REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

April 17, 2023

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, April 17, 2023 at 7:00PM. The meeting was called to order by Council President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance.

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.

Clerk Block called the roll.

Roll Call.

Present: Mr. Hazen (P), Mr. Bellovich (P), Mr. Mammolenti (P), Mr. Banicki (P), Mr. Emmons (P), Mrs. DeMaegd (P), Mr. Compton (P), Mrs. Voelker (P), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Others Present: Clerk Block, Mike Trippel, Council Attorney

Minutes for the Regular Meetings of March 20, 2023 were approved as received from the Clerk's Office.

Clerk Block read the following appeals and petition by title from the Board of Zoning Appeals and City Plan Commission meetings on March 20th.

Appeal No. 2023-07	Use Variance to allow five Temporary Sales Trailers through October 2023 – 4325 Grape Rd.
Appeal No. 2023-08	Use Variance to allow Automobile Repair in I-1 District – property East on 2014 E. McKinley
Petition No. 2023-05	Annexing and Establishing Zoning as C-1 General Commercial District – West of 5996 State Rd. 23
Petition No. 2023-06	Rezone from C-1 General Commercial to R-3 Multi-Family Residential – 2406 Schumacher Dr. and Property adjacent vacant property
Petition No. 2023-07	Annex and Rezone portions to I-1 Light Industrial – Property East of 2014 E. McKinley

Petition No. 2023-08 Rezone from C-1 General Commercial to R-1 Single Family Residential – 2009 W. Sixth St.

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

RESOLUTION R2023-06

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A REPORT OF COMPLIANCE WITH STATEMENT OF BENEFITS FOR CERTAIN PROPERTY OWNERS

Clerk Block continued to read off the list of recipients.

- **Wellness Pet, formerly WellPet, LLC (High Speed Packaging Line 2015)**
- **Lippert Components Manufacturing Inc. (Building Expansion & New Racking/Logistics Distribution Equipment)**
- **Wellness Pet formerly WellPet, LLC (Building Expansion 2021)**
- **Wellness Pet formerly WellPet, LLC (New Production Line including dryers, odor control equipment and conveyance systems 2021)**
- **Barak Group LLC (Steelhead apartments – Former Mishawaka Inn)**
- **Front Street LLC (The Avalon – Mixed Use Building)**
- **Helios Hydraulics Americas LLC (Building Expansion)**
- **Helios Hydraulics Americas LLC (New Manufacturing Equipment)**

Derek Spier, City Planner, spoke in favor of **RESOLUTION R2023-06**. Mr. Spier stated the property owners who had applied for and had been granted a tax abatement for either real property or personal property must file a report with the council and the county auditor reporting the extent of compliance with the goal set forth in their statement of benefits that they submitted when they received their abatement. Mr. Spier stated there were currently six projects with nine active tax abatements and all of them required reporting for 2023. Mr. Spier stated all property owners had responder to their request to complete the statement of benefits forms. Mr. Spier stated since the prior reporting period for the calendar year 2022, three of the previously approved tax abatements had expired and therefore, no longer required annual reports. Mr. Spier stated the CF-1s for both real estate and personal property were due to the county auditor's office no later than May 15th of each year. Mr. Spier stated staff had reviewed all of the information submitted by all of the companies and had summarized it as the following. Mr. Spier stated the first one was WellPet and WellPet received a personal property tax abatement back in 2015 for equipment with a high-speed packaging line and installation for the equipment began in 2016 and was in operation. Mr. Spier stated the net values upon completion of the project were estimated at $17.3 million on the SB-1 when it was filed. Mr. Spier stated the actual net values upon completion of the project was $25.6 million, which exceeded their estimated values by $8.2 million. Mr. Spier stated the total employment at the time increased beyond what was projected on the SB-1 and when it was filed, the existing employment was 115 with four jobs to be added. Mr. Spier stated the total employment was reported at 121. Mr. Spier stated payroll was listed at over $7 million which was 80% higher than the $4 million when the SB-1 was approved. Mr.

Spier stated the next one was for Lippert Components. Mr. Spier stated they received both real and personal property abatements approved in 2017 for renovating and improving, adding equipment at the former AM General facility on Byrkit. Mr. Spier stated the proposed real estate improvements were estimated at $7.4 million and all of these had been completed. Mr. Spier stated it included a renovation of the existing building and then also some other site improvements. Mr. Spier stated actual real estate investment per the CF-1 was $13.3 million. Mr. Spier stated personal property improvements in this abatement request were originally estimated at $1.6 million and had been purchased and installed. Mr. Spier stated the actual personal property investment per the Cf-1 was nearly $10 million. Mr. Spier stated since the abatement was approved for 10 years for both personal and real property, annual reporting would be required through 2028. Mr. Spier stated when the abatement was filed, the total existing employment was listed at 247 with an additional 200 jobs to be added. Mr. Spier stated at present, there were 406 employees, which was a substantial increase from 21 employees in 2017, and a 14 employee increase from the 392 employees reported in the prior year. Mr. Spier stated the company was continuing to explore opportunities to expand their headcount at the facility, including but not limited to, expanding their 2nd shift operations and increasing the number of call center employees. Mr. Spier stated total payroll was listed at nearly $22 million, which was more than the $10 million listed on the SB-1 and an increase from $20.5 million reported in the prior year. Mr. Spier stated the next one was for WellPet and they received an abatement in 2021 for real and personal property abatement for a new dryer building and manufacturing equipment. Mr. Spier stated construction on the proposed real estate improvements which were estimated at $14.7 million began in September 2021 and the improvements were to include an 8100 square foot new dryer building, receiving building, improvements, a new electrical system, a meat room expansion and warehouse modifications. Mr. Spier stated after the preliminary engineering and design were completed, a decision was made to put a majority of the building construction on hold. Mr. Spier stated to date, actual real estate investment was listed at $410,425 on the CF-1 which included two small building additions to house the odor abatement equipment and the meat room expansion. Mr. Spier stated a majority of the personal property improvements included in the abatement request were estimated $27.9 million and they were also on hold with exception of the new odor mitigation system, coaters, conveyance systems and plant-in bins. Mr. Spier stated the odor mitigation system and other improvements listed were purchased, installed and became operation in mid-March 2023. Mr. Spier stated actual personal property investment to date, per the attached correspondence and CF-1, was about $5.7 million. Mr. Spier stated when the abatement was filed, employment was listed at 125 with 5 jobs to be added. Mr. Spier stated the current employment level was listed at 121 which was a slight decrease from the 125 positions when the abatement was filed and less than the total 130 positions as projected. Mr. Spier stated they did look at the company's website and there were currently 19 open positions that the company was actively recruiting and if all of the positions were filled, there would be 140 positions which was higher than the 130 positions per the SB-1. Mr. Spier stated although current employment level had slightly declined, the total payroll had increased to $7 million, which was 15% higher than the $6.1 million listed on the SB-1. Mr. Spier stated the next abatement was for Barak Group LLC and this was for the Steelhead Apartments. Mr. Spier stated this was approved by the council last September and it was for the proposed renovation and conversion of the former Mishawaka Inn into a 47-60 unit multi-family residential apartment building. Mr. Spier stated a second phase was anticipated to include a new building with an additional 46-50 units. Mr. Spier stated the correspondence that was attached to the packet said that the owner began interior demolition in December 2022 but the project was put on hold by January 2023 due to unanticipated significant cost overruns that may not allow the project to be profitable. Mr. Spier stated at this time, the developer was looking at several alternatives to allow for the successful redevelopment of the property, so given that the project did commence and was anticipated to continue after reevaluation, the completion of improvements, employment and salary could not be evaluated at that time. Mr. Spier stated the next one was for Front Street LLC and this was called Avalon, a mixed use building just to the northwest of City Hall. Mr. Spier stated this was approved in October 2022 and included apartments and first floor retail space. Mr. Spier stated construction began in November 2022 and it was currently ongoing. Mr. Spier stated per the CF-1 that was anticipated to be complete by November 2023. Mr. Spier stated the final one was Helios Hydraulics Americas LLC and this was for both a real and personal property abatement approved in October of 2022. Mr. Spier stated this was for building expansion and installation of new manufacturing equipment. Mr. Spier stated last year, Helios Technologies acquired Daman Products, a manufacturer of hydraulic manifolds, located at 1811 N. Home Street. Mr. Spier stated the real property improvements included an estimated $4.8 million building addition, expanded parking areas, new access drives and loading/unloading areas and expanded and new storm water retention basins. Mr. Spier stated construction began in December 2022 and was currently ongoing. Mr. Spier stated the project was anticipated to be complete by the end of 2026. Mr. Spier stated actual real investment by the end of last year was $100,600 with construction-in-progress totals equaling nearly $2 million by February 2023. Mr. Spier stated the personal improvements included an estimated $11.5 million for new manufacturing equipment and a very limited investment in IT equipment. Mr. Spier stated actual personal property investment by the end of last year was $504,036 with construction-in-progress totals equaling almost $1 million by February 2023. Mr. Spier stated when the abatement was filed in mid-October last year, the total existing employment was listed at 139 with an additional 73 jobs to be added over the life of the project. Mr. Spier stated by the end of last year, the company had already hired an additional 21 employees and additional employees were anticipated once the expanded and new product lines were operational. Mr. Spier stated President Hixenbaugh asked the representatives from both WellPet be present that evening and with Barak Group and there was a group there in the council chambers present for WellPet and there was also a representative online for potential questions about the Steelhead Apartments.

