ordinance should be adopted. This was signed by the entire committee and upon a second by Mr. Banicki, the motion carried.

Dave Majewski, Mishawaka Utilities Water Manager, spoke in favor of **PROPOSED ORDINANCE NO. 2022-33**. Mr. Majewski stated West 8th Street, South Merrifield, Terry Lane, Lincoln way East, East Broadway, West 6th Street, North Elder and Baker Street were just a few of the 40 plus customer leaks in 2022. Mr. Majewski stated when their people tell a customer it's their leak and they must fix it and it could cost thousands of dollars, it was a hard pill to swallow. Mr. Majewski stated in many cases, most of their customers told them that they did not have the resources or money to repair the line and their service people, including himself, hated to tell that to customers. Mr. Majewski stated they would like to change that or give them another option. Mr. Majewski stated the ability to provide their customers with leak insurance for a monthly fee and not having the headache of running through the program was a no brainer in his opinion. Mr. Majewski stated this had no deductible and would use local and Mishawaka utility approved contractors. Mr. Majewski appreciated the council's support in what he believed would be a huge benefit to the citizens of Mishawaka.

Mrs. DeMaegd asked if he could tell her how much the fee would be and if it would be included in their monthly bill. Mr. Majewski stated this would be an option so it would not be part of the bill with separate mailing.

Mrs. Voelker asked about approved vendors and approved plumbers. Mr. Majewski stated they would be giving a list of approved contractors to HomeServe using local contractors that were familiar with Mishawaka so it would be local people.

Mr. Mammolenti thanked Mr. Majewski for presenting this and asked if this was a similar presentation to the one they heard last year. Mr. Majewski stated this was the same with HomeServe, doing their due diligence and reached that point with somebody who was actually associated with the American Water Works Association, Indiana Rural Water, the Alliance of Rural Water so it actually had a buy in of water utilities around the state and in fact, they would be the second largest water utility if approved to be part of the HomeServe network, with Evansville being the largest. Mr. Mammolenti asked just to confirm that this was an opt-in service versus automatically incorporated in the bill. Mr. Majewski stated that was correct and there would be no surprises with mailings to go out and the big thing was hoping the right people joined the program so when they called and had leak insurance, it was a simple call to their 800 number and would receive service that way 24 hours a day. Mr. Mammolenti thanked him for his works and efforts and thought this was a great service offered to Mishawaka residents.

Mike Chambers, HomeServe, stated they were the administrators of National League of City Service Line Program and would answers any questions the council had. Mr. Chambers stated it was $5.75 per month.

Mr. Emmons asked if it would be billed by his company to the residents. Mr. Chambers that was correct and it was a full turnkey program and they handled all of the billing, customer service and claims and there was no cost or anything for the city to participate as well. Mr. Chambers stated it was all handled by them.

Matt Lentsch, Executive Director of Development and Government Affairs for Mishawaka Utilities, spoke in favor of **PROPOSED ORDINANCE NO. 2022-33**. Mr. Lentsch stated he was glad to be before the council and was proud to be there in the new council chambers and was proud of them all and where they had come and where they were headed as well. Mr. Lentsch stated it was not easy to say that they were Mishawaka and they were going to do the right thing, the right way and in this proposed ordinance, it was another opportunity for them to serve their residents well. Mr. Lentsch stated he had the opportunity to take a few calls of folks who had leaks and could not pay for it and they had to turn the water off, in some cases, until that was fixed and there were large costs incorporated in that. Mr. Lentsch stated they took care of their own and did a great job of taking care of the community. Mr. Lentsch asked for their approval of this and this was passed by the Board of Public Works. Mr. Lentsch stated service line warranty shall be offered at no cost to the city but rather be paid by customers who volunteered to participate in the program by purchasing coverage and which they could drop at any time. MR. Lentsch stated the city shall make the water service warranty available by entering into a contractual agreement with various service partners. Mr. Lentsch stated the initial cost, as reported, was $5.75. Mr. Lentsch stated they would get royalty back to them at 50 cents and that would go into helping them to deal with lead water lines and helping to service that. Mr. Lentsch stated he would be happy to answer any questions and thanked them for their willingness to hear this that evening.