Mr. Hixenbaugh thanked Mr. Spier and his staff for the work they did to put the information together and it was very well done as usual.

Amanda Turnwald, 1011 West 11th Street, spoke in favor of **RESOLUTION R2023-06**. Ms. Turnwald was representing Wellness Pet that evening as the Director of Plant Operations. Ms. Turnwald started with some prepared remarks before the questioning began. Ms. Turnwald first thanked President Hixenbaugh and the members of the council for the opportunity to be there that evening to provide them with an update of the activities at Wellness Pet, Mishawaka. Ms. Turnwald stated first, Wellness Pet prided itself on being a good corporate citizen and they did this in a number of ways. Ms. Turnwald stated an example was that every Thursday, their leadership team delivered lunch to seniors in the West End or Council District #1 through Meals on Wheels. Ms. Turnwald stated another example was their performance in their 2015 abatement for a high-speed packaging line and the line was operational plus their investments, employment and payroll exceeded the projected amounts. Ms. Turnwald stated on their 2021 abatement, last year, she came before the council and was transparent about the status of the projects and she was happy to do that again tonight. Ms. Turnwald stated they had implemented their odor mitigation project and this was operational mid-March 2023. Ms. Turnwald stated since the new system, they were still fine tuning it and additionally, they had found operational efficiencies which meant they would operate Monday through Friday and were not typically operational on weekends. Ms. Turnwald stated these efficiencies had not negatively impacted their workforce with their employment levels staying nearly the same and they currently had 19 open positions. Ms. Turnwald stated additionally, their pay had continued to increase over the last year. Ms. Turnwald stated their payroll was $7 million, which was 15% higher than the projected numbers. Ms. Turnwald stated last year, they invested $5.7 million in actual personal property and today they had invested $400,000 in actual real estate. Ms. Turnwald stated as noted last year, the majority of personal property improvements had been put on hold and that status had not changed. Ms. Turnwald stated as always, whenever they received communication from city staff or elected officials, they provided prompt responses, which was why she was present that evening. Ms. Turnwald stated if any of them wanted to come and do a plant tour, they would be happy to have them out. Ms. Turnwald stated in conclusion, they would continue to be a good corporate citizen and were happy to answer any questions they had.

Mr. Emmons stated she said the odor equipment would not operate during the weekend and he wanted to clarify if that was the case. Ms. Turnwald stated they did not typically run on the weekends any longer. Ms. Turnwald stated they may have one or two days on the weekends in a month but they were a Monday through Friday operation at that time. Ms. Turnwald stated there was no need for an odor mitigation because they would not be running. Mr. Emmons stated he lived on 13th Street and the odor was very prevalent that day and he opened his garage door, stepped outside and the odor hit him very hard. Mr. Emmons stated also last week, the odor was prevalent and what bothered him was that it was on a very nice day and if they were going to have summertime coming and they could not be outside and enjoy the weather, he had a problem with that. Mr. Emmons stated the company said that the equipment would eliminate the odor to about 88% or more and with the smokestack, it would really eliminate it. Mr. Emmons stated he did not see where the odor had been eliminated at all. Ms. Turnwald stated they were continuing to work on some commissioning problems that they had been having and she did not have any issues with the odor that at their facility, but if he had that problem, her information was in the packet. Ms. Turnwald stated she could smell what was in the area and in her direction over off of Dragoon and she wanted him to feel free to reach out to one of them. Ms. Turnwald stated she knew that their maintenance and engineering manager was also there as well and he was in contact with Vic at the city and they were continuing to work through some regular commissioning type of things that were new to any new system. Ms. Turnwald stated if he was smelling something, they would love to have him reach out to them. Mr. Emmons stated it was there today and it was really bad. Mr. Emmons stated a year ago, when her company came and asked for the abatement, he specifically asked on the floor of the council to please keep them advised throughout the year of what was going on and he was not contacted even once. Mr. Emmons stated he also was never contacted even when he asked for a meeting. Mr. Emmons stated they were not living up to the abatement and was concerned about the lack of communication. Ms. Turnwald stated when she was there last year, she did say that they would have everything else on hold, with exception to the odor mitigation system and they did say they would have that up and functional before the end of quarter one of 2023 and it was up March 17th, so they did meet the timeline that she guaranteed. Mr. Emmons stated he was not talking about them meeting their timeline but talking about contacting the council and himself to set up a meeting and see where they were at. Mr. Emmons stated he also asked that they set up a meeting with himself and his constituents of what the progress was and nothing was done and it was completely overlooked and forgotten. Ms. Turnwald stated they talked about that at the last council meeting when it was brought up and they mentioned they would not be able to do that due to extenuating circumstances, as she was sure some of them were aware of. Mr. Emmons asked if she meet the council meeting from last year. Ms. Turnwald stated yes, last year. Mr. Emmons stated another representative made the statement at that meeting that he would be in touch, but he did not know if that representative was still with the company. Ms. Turnwald stated he was no longer at Wellness Pet.

Mrs. Voelker asked if she could give them any information regarding the projects that were on hold and if there were any plans for them to move forward. Ms. Turnwald stated they were still on hold due to the inflationary costs and external pressures on the business from last year, they were still not in a position to proceed with the building of the extra dryer building. Ms. Turnwald stated they did continue to do plant binance replacements and they did install the screening portions that they intended to purchase, so they were still moving forward with pieces of the overall program but as far as they building that was supposed to expand the building that was on hold.

Mr. Compton stated she said they installed a new odor control system and that was up and running. Ms. Turnwald stated yes sir. Mr. Compton asked if there was a new stack as well or if they were using the same stack they had prior. Ms. Turnwald stated the stack heights did not change significantly, if that was what he was asking. Ms. Turnwald stated they did increase slightly and they did change the pattern of where the stack was extending out of the building. Mr. Compton asked if they had done any studies on the amount of odor that had been reduced. Ms. Turnwald stated they had not at that time because they were still in commissioning and they system had been running for four weeks, so they wanted to make sure they got through any of the bugs that they had with their system before they went into any of the testing. Ms. Turnwald stated additionally, for those who lived in the area, they knew that during the summer the smell was a little bit stronger and she would prefer to wait until that time of year so they would be getting a true test of what the system was doing. Mr. Compton asked how high the stack was that was there at that time. Ms. Turnwald stated roughly 42 feet. Mr. Compton stated they were talking about twice that much or more initially and asked if that was correct. Ms. Turnwald stated yes. Mr. Compton asked if the building was ever built if that would happen. Ms. Turnwald stated if the building were to be built in the future, the dryers would be at the top of the building and the stack would be higher. Mr. Compton stated the last few abatements they had provided WellPet, for him personally, weighed heavily on reducing the odor and that was what Wellness Pet came to the podium and besides all of the other things they were going to do, that was how they represented themselves. Mr. Compton stated that was what sold the council on the abatement and he believed the council said last time that if they were not ready to move forward to really do what they said they were going to do, he would have trouble supporting it and that's where he was that evening. Mr. Compton stated he knew that this was corporate, he understood what was taking place but that did not change where he sat and the constituents of Mishawaka did not disagree. Mr. Compton stated it did not change their ability to go outside and quality of life. Mr. Compton questioned the good corporate citizen here just a little bit for that and the lack of working Mr. Emmons amongst other things. Mr. Compton thanked them for coming here and appreciated the information they were giving.

Mr. Mammolenti stated she mentioned the air testing and he had a couple of questions regarding that. Mr. Mammolenti asked how long that took to get the results. Ms. Turnwald stated unfortunately, that was prior to her tender with Wellness and she knew that Eric, the gentleman with her was working with the previous company to get that scheduled. Ms. Turnwald stated she wanted to say it took about a month and a half to get the testing out and then to get the report was a little bit longer but she did not have that information right in front of her to give them a concrete answer. Mr. Mammolenti asked if she would guess that it was a fairly expensive test. Ms. Turnwald stated it was a fairly expensive test. Mr. Mammolenti stated she made a comment that they were wanting to test it during the summer versus the present time and asked what exactly took place with it. Ms. Turnwald stated what they did last time was they took a bag and put it on a stack, captured the air and then sent it out to do the testing on it. Ms. Turnwald stated it was basically testing put in front of a panel of people and there was also some not subjective testing as well. Ms. Turnwald stated there were some comments of some of the individuals smelling it that it smelled like cat food or it smelled like burnt tootsie rolls. Ms. Turnwald stated there was also some more concrete testing associated with it. Mr. Mammolenti stated if that was the procedure, he was confused as to how the summertime would make it any different. Ms. Turnwald stated the humidity also played a role in how much it hung around the facility, so if it was really humid, the stacks did not expel as well based off of the fact that it was trying to get through the atmosphere so then they had it more condensed in that spot she thought but she was not an odor scientist.

Mr. Bellovich asked if the testing that was done was conducted by a third party. Ms. Turnwald stated it was not something that was a Wellness Pet specialty. Ms. Turnwald stated they actually sent it out to the third party consultant group, she believed they used Trinity Consultant last time. Mr. Bellovich asked if this was the same organization that had been testing all along. Ms. Turnwald stated it would be the same organization that did their previous testing.

Mr. Emmons asked if she smelled the odor that day. Ms. Turnwald stated she did not and did not smell it at her house. Mr. Emmons stated he was surprised by that because with the wind he would have thought they would not have an odor, but they did and the wind should have dissipated it. Mr. Emmons asked when they planned on doing the testing to make sure the system was working correctly and dissipating the odor. Ms. Turnwald stated she did not have a date on when it would be scheduled and completed. Mr. Emmons asked if they planned on having it done before summer. Ms. Turnwald stated she did not have a date at that time. Mr. Emmons asked if she was saying that they may go through another summer with the odor. Ms. Turnwald stated that was not what she was saying and that she did not have a date at that time, so she was trying to get it scheduled. Mr. Emmons asked if they could keep the council advised of their timetable and how it was going. Ms. Turnwald stated that was her intention moving forward. Mr. Emmons stated he would greatly appreciate that and he knew his community would too. Mr. Emmons stated it was basically only in his area most likely and it was very prevalent on the West End. Mr. Emmons stated he thought it was her and her company's responsibility to make sure the neighbors in the area had good quality of life and not have to be indoors, especially Berkley Circle which was a retirement community where they could not get out because of the odor. Mr. Emmons stated he would greatly appreciate all they could do to help eliminate the odor so that they could have a quality life in their area.

Mr. Hixenbaugh thanked her for being there and sharing the information she had, from both last year and that year and she was kind enough to speak with him by phone on Friday and he appreciated that as well. Mr. Hixenbaugh agreed with her that WellPet was a good corporate citizen in Mishawaka, they employed a lot of people, they paid their employees well and with regard to this abatement, their payroll was reflected as having an increase so that certainly was fair to note for the record. Mr. Hixenbaugh stated things had gone well in the partnership between the city and WellPet for many years with the exception of the odor control issue that Mr. Compton referenced and the status of the last two abatements. Mr. Hixenbaugh asked when they spoke about the decision to make the full investment and to move forward with the full project being on hold, was that the decision that had been made at the local level or at a corporate level elsewhere. Ms. Turnwald stated the decision to put the project on hold was made at a headquarters level. Ms. Turnwald stated their corporate offices made those decisions. Mr. Hixenbaugh asked where their corporate offices were located. Ms. Turnwald stated they were in Massachusetts, specifically in Tewksbury, right outside of Boston. Mr. Hixenbaugh stated if he understood correctly with her answer to his colleague's question, while the project was on hold there was not a defined timeline that had been established for when the hold would be lifted and the project would move forward and if that was correct. Ms. Turnwald stated there was no timeline currently. Mr. Hixenbaugh asked if it was possible to even indicate that she anticipated the hold would ever be lifted. Ms. Turnwald stated at that time, she did not know. Mr. Hixenbaugh stated as Mr. Spier referenced, on the real estate side, the anticipated investment was $14.7 million and to date, WellPet had invested $410,425 and if that sounded about right to her. Ms. Turnwald stated yes. Mr. Hixenbaugh asked by his math, on the real estate side it looked to him to break down to about a 2.79% investment to that point and if that was correct. Ms. Turnwald stated she agreed with that. Mr. Hixenbaugh stated on the personal property side, the equipment including the pollution control, air quality control equipment they referred to several times that evening, that was estimated to be, at the time the abatement was granted, $27.9 million and to date, the investment was $5,670,798 which was a significant investment but when he did the math, that appeared to be just a little bit over 20% of the investment that was anticipated when they approved this. Ms. Turnwald stated yes, the majority of it was in the odor mitigation. Mr. Hixenbaugh asked if the percentages were correct. Ms. Turnwald stated they were. Mr. Hixenbaugh stated he struggled with this like Mr. Compton did only because, as much as he appreciated what Wellness Pet did in the community, to him the abatements boiled down to an agreement between the city and its representatives and the recipient of the abatement. Mr. Hixenbaugh stated they agreed to do what they said they would do, which was phase in taxes over the course of time and then, they asked the recipients to make the investments and to hire the folks that they indicated they were going to hire. Mr. Hixenbaugh stated they talked about the fact that the payroll had risen, so that was to their credit and with regard to the jobs, plus or minus they were in the ballpark and in this economy, everyone was struggling to fill their vacancies so he certainly wouldn't hold them accountable for that too much. Mr. Hixenbaugh stated the job levels were decent but it was the investment that was significantly below where they were at. Mr. Hixenbaugh stated one of the things they had to find in order to determine whether or not a recipient of the tax abatement was in substantial compliance with their statement of benefits they originally filed was that their failure to comply was caused by factors beyond the control of the property owner, in this case Wellness Pet. Mr. Hixenbaugh asked if there was anything she could share with them that night to round out the concept that the fact that the project was on hold, the fact that the full investment was not made, other than the economic factors that everybody in the world was subject to at that time, if there was anything else to help them determine that the fact that the investment wasn't made was beyond their control. Ms. Turnwald stated other than the economic factors with the unprecedented steel prices, most of that building was steel and it was 100 feet tall when all said and done. Ms. Turnwald stated steel prices from the time they did the engineering study to the time that they were getting ready to do the purchase order had at least tripled. Ms. Turnwald stated that made the building way more than what they had anticipated, which made it so that it was not something that could be done at that time. Mr. Hixenbaugh asked if it was the same economic pressures that caused the odor control equipment only to be installed within the last four weeks rather than all of the prior calendar year which passed before it was installed. Ms. Turnwald stated the reason the odor mitigation system did not get installed and finalized was also the steel prices and the steel ordering was crazy as well. Ms. Turnwald stated they had placed orders back in 2021 for the odor mitigation system and it did not start arriving to the facility until the end of 2022. Ms. Turnwald stated they then had to build the building around it, install it and get it up and running. Ms. Turnwald stated it was the lead times that caused that. Ms. Turnwald stated all manufacturing facilities were going through that same type of lead time change which was encountered with a lot of their vendors for building the building and even the ionic system itself had a long lead time during COVID as well as coming out of it.

Eric Steinbeck, Officer from Wellness Pet, spoke in favor of **RESOLUTION R2023-06**. Mr. Steinbeck stated he just wanted to clarify the questions about stack height and the functions of the system overall. Mr. Steinbeck stated regardless of whether the stack was 90 feet high or 42 feet high, the way that the system worked made that kind of a moot point. Mr. Steinbeck stated they were passing their air through a cold plasma net which was ionizing the air which was degrading and oxidizing all of those pollutants and the microorganisms that were in the air causing the smells. Mr. Steinbeck stated what was being exhausted simply did not have those things in it anymore regardless of whether it was 90 feet up or 42 feet up, so he was confident that as they got the system running properly they would be able to prove through the testing that the system worked and the odor would be abated. Mr. Steinbeck stated this was not something like their old system where they were just trying to mask the odor, they were eliminating the odor in this case.

Mrs. Voelker stated it sounded like OxiClean or Febreze. Mr. Steinbeck stated not quite and it was full plasma created by electrodes that were running power across banks, basically plates that created the cold plasma which was in all reality creating ozone, O3, and sanitizing the air causing everything to break down.