Mr. Bellovich thanked him for being there that night and asked with the $5.75 per month, if there was a guaranteed timeframe that the premium would take place to start with. Mr. Chambers stated they had not raised the rate since 2014 and hoped they never had to raise the rate again and it had been that way for years. Mr. Bellovich asked for someone who was attempting to acquire the insurance, when it would go into effect. Mr. Chambers stated it would have a 30-day wait period and after the 30 days they would be fully covered.

Mr. Hixenbaugh thanked all of the gentlemen for bringing this to them and the minimal royalty the city received aside, this was not primarily geared toward the benefit of the Municipal Utilities and this was a program that would benefit the ratepayer and avoid a catastrophic situation where they had to dig into their own pocket without another source of revenue in order to deal with those situations they talked about and appreciated the work that had gone into it and the fact they were able to make this available to their residents.

Mr. Emmons asked on their billing and what the payments could be as far as annually, quarterly or monthly. Mr. Chambers stated they were flexible and they could pay yearly or quarterly. Mr. Chambers stated a lot of residents would put a debit or credit card on file and that would come out every month, but the payment plans would be flexible.

Question was called for at 10:35PM for **PROPOSED ORDINANCE NO. 2022-33 Motion carried by unanimous roll call vote (summary: Yes = 7).**
Yes: Mrs. DeMaegd, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh. The annexation ordinance passed 7-0, thus it became **ORDINANCE NO. 5808**.

UNFINISHED BUSINESS

<u>RESOLUTION R2022-17</u>

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.

Pilo Bueno, owner of Pilo's Body Shop 1017 E. Jefferson Boulevard, spoke in favor of **RESOLUTION R2022-17**. Mr. Bueno stated the last time they spoke, they agreed to bring clarification of the times and dates of operation of the food truck and what he was proposing was he opened from 2 to 8PM on Thursdays, 2 to 8PM on Fridays and 10 to 2PM on Sundays.

Mrs. Voelker stated she wandered by his business and he was not in because he had been ill, but she went next door and one of the workers next door stated his food was very good. Mr. Bueno stated he appreciated that. Mrs. Voelker asked about the state of his parking lot and if the food truck, as you were facing the building, would be on the left of the parking lot. Mr. Bueno stated that was corrected it would be on the northeast corner. Mrs. Voelker asked if he would have 8 parking places. Mr. Bueno stated he had a total of 6 parking spaces in front and 8 on the side. Mrs. Voelker stated the parking lot was very full and she was concerned about how it was all parked up on the right side and looked hard to maneuver around and was concerned about there being enough space in his lot to have a food truck and allow people to park. Mr. Bueno stated he was sick when she came by and had COVID and it was a rough ride and was down for over two weeks. Mr. Bueno stated he was trying to survive and was not as focused on his business recently. Mrs. Voelker stated she was glad he was feeling better. Mr. Bueno appreciated that and stated when she came by he was in the middle of a lot of things, but the plan was to put the food truck in the northeast end of the parking lot and had three handicap parking spaces in the front of his shop and there was 5 additional spaces in the front strictly for auto sales and 14 parking spaces on the side. Mr. Bueno stated there were some cars in the way but he would take care of that and the 8 on the east of the building would be strictly for cars going to the body shop and the 6 would be strictly for cars for the vending truck. Mr. Bueno stated they had never been so busy to where they had issues with parking and always had been plenty of space, so he did not foresee any problems with that. Mr. Bueno stated there had been ups and downs with the business, but never got to a point where there were so many cars that they did not know what to do with them.

Mr. Mammolenti thanked him for being at the meeting that evening and sitting through the long meeting and stated from his memory of the last meeting, he was very willing to agree to the stipulations that had been put on him and he appreciated that. Mr. Mammolenti asked if this would be for a year and then he would have to come before the council again. Mr. Hixenbaugh stated for the record, that was his reading of the resolution in front of them. Mr. Mammolenti asked if he was aware of that. Mr. Bueno stated he was aware of it and stated he was set back a whole month because he was sick and there would not be a food truck until next spring. Mr. Bueno stated he only asked the stipulation start in the spring, which he believed was fair. Mr. Hixenbaugh stated pursuant to the resolution, condition 3 in section 1 indicated that the use variance shall expire one year from the date of Common Council approval. Mr. Mammolenti stated he was very glad he was healthy and wished him good luck.