Mr. Emmons asked if he heard him right in saying that with the equipment running properly that the order should be eliminated. Mr. Steinbeck stated that was correct, as much as possible. Mr. Emmons stated that did not secure him on that. Mr. Steinbeck stated he was confident that they could prove through testing that they could reach the limits that they are intending to reach. Mr. Emmons stated in the past, they said whatever odor was not eliminated by the odor equipment that the raising of the smoke stack would eliminate it completely and now he was saying the smoke stack was not going to go up any higher than what it already was, so it was like they were double talking. Mr. Steinbeck stated he could not really speak to what was talked about last time since he was not with the company at that time and he just wanted to really speak to the functionality and the way the system worked currently. Mr. Emmons asked if he could give him a rough idea on how much percentage it might eliminate. Mr. Steinbeck stated he did not know that. Mr. Emmons stated they were still in the dark about whether they were going to have an odor or not. Mr. Steinbeck stated that was what the testing was going to be for. Mr. Emmons again like before that he would like the council to have a timeline of what they were doing, the testing and everything like that to keep them abreast of what was going on so that they knew when that odor would be eliminated and if it could not be eliminated. Mr. Emmons stated he would also like to have his phone number so when he could contact him when they had the odor. Mr. Steinbeck stated he actually gave his to Vic so he that he could send it over to Mr. Emmons. Mr. Emmons stated he appreciated that. Mr. Emmons stated he appreciated that they did not operate the plant on the weekends and asked if that were correct. Mr. Steinbeck stated it was correct.

Mr. Mammolenti thanked him for his presentation that evening and stated just to piggyback off of the comment Ms. Turnwald made, they just got the system in commission and were making tweaks it sounded like. Mr. Mammolenti asked if it was his responsibility to adjust the ions with the unit to control it or was that the manufacturer. Mr. Steinbeck stated it was the manufacturer and they were working with the manufacturer to continually monitor the system to work through all of the commissioning issues they found and kind of debug the system as they found things. Mr. Mammolenti asked if they came on site or if it was all remote. Mr. Steinbeck stated it was remote. Mr. Steinbeck stated they came on site for the initial commissioning and then they were able to remote in and look through their logic and identify problems for them as they found them. Mr. Mammolenti stated pardon his ignorance but he would think that if the lines were running and you walked outside and smelled it, then they could call the manufacturer and they would be able to try to remedy the issue rather quickly. Mr. Steinbeck stated they were very responsive.

Mr. Mammolenti asked at this point, if they had any ideas on why this was taking so long to eliminate the odor. Mr. Steinbeck stated no and they found multiple issues within the programming logic and within the system themselves, things that were missed during commissioning and as they resolved them, the system would continue to operate better and better. Mr. Steinbeck stated as with any large project, they would have these type of things come up.

Mr. Compton thanked Mr. Steinbeck for his comments and asked for clarification if he was not present when the abatement was applied for. Mr. Steinbeck stated that was correct. Mr. Compton stated what they were told was that this new system would reduce and eliminate not all of the odor but also not just mask the odor as he said, so it was a process that would kill the odor. Mr. Compton stated then they were told by moving it up to 90 feet in the air, they would likely never smell it again so he understood what he was saying that the process was the process and it would not work any better at 42 feet as it would at 90 feet but when you released that, it was what they smelled. Mr. Compton stated if it was at 90 feet his thought was it would help even more and they were sold on that happening and at the last meeting, they were talking about what they weren't able to do. Mr. Compton stated they started backpedaling then too and he disagreed with them saying the height would not make a difference but he understood it was a corporate problem and Mr. Steinbeck's position and what they were doing but he disagreed and believed adding the building and moving this up like it was originally intended would have been the best move. Mr. Compton stated he was not overly optimistic at this point, only because of history and he opened he proved him wrong but he was not overly optimistic that they were going to resolve this.

Mr. Hixenbaugh thanked Mr. Steinbeck for the clarification and stated he made a fair point and certainly would not hold him accountable for the statements made by others when he was not working there but Wellness Pet as an organization was accountable for the statements that all of its representatives over the course of several years made with regard to this. Mr. Hixenbaugh asked when he said that it did not appear the elevation of the air quality equipment would have an impact on the efficacy of the equipment if that was his opinion and his opinion alone or based upon the representations the manufacturer and the installers had made during the process. Mr. Steinbeck stated that was based on his opinion and his understanding of the system and had not specifically spoken to the manufacturer about that. Mr. Hixenbaugh stated he heard him diplomatically answer with regard to the anticipated efficacy of the equipment, but like Mr. Compton he remembered back when this abatement was first approved and he had a strong recollection that the commitment was made that it would be 90% to 95% effective. Mr. Hixenbaugh asked if there was any quantification he could provide at that time. Mr. Steinbeck stated not at that time. Mr. Hixenbaugh stated that was a problem for him and it was only because of what they were told in the past and now, what was being delivered. Mr. Hixenbaugh asked if there was any further peace of mind that he could provide that even at the lower level, the equipment, they did not just hope it was going to be effective but that it was going to be effective. Mr. Steinbeck stated the only thing he could provide was a touchpoint that he would ensure that they would be made aware of where they were at in the process, how the process was going and maintain that communication they were looking for over the course of the time.

Mrs. DeMaegd asked if he could tell her if they had any other companies that used this. Mr. Steinbeck stated he did not know if there were any other companies that used this specific technology but he knew it was out there being used in similar applications. Mr. Steinbeck stated he had not personally worked on another system specifically like this one.

Mrs. Voelker asked if it would be possible for him to talk to the manufacturer just to give them some information and peace of mind and ask them for information about models, other companies that were using this product and a little bit about the process with how long it had taken and perhaps the success rate they had experienced. Mrs. Voelker stated that may be helpful to them moving forward. Mr. Steinbeck stated he could certainly reach out to them and see if that was a feasible idea.

Mr. Emmons stated for clarification that when this was last presented to them that there were four other companies using this system throughout the United States and it eliminated the odor. Mr. Emmons stated he was saying with the new equipment and the smoke stack, it would be eliminated and now he was saying they were not going to have the smoke stack but the equipment should eliminate it. Mr. Emmons stated it would be nice if he could contact the other four companies or equipment facilities that were using it and verify that it would work without a smoke stack. Mr. Steinbeck stated if he could get some companies identified, he could definitely get some background. Mr. Emmons stated in their prior meeting it was stated there were four other dog food manufacturing companies with the same type of odor and eliminating it. Mr. Steinbeck stated he was not aware of them, but he would do some digging to find them.

Mr. Hixenbaugh had some questions for the representatives of Barak Group and the Steelhead Apartments.

Tony Lane, 400 East Center Street, spoke in favor of **RESOLUTION R2023-06**. Mr. Lane stated he was a manager from Barak Group. Mr. Hixenbaugh thanked him for being there and thanked Barak Group for taking this on. Mr. Hixenbaugh stated it had been a problem property in Mishawaka for years, so he was happy to vote in favor of this abatement and wished them success moving forward. Mr. Hixenbaugh stated in the information they received from their staff, there was an indication that they found some unanticipated issues with regard to the building and that the property was on hold. Mr. Hixenbaugh stated his hope was that he could share with them a little bit more information about what the next steps looked like and asked, if he had the ability to tell them, how long this was going to be on hold and what needed to be determined in order to move forward and if there would be any change in the complexion of the project as it was originally explained to them. Mr. Lane stated they were still in the early stages of the process and they had their demolition crew there in January, they gutted it and they were able to see a lot more things they did not see before. Mr. Lane stated at that time, he did not have any schedule for the council and in January they stopped the demolition and they then had to go through the architectural work, design work and all of that. Mr. Lane stated once they ran into some complications, some of their designs weren't going to match one code and then two were budget wise. Mr. Lane stated at that time, they were on hold but hopefully within the next 2 months, they would have more information on a schedule. Mr. Hixenbaugh stated that would be appreciated and he would be concerned if they went a whole year and they were at this point next year and he was reporting back to the community that they were still trying to work through it. Mr. Hixenbaugh stated that was understandable with certain problems, but he appreciated what he said about hoping to have some information to share in the next couple months and if he could get that to the Planning staff, he was sure they would be happy to share that with them and provide the council an update. Mr. Hixenbaugh stated if he could keep them apprised that would be appreciated.

Mr. Hazen asked where they were at on the budget. Mr. Lane stated it was several million off and the code requirements to add for the doors had to go from 32 to 36, there was rebar and walls that they were trying to connect with rooms as well as EIFS issues and all of the utility stuff. Mr. Lane stated there were also options on maybe changing some things of what they would do on the property or even the possibility of just tearing it down so they were getting numbers from demolitions just to have that on the table but it had strong bones and they preferred to keep the foundation there if it was not time for it to go. Mr. Lane stated they were still on the very beginning process.

Mr. Mammolenti asked seeing what they had gotten their hands into and the crazy amount of money that it may take to continue this, if they were at the stage where it was 4th and 20 and they were punting and they were going to end the project or if they were still planning to find a way to make the project work maybe a little bit different in terms with demolition, maybe cut back on some of the design work and asked if he could give him an idea. Mr. Lang stated the owner wanted to start as soon as possible but obviously they had to be careful with the economy and all of the prices for everything skyrocketing. Mr. Lane stated interest rates were a big hit on them and when he was first buying the building, they were low and now they were high and it could go higher but he was not sure if he answered the question or not. Mr. Lane stated they wanted that property to look beautiful, it was a great spot and he was excited for the name of it to come out and for all of the locals to go fishing over there. Mr. Lane stated they just had to make sure everything was good before starting on it.

Mr. Hixenbaugh thanked Mr. Lane again and looked forward to that follow-up communication hopefully within the next couple months and if he could, not only provide them with information on the anticipated timeline for moving forward but if there were going to be the changes in the scope of the project or the complexion of it to let them know of that as well. Mr. Lane stated if they had any ideas or what the city might want or something like that, they will have their ears open.

Mr. Hixenbaugh stated he appreciated both of the tax abatement recipients being there that evening and certainly, they were in different places in the process. Mr. Hixenbaugh stated with Wellness Pet, he did believe that it was a good corporate citizen and they had a track record of success on so many levels in Mishawaka but with regard to this abatement, the 2021 two-part abatement, he really struggled to find that they were in substantial compliance and he could appreciate the comments with the regard to the economy and they had to acknowledge that but to be substantially compliant, it would be logically and legally required to be further along down the road. Mr. Hixenbaugh stated if 75% of the investment had been made or maybe even 50% of the investment had been made, he would feel much more comfortable finding this to be in substantial compliance but on the real estate end when they were looking at just under 3% and on the personal property end when they were looking at 20%, he could not in good conscience find that it was substantially compliant nor could he find based upon the evidence that had been presented to that point in time, that it was due to factors that were beyond the control of Wellness Pet. Mr. Hixenbaugh stated he was prepared to vote in favor of all of the compliance reports and the tax abatement recipients with the exception of the two Wellness Pet 2021 abatements.

Mr. Compton agreed with President Hixenbaugh and wanted to throw in that he agreed the investment was not as far along as they felt it should be and with the issue of the odor control being a concern and those things in mind, he made a motion that in this resolution they separate the Wellness Pet portion from the rest of the resolution and vote on them separately. Mr. Hixenbaugh asked as a point of clarification if that was with respect to the Wellness Pet 2021 tax abatements only. Mr. Compton stated yes. Mrs. Voelker seconded the motion to amend **PROPOSED RESOLUTION R2023-06** by deleting all specific references to both Wellness Pet 2021 tax abatements. A voice vote was held, the motion carried and question was called for on **PROPOSED RESOLUTION R2023-06 AS AMENDED**.

Question was called for at 8:03PM for **RESOLUTION R2023-06AA Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed resolution passed 9-0.

Mr. Hixenbaugh stated consistent with consistent with Mr. Compton’s motion with respect to the two Wellness Pet 2021 tax abatement requests, at that time he called for the question as to whether or not Wellness Pet had substantially complied with their statement of benefits for the two 2021 tax abatements. Question was called for by Mr. Compton.

Mr. Compton asked if the folks from Wellness Pet understood where this would go from there. Mr. Hixenbaugh stated he was just going to get into that for the record, that if the council were to find that Wellness Pet was not in substantial compliance or had not substantially complied with the statement of benefits, it did not automatically revoke the tax abatements pursuant to Indiana law and rather, it triggered a separate process where Wellness Pet would receive notice from the council that they would be conducting a separate hearing within 30 days from the date of the mailing for purposes of further considering Wellness Pet’s compliance with the two tax abatements. Mr. Hixenbaugh stated at that time, Wellness Pet and other interested parties would have an opportunity to be able to submit any additional information that they would want the council to consider and a subsequent vote would need to take place in order to finalize their review of Wellness Pet’s 2021 tax abatement request. Mr. Hixenbaugh asked Mr. Trippel to clean up any of that language if he misstated any of the statutory information. Mr. Trippel stated Mr. Hixenbaugh stated it correctly.

Mr. Hazen asked if the motion was going to be that they were not in compliance. Mr. Hixenbaugh stated yes and the compliance of Wellness Pet’s 2021 abatements were in front of them and a yes vote found them to be in substantial compliance and a no vote found them to not be in substantial compliance. Mr. Hixenbaugh stated that was a good point of clarification by Mr. Hazen.

Question was called for at 8:06PM for **The compliance of Wellness Pet's two 2021 tax abatements. Motion failed by unanimous roll call vote (summary: No = 9).**
No: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The motion failed.

Mr. Hixenbaugh stated this triggered the separate process with regard to Wellness Pet's 2021 tax abatements and for the record, he welcomed an opportunity to take a tour of the facility as Ms. Turnwald graciously offered, so if they could try to work to schedule that between that evening and the date of the hearing, that would be appreciated.

Mr. Mammolenti added a request to Ms. Turnwald and Mr. Steinbeck if it was possible within the 30 days, if they could get the technical data sheet or spec sheet of the unit that was installed and if they could show some effort to show some adjustments and improvements were made even though he knew it was difficult to get testing completed prior to that. Mr. Mammolenti also asked that they receive the names of the companies if they could get that that currently utilized the system and he was sure the manufacturer could provide them with that or if they felt comfortable, the manufacture could provide the council with that information directly. Mr. Mammolenti stated he also knew it may be difficult but it would help in their favor if they could attend the meeting as well so that the council could maybe ask some more technical questions that they were not able to answer. Mr. Mammolenti stated he knew they were high demands, but he wanted to see what they could do.

PROPOSED ORDINANCE NO. 2023-11

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.
PUD Amendment to allow Drive-Thru Restaurant (Scooter's Coffee) – NW Corner of 12th Street/Harrison Road & Capital Avenue

Mr. Mammolenti reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Steve Ruby, Abonmarche Consulting, spoke in favor of **PROPOSED ORDINANCE NO. 2023-11**. Mr. Ruby stated he was representing the petitioner, 1635 Ironwood LLC and the future contingent developer, Scooter's Coffee. Mr. Ruby stated this was a request with the PUD to allow for a one drive-thru restaurant facility as well as multi-tenant commercial uses on the property. Mr. Ruby stated this was an amendment from a PUD that was established back in 2003 and since then, that property sat there vacant, so this would also for the development of the Scooter's Coffee facility and they were asking for the council's consideration.

Mr. Emmons stated at the Plan Commission meeting, he stressed a concern about traffic going in and out there at the corner of that very busy intersection of Capital. Mr. Emmons asked if he could reassure him that it would not be a problem. Mr. Ruby stated he did not believe it would be a problem and they had been in discussion with the Engineering Department and they fully intended to meet the entrance and exit requirements for this type of facility. Mr. Ruby stated they would be working through those engineering elements as they progressed with the design to accommodate the facility. Mr. Emmons stated his concern was that as you were going east, to make that turn into there, because you were also going to be turning also left onto Capital at the same time and he was afraid that there was going to be congestion and accidents in there potentially with people not turning their turn signals on or sudden stops occurring and it was a very, very tight area. Mr. Ruby stated there was a widened median area there that would allow for turning movements into it as you would be heading to the east and then as you would be heading west, they would take a look at that and it would be based upon traffic analysis and decell requirements.

Joe Grabel, 602 Lincolnway West, spoke in favor of **PROPOSED ORDINANCE NO. 2023-11**. Mr. Grabel stated he believed the site plan reflected that there was an access drive that ran along the frontage of the property so that the exit from the property would be pretty far to the west and so that should allow easy ingress and egress far enough away from the intersection that it shouldn't be an issue. Mr. Grabel stated that was a requirement of NDOT when they originally obtained the right of way that there could not be an ingress and egress close to that intersection.

Question was called for at 8:03PM for **PROPOSED ORDINANCE NO. 2023-11 Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO.** .