Mr. Bellovich asked if this was passed that evening, if he was locked in for the number of hours of if he could change that if his business was overrun and wanted to expand the hours or days. Mr. Trippel stated he agreed to those restricted hours, so they were what they were. Mr. Hixenbaugh stated the resolution as drafted in condition 2 indicated the hours of operation shall be no more than 6 hours per day and 3 hours per week. Mr. Hixenbaugh stated in response to Mr. Bellovich's question, his interpretation was that that condition now incorporated the oral representations made to them that evening, so over the course of the year as they looked to see if there had been follow through to what had been presented to them, it was going to be the schedule heard that evening to measure whether he complied with what was promised to the council. Mr. Trippel agreed with all of that. Mr. Bueno stated he came there that evening with integrity and his intentions were good and had said nothing but what he intended to do. Mr. Bueno stated his intentions were to buy a certain amount of food he believed was going to sell in a certain amount of time and when it was done, it was done, because he still had an auto body shop to run, auto sales to run and also had a family. Mr. Hixenbaugh stated they appreciated that and hoped this would be a benefit to him and his family, but on the flipside there were times when people had not always followed through so to avoid any misunderstandings and any problems down the road, it was better for them to be specific and make sure they were all looking at it the same way.

Mr. Hixenbaugh asked with regard to the location of the food truck and in addition to operating out of the building right next to the food truck, if he also operated out of the building at the intersection of Jefferson ad Maplehurst. Mr. Bueno stated he did not and the building right next to the food truck was the only building he operated. Mr. Hixenbaugh appreciated that clarification and thanked him and was glad he recovered. Mr. Bueno stated he was sorry to hear Mike Compton was struggling with COVID and hoped for his recovery.

Question was called for at 10:50PM for **RESOLUTION R2022-17 Motion carried by unanimous roll call vote (summary: Yes = 7).**
Yes: Mrs. DeMaegd, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Bellovich, Mrs. Voelker, Mr. Hixenbaugh. The resolution passed 7-0.

NEW BUSINESS

Mr. Emmons made a reminder that on October 20th they would have a Habitat for Humanity meeting with Mr. Jim Williams gathering public input about a proposed development for affordable housing across from Southwest Little League Park. Mr. Emmons stated this would be question and answer to gather information and looked forward to seeing everyone there. Mr. Emmons stated West End Bakery donuts would be served as well.

Mrs. DeMaegd stated the October meeting of the West End Neighborhood watch would be held Tuesday, October 11th and the guest speaker would be Mishawaka Police Department FOP president Rich Freeman and Officer Freeman would have an open forum to discuss crime and policing in Mishawaka. Mrs. DeMaegd also stated Sgt. Bruce Fultynski would also join them to give them an update on the West End's latest criminal activity and would be at St. Bavos at 7PM.

Mr. Mammolenti thanked everyone who had their hand in the New City Hall building as it was their inaugural meeting in the building that evening. Mr. Mammolenti stated he knew Mayor Wood and Mr. Prince worked tirelessly to make this happen, as well as Clerk Block who made sure everything from a council standpoint went as smoothly as could be and wanted to thank the

IT department as well for their outstanding job with each meeting getting better and better. Mr. Mammolenti once again thanked everyone involved.

Mr. Hixenbaugh acknowledged some city employees who recently visited the fun fair for the preschool program his wife participated in as a board member, Gary Wirick and Andy Williams from Central Serices and Steven, Yvonne and Kelsey from the Parks Department were all there and it was a really great experience from the kids. Mr. Hixenbaugh stated they brought up the dump truck and the preschool kids loved it and hopefully incentivized them to want to be employees of the city of Mishawaka as they aged and he appreciated the involvement of all of their employees in that event.

ADJOURNMENT 10:54PM

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