PROPOSED ORDINANCE NO. 2023-12

AN ORDINANCE CONCERNING THE CONSTRUCTION OF ADDITIONS AND IMPROVEMENTS TO THE SEWAGE WORKS OF THE CITY OF MISHAWAKA, THE ISSUANCE OF REVENUE BONDS TO PROVIDE THE COST THEREOF, THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF SAID WORKS, THE SAFEGUARDING OF THE INTEREST OF THE OWNERS OF SAID REVENUE BONDS, OTHER MATTERS CONNECTED THEREWITH, INCLUDING THE ISSUANCE OF NOTES, AN ANTICIPATION OF BONDS AND REPEALING ORDINANCES, INCONSISTENT HEREWITH
Mishawaka Sewage Works Bond

Mr. Banicki reported the Committee of Public Improvements recommended this proposed ordinance should be adopted. Upon a second by Mr. Compton, the motion carried.

Scott Frissell, attorney with the law firm Kreig Devault, spoke in favor of **PROPOSED ORDINANCE NO. 2023-12**. Mr. Frissell stated they were serving as bond council for the city's issuance of the sewage works revenue bonds of 2023. Mr. Frissell stated the ordinance before them that evening approved the construction of certain necessary additions, improvements and extensions to the city's sewage works, with the improvements currently estimated at approximately $34 million. Mr. Frissell stated one thing to note was the bond ordinance would not impact the sewage rates so those rates would remain consistent with what was last adopted on March 7th, 2017. Mr. Frissell stated the bond ordinance would authorize the city to issue sewage works revenue bonds in an amount not to exceed $40 million with an interest rate not to exceed 5.5%. Mr. Frissell stated the bonds could be issued for up to 35 years, but it was anticipated the actual term would be 20 years. Mr. Frissell stated the bonds would be sold by competitive sale to obtain the best interest rate for the city. Mr. Frissell stated the bonds would be payable solely from the net revenues from the city's sewage works and would be issued on parity with certain outstanding bonds, specifically the 2010A, 2017A, 2017B, and 2018 bonds. Mr. Frissell stated the bonds were redeemable at the option of the city but no sooner than 10 years from the date of issuance and upon 30 days advanced notice. Mr. Frissell stated finally, the ordinance authorized the city to issue additional parity bonds if future projects were necessary as long as certain debt service coverage requirements were satisfied. Mr. Frissell stated he was happy to answer any questions.

Mr. Hixenbaugh stated he had touched on this at the informational meeting and thanked him for participating meeting and although he mentioned the anticipated cost of the project by his understanding was $35 million and if anybody were to read the ordinance online, they would pick up on $40 million as being the number that was embedded in ordinance. Mr. Hixenbaugh asked if he could talk about the difference between those two numbers and why it was drafted in that fashion. Mr. Frissell stated when they drafted the bond ordinances, they received maximum parameters from the city's municipal advisor. Mr. Frissell stated given the current market they were in, prices were fluctuating and costs were increasing daily so with certain projects still outstanding for bid, they liked to add some cushion to have the opportunity if the project costs increased to be able to issue bonds in an additional amount up to that maximum parameter of $40 million but currently the projects were anticipated to cost about $35 million. Mr. Hixenbaugh stated even if the cost went beyond that $35 million but within the $40 million cap, because this was programmed into those rates that were passed in 2016, there wouldn't be an increase in any rates that ratepayers would have to see as a result of those increased construction costs and asked if that were correct. Mr. Frissell stated that was correct.

Matt Lentsch, Executive Director of Development and Governmental Affairs, spoke in favor of **PROPOSED ORDINANCE NO. 2023-12**. Mr. Lentsch stated he had full faith that the numbers that dad been presented were an excellent representation of the project both underneath the ground that needed to be done as well as it related to the compliance for the long-term plan that combined the water overflow. Mr. Lentsch stated what was going to be done above with the streets, curbs and sidewalks also were improvements that would be made. Mr. Lentsch stated it was a comprehensive project that impact the community for years to come and he believed it was a wise investment. Mr. Lentsch stated as previously stated as he understood it, the 20216 rates as presented were reflected in the plan as well as the rates would not increase as a result of the bond under construction. Mr. Lentsch stated he had read over the numbers diligently as presented by

Baker Tilly as a well done, thorough review. Mr. Lentsch stated the budget and timeline would achieve what was needed to do both the neighborhood improvements and be in compliance with the long-term control plan. Mr. Lentsch stated he had follow up conversations with Alex from Baker Tilly and with Becky Maguire, City Controller, and he felt confident in the numbers and the financial plan. Mr. Lentsch stated he had conversation with Tim Brill and the City Engineer, Chris Jamrose and he felt very confident in the plan that was being presented. Mr. Lentsch asked for the council's positive affirmations and support of the project.

Mr. Hazen asked what percent of the dollars were going to the combined sewer overflow. Mr. Lentsch deferred to Mr. Brill on that answer a little later on.

Tim Brill, Wastewater Division Manager, spoke in favor of **PROPOSED ORDINANCE NO. 2023-12**. Mr. Brill stated he was proud of the work they had done and accomplished over the last 30 years. Mr. Brill stated considering the improvements in their utility infrastructure, Mishawaka's proactive work had allowed for growth, development and environmental protection. Mr. Brill stated the revenue bond ordinance was a continuation of their work to build and improve the utility infrastructure and reduce combined sewer overflows. Mr. Brill stated as it had been mentioned in the previous speakers, no rate increase was being requested for the bond issuance.

Mr. Hazen asked once again what percentage was that would go into combined sewer overflow. Mr. Brill stated 99% of the projects were combined sewer overflow infrastructure projects involving services. Mr. Brill stated he did have some minor plant upgrades at their facility, but they were a minor portion of the bond that they were pushing.

Mr. Compton asked what percentage this project would take them to as far as sewer overflow was concerned. Mr. Brill stated this would take them to what they were calling the four overflow plan, which meant in a typical storm year there would only be four combined sewer overflow events and that what they were currently in negotiation with the EPA over to open and modify their consent decree to that overflow level. Mr. Compton stated they were meeting the commitment they made at 100% on a level of four possible overflows a year and asked if that were correct. Mr. Brill stated they also talked about the percent capture and they were currently at 99.5% capture. Mr. Brill stated from their baseline they talked about in the past from 1990 until then, they had captured 99.5% of combined sewer overflows through their work. Mr. Compton stated so then at the end of this, they would have met the commitment they made and with the feds in their negotiations but they had not completely approved that and asked if that was correct. Mr. Brill stated that was correct. Mr. Compton stated then it would be possible they could tell them it was not good enough. Mr. Brill stated that was also correct. Mr. Compton stated but that was a ways off and it sounded like things were leaning in approving what they had done. Mr. Brill stated he certainly had hoped so and they could not get into the minds of the federal government but he believed they had a solid plan with the four overflow and the projects and commitments they were making with the bonds that evening would cover all of the projects. Mr. Compton stated this would come down to the fact that they could afford this and that extra percentage point or points was going to be astronomical and burdensome to their ratepayers. Mr. Brill stated yes and they were very fortunate that the council had the foresight to approve early on the rate structure so that evening as they came before them to look for the bonds, they already had accounted for the money that the council put forward for them so there would be no rate increase and there was a lot of good, forward thinking on the issue.

Mr. Hixenbaugh thanked Mr. Brill for the work he had done on this and the information. Mr. Hixenbaugh asked in terms of the city of Mishawaka's investment to date and the separation of the combined sewers, how much had they invested. Mr. Brill stated about $267 million so far. Mr. Hixenbaugh asked to get from the 99.5% capture rate to, if it was even possible, a 100% capture rate, were there any estimates on what it would cost them to get to 100%. Mr. Brill stated with the projects they were proposing with this bond, they would be getting close to the 99.9% range and were approximately there. Mr. Brill stated about 16% of the combined sewers still existed in the city of Mishawaka in older areas of the city and some areas were more difficult to get in and work on, which was why it was more expensive to do. Mr. Hixenbaugh asked if there still would be a significant expense associated with going beyond the up to $40 million they were being asked to approve that evening. Mr. Brill stated it was possible but it was hard to predict at that point where they would be at and they were going to do some studies over the summer. Mr. Brill stated they had a model they used to predict their sewer overflows and what the projects did when they completed them and how much CSO that removed. Mr. Brill they would have a lot more information in the summer also to share with the council. Mr. Hixenbaugh stated one of the important points he wanted shared with them was that this just was not one project but it was a series of separate projects that almost spanned the entire length of the river, not quite but a significant portion of the length of the river throughout the city of Mishawaka and asked if he were right to think of it in that sense. Mr. Brill stated as they showed in the description of the projects, yes it was a number of different areas throughout the city. Mr. Hixenbaugh stated that added benefit Mr. Hazen referenced earlier was that the Mishawaka way he referenced was that they while doing this work, they were not just going to focus only on the sewer issues but would also add the improvements he highlighted for Mr. Hazen so that the areas that were going to admittedly be inconvenienced by this would then have a benefit not only in terms of the sewer work but the sidewalks as well and asked if that were correct. Mr. Brill stated yes and as they went in and did the work for the CSOs, they also looked at other infrastructure as they were digging it out. Mr. Brill stated lead service lines were another thing they were looking at and were looking at some grants to get in there and do some repair in those lead service lines as they did the sewer work. Mr. Brill stated as they left the projects and filled them back in, they wanted to make that area look nice also and they went in and went past curb to curb, a little past sidewalk to sidewalk and make pretty significant improvements with the sidewalks and in some cases adding lighting but they wanted the residents who had been inconvenienced to see improvement above ground also.

Mr. Bellovich asked if there were any other village, town or city in Indiana that was compliant or in Northern Indiana that was on the St. Joe River. Mr. Brill stated it depended on how he defined compliance and they were all in their same situation where they were having to meet long-term control plans and also many hundreds of millions of dollars. Mr. Brill stated South Bend and Elkhart were in similar situations but he believed they were ahead, in many respects, of the other cities in what they had done in the past and continued to do. Mr. Brill stated he thought their plan as better than some of the other facilities.

Mr. Hixenbaugh thanked Mr. Brill and applauded the efforts of the administration and Mayor Wood to continue to work with the federal government and state compliance officials to really try to make sure that while they were attempting to be good stewards of the environment and river that they did not become further subject to some burdensome requirements that were physically almost impossible to him. Mr. Hixenbaugh thanked him for the work he was doing on that front as well.

Chris Jamrose, City Engineer, spoke in favor of **PROPOSED ORDINANCE NO. 2023-12**. Mrs. Jamrose stated this would allow the completion of comprehensive improvements in the targeted long-term control areas without raising wastewater rates so it was a win-win in her opinion. Mrs. Jamrose stated if they did not keep the wastewater up and running and doing the improvements, then what they did out in the system would not help them at all. Mrs. Jamrose believed it was 100%. Mrs. Voelker asked if there were 5 different main sites they would be working on. Mrs. Jamrose stated there were 5 sites within the Twin Branch area, phases in 3rd Street, West Street, Roosevelt and down off of Merrifield. Mrs. Voelker thanked her for her help and hard work on this.

Mr. Hixenbaugh thanked Mrs. Jamrose for the information she shared.

Mrs. DeMaegd asked Mr. Lentsch if they knew where the house bill was standing about the sewage. Mr. Lentsch stated they passed the Senate 48 to 0 and it had stalled in the House at that point. Mr. Lentsch stated the Committee Chair did not agree to hear it, but they were looking at some other options. Mr. Lentsch stated they had alive language so there were opportunities for them to keep the bill alive. Mr. Lentsch stated there was still hope and they did all they could and they had strong representation by Senator Rogers in the Senate and as it moved to the house, they had good sponsorship but the chair of the Environmental Affairs Committee in the House didn't see it amenable to hear it in the house, but the language was still alive and there was going to be a conference committee and he thought there was a good livelihood that they would see their language put into another bill.

Question was called for at 8:36PM for **PROPOSED ORDINANCE NO. 2023-12 Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mr. Hazen, Mr. Bellovich, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mrs. DeMaegd, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO.** .

PRIVILEGE OF THE FLOOR

Isaac Prince, 2301 Ridge Place, spoke under **PRIVILEGE OF THE FLOOR** and on behalf of the Mayor's Youth Council. Mr. Prince stated the Mishawaka Mayor's Youth Council was currently having a fundraiser where they partnered with the Patronicity Campaign and specifically the Indiana Housing for Community Development Authority where with whatever amount of money the Youth Council raised, they would match it 100%. Mr. Prince stated they were creating a pocket park on the corner of City Hall at 1st Street Main Street and he wanted to speak about raising funds for that and also ask for donations. Mr. Prince stated their previous projects for the donations had been appointed by the Mayor and they had one leadership project every year. Mr. Prince stated last year, it was the community room upstairs where they held their Youth Council meetings but for the past Patronicity Campaigns, they had Heroes Park where they won after being nominated a leadership award from the state where not only did they meet their goal but they exceeded it by some and then submitted that to the state and won the prestigious award. Mr. Prince stated they were doing something similar this year with this fundraiser and they were asking for the community to donate. Mr. Prince stated he would answer any questions.

Mr. Mammolenti asked if there was a way to donate online. Mr. Prince stated there was and right outside of the Council Chambers, there was a poster up that outlined the elevator pitch for their pocket park and there was also a QR code that would take them straight to the Patronicity Campaign and they would be able to donate through that and also have more information on their plan for the park. Mr. Mammolenti thanked him for the information and the continued great work him and his team were doing upstairs and wished him good luck.

Mrs. Voelker thanked him for coming and asked if they could have a brief description on what the plan was for the pocket park. Mr. Prince stated they would have a 3D structure of the 'Mish' and it would have LEDs in it and the 'I' would be replaced with a blank space, that way you could stand as the 'I' and make a great selfie spot to attract people into the heart of Mishawaka, as they liked to call it. Mr. Prince stated they were planning to do something with the brick wall that was currently there too whether it be a mural or something else that had yet to be decided. Mr. Prince stated they would also have other amenities like trash cans, park benches and fun seating arrangement. Mr. Prince stated for example, there was a tulip seat they were currently looking at that were also being used at one of the other parks in Mishawaka.

Mr. Emmons asked if someone wanted to make a cash donation, who they would see. Mr. Prince stated the Mayor's Office would be the place to give that donation.

Mr. Compton thanked Mr. Prince coming before the council and he did an excellent job for being a young man and speaking before them. Mr. Compton congratulated him and wished him good luck on the work.

Mr. Hixenbaugh thanked him again for sharing the information with them and for the work that he and the rest of the Youth Council were doing and asked him to pass that along to them as well. Mr. Hixenbaugh stated he certainly thought this was a project that was worthy of support not just by council members but anyone else in the community who was so inclined.

Christy Miller, 321 West 7th Street, spoke under **PRIVILEGE OF THE FLOOR**. Mrs. Miller stated she was present that evening on behalf of the West End Neighborhood Watch to invite them all and all residents of Mishawaka to their next meeting. Mrs. Miller stated it would be the first Wednesday in May, which would be May 3rd at 7PM in City Hall. Mrs. Miller stated to look for their notices online as they confirmed their conference room for that meeting and they had a very special meeting coming up for May. Mrs. Miller stated they had one of MPD's own and the President of the Fraternal Order of Police, Rich Freeman, who happened to be a physical tactics instructor and would be conducting an overview of self-defense. Mrs. Miller stated this would be for all ages and all abilities and to come prepared to learn and have some fun.

Ronald Dewinter, 1013 Lincolnway West, spoke under **PRIVILEGE OF THE FLOOR**. Mr. Dewinter stated he was there to talk about a couple of things as a lifelong resident of Mishawaka. Mr. Dewinter stated one thing he wanted to talk about was the motorcycle noise. Mr. Dewinter stated he had approached some of the council people in the past about it and he had talked to policemen and he lived on Lincolnway and those who lived there knew what was happening with motorcycles even though he was not against motorcycles. Mr. Dewinter stated they had a noise ordinance in Mishawaka and he was going to make a copy of it so they could all read it but he did not get around to that but they needed to act on that. Mr. Dewinter stated some citizen might come along that sues the city even though he wouldn't want to do that nor would he want anybody else to do it as the council people had plenty of much more of important things to do. Mr. Dewinter stated there was a lot of easy ways that could be taken care of and if nothing else just announcing to the motorcycle owners that they were doing something illegal and there were laws against it and they were disturbing people. Mr. Dewinter stated the second thing he wanted to talk about was the school referendums. Mr. Dewinter stated he knew it was not their job to deal with that but they were the elected representatives of the city and when their taxes went up, it would be because of the school referendum and they needed to take action. Mr. Dewinter stated there was other ways to handle it without one referendum after another and they were not a wealthy city. Mr. Dewinter stated as they all knew, they were a pretty middle-class city and he respected the school system, thought they did a wonderful job and would support them in every way but there would be a sign in front of his house to vote no for the referendum. Mr. Dewinter stated he did not know a lot about it but he did know that the school district was not part of the city of Mishawaka and it was voted in frozen as a district. Mr. Dewinter stated that happened when Penn High School was built and he was a freshman at Mishawaka in 1959. Mr. Dewinter stated another way to go about it was to sit down with Penn or start the communication to maybe consolidate to one school district in the community. Mr. Dewinter stated they needed to do the right thing for their children and their community and start that communication and also deal with their legislation about changing the frozen district. Mr. Dewinter stated maybe they could extend it to the true city limits of Mishawaka and that could balance it out. Mr. Dewinter stated to keep doing referendums and raising taxes on the citizens of Mishawaka was not the right way to go. Mr. Dewinter thought the council should think about that and remember that they were representing the community and the people that paid their taxes elected them. Mr. Dewinter stated it was important for them to act in one of the ways he brought up.

Mr. Hixenbaugh stated that in a neighborhood meeting that took place within the last week that Mrs. Voelker was gracious enough to host, there was an indication to them from the Police Department that they and other city departments were revisiting their noise ordinance currently to address what he referenced so his hope would be that the concern Mr. Dewinter had and he shared with him, as he heard motorcycles up and down Mishawaka Avenue closer to his home as they were leaving an establishment in South Bend on their way elsewhere, would be taken care of. Mr. Hixenbaugh stated the Police Department was on it and they were working with their Legal staff, Code Enforcement and others so he was confident that issues was being looked at right now. Mr. Hixenbaugh stated with his second point, he understood his concern. Mr. Hixenbaugh stated timing was everything in life and he wished the state of Indiana shared his passion for public education more to the point that he and Mr. Hixenbaugh himself both had and that they would fully fund their school corporation so that this type of referendum weren't necessary but he raised some valuable points and appreciated his comments with regard to all of that.

Mrs. Voelker noted that there were two informational meetings that week about the referendum project with one being Tuesday night and the other being Wednesday night with Wednesday night's meeting being at City Hall and Tuesday night's meeting being at the library both at 6PM.

Mr. Compton thanked Mr. Dewinter for his comments and certainly understood people not wanting to see their taxes to go up but he also mentioned that he did not know a lot about the referendum and he asked Mr. Dewinter to look into it and study it and try to understand it, but to go deeper and ask himself why they were doing referendums in Indiana that they weren't doing 10 years ago. Mr. Dewinter answer from what he picked up in the news, he thought there were three school districts in the same kind of situation they were and they lost their factories but with Mr. Prince's work with the motels, he could see the tax base was going to come back which would be very helpful but losing all of the factories that employed all Mishawaka people was what threw the whole thing in a mess. Mr. Compton asked him to look even a little deeper and to go back and study what had been done in Indianapolis that had brought them to that point that put them in the situation where they had to do this. Mr. Compton stated it ran a little deeper than just Mishawaka and they were kind of stuck with the consequences and it was done with he thought with good intentions in mind putting it in front of the citizens to vote on these things and give them more say so on where their tax dollars went. Mr. Compton stated it went a little deeper and murkier than that and just asked that he look at it before he marked a no on there right away but he certainly understood what he was saying and he was right on by saying they were a very blue-collar middle class to lower middle class city and how much could you ask people to burden and he got that, but he did ask him to look at it from all sides and then make his decision. Mr.

Dewinter stated he took it as it was the legislation that was holding it back and that they won't change the district that was frozen, but he would look into it more.

Brett McNeil, 2121 Wynn Place, spoke under **PRIVILEGE OF THE FLOOR**. Mr. McNeil stated the Police Department's investigation of itself over the Joe Wood stop was now complete and the findings were not surprising but left many unanswered questions. Mr. McNeil stated the internal probe produced no written report, no methodology, no recommendation and not much substance at all. Mr. McNeil stated he wanted to put a couple of things on the record about what happened and why the announced findings were so incomplete. Mr. McNeil stated in his opinion, the Joe Wood stop was not the real issue but the internal response was word. Mr. McNeil stated no police reports were made of the stop and all of the call logs were reportedly altered. Mr. McNeil stated a 20-year veteran complained about it to the Chief and the officer was no longer apart of the Department. Mr. McNeil stated the Joe Wood issue was known inside the MPD for 5 months and no investigation was launched until embarrassing stories appeared in the news. Mr. McNeil stated the department's subsequent investigation was opaque and appeared to have avoided issues with leadership, oversight and department culture. Mr. McNeil stated his understanding was that members of the city council received no updates about the probe. Mr. McNeil stated the public was ignored. Mr. McNeil stated the Police Captain at the center of the scandal demoted himself to Lieutenant and the Chief announced the move at a hearing last week that violated the state's open meetings law and no agenda was posted. Mr. McNeil stated both the Chief and Mayor were present at that meeting. Mr. McNeil stated the department closed its investigation via press release. Mr. McNeil hoped no one in the room was comfortable with all of it and the police in Mishawaka deserved good leadership, as did the people of Mishawaka. Mr. McNeil stated the whole episode was a black eye for the city and he was asking the members of the council to do something about it. Mr. McNeil believed that started with a new Chief and suggested in a no-confidence vote. Mr. McNeil stated they should also look outside of the city for a new Chief. Mr. McNeil stated he did not have much else to say as this was his second time appearing before the council to talk about it and he did not want to keep talking about it.

Mr. Hixenbaugh stated in both times he appeared before them, his comments were appropriate and he appreciated that. Mr. Hixenbaugh stated with regard to the new the last point he made concerning personnel within the Police Department, he thought it was important for the public to understand that the role of the council was to be the legislative body and fiscal body for the city and they really had no day-to-day control over the Police Department and that flowed up through the administration and Board of Public Works and Safety. Mr. Hixenbaugh stated in terms of who the Police Chief was, they did not have the ability to hire nor make any other changes. Mr. Hixenbaugh stated that was the reality of the role that they as a group played and it was not to say he disagreed with the concerns he was raising but he wanted to make sure that everybody was on the same page with regard to their role in the process. Mr. Hixenbaugh also stated that not have been involved in the investigation, he could not speak to the details as he indicated but he went on record saying to that point in time, he had not been made aware of one fact that lead him to believe that the officers involved in the matter of the stop directly involved that they did anything wrong. Mr. Hixenbaugh stated he just had not heard anything or been made aware of anything that led him to believe that those officers committed any inappropriate act. Mr. Hixenbaugh stated he was also happy to go on record to say that he had not been made aware of one fact that led him to believe that Mayor Wood inappropriately interceded in this matter and his understanding based upon what was publicly reported was the he first found out about it when he was woken up as a father in the middle of the night. Mr. Hixenbaugh stated he had not heard one fact to the contrary of that if there were other facts out there, he and Mr. McNeil would only know if they were involved in the investigation or had some more detail but he was happy to say that based upon what he knew to that point in time, those were the facts as he understood it. Mr. Hixenbaugh stated if other facts came to light, then they would all have to take those into account and adjust their conclusions but those were the facts as he understood it at that point. Mr. Hixenbaugh stated he did think that communication was important and to try to be as transparent as you could within the confines of confidentiality and employment related matters as that was what he did for a living so there was always a tension between what you wanted to share at times and what you could share. Mr. Hixenbaugh stated he did believe that there were some lessons to be learned here and his hope would be that to the extent that there were any procedural or policy issues needing to be adjusted in the Police Department, at that point he had not heard of any but if there were, his hope would be those would be adjusted in the near future so moving forward, there would not be these type of concerns that would continue to linger in the minds of the public. Mr. Hixenbaugh thanked him for his comments.

Mr. Compton added that during the investigation, he did not think it was appropriate for the investigators to keep the council clued in on what was going on but when it was over, they had the opportunity to talk to him and ask specific poignant questions and that did take place. Mr. Compton stated they were concerned and shared some of Mr. McNeil's concern and hoped they learned from this going forward,

NEW BUSINESS

Mr. Emmons announced that the West End Neighborhood meeting would be meet Thursday April 20th but the meeting would not be at St. Bavos and they were asking everyone who signed up for the tour of the JJC to meet at the St. Bavos parking lot between 6PM and 6:15PM. Mr. Emmons stated the bus would leave St. Bavos at 6:30PM to go over to the JJC for a tour and once the tour was over, they would come back to St. Bavos on the bus. Mr. Emmons stated the chef at JJC would be making refreshments for them that evening and they looked forward to hosting it. Mr. Emmons stated all were welcome and to please be at St. Bavos at 6PM to 6:15PM if they planned on attending.

ADJOURNMENT 9:00PM

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