

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

May 8, 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, May 8, 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 Meeting on April 24, 2023 and Special Meeting on May 3, 2023 were approved as received from the Clerk's Office.

Clerk Block read the following petitions by title.

Petition No. 2023-09 Annex & Establish Zoning as C-1 General Commercial District –
15793 E. University Dr.

Petition No. 2023-10 Rezone from I-2 Heavy Light Industrial to R-1 Single Family
Residential to match existing use – 2027 E. Lasalle

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

RESOLUTION R2023-09

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
RESCINDING THE DEDUCTION FOR REHABILITATION OR REDEVELOPMENT
OF REAL PROPERTY IN ECONOMIC REVITALIZATION AREAS (IND. CODE § 6-
1.1-12.1 *ET SEQ.*) FOR WELLNESS PET WITH CONSENT OF THE SAME
Wellness Pet Deduction of Real Property Tax Abatement**

Mr. Hixenbaugh noted for clarification for the public, that the resolution itself referenced that Wellness Pet was aware of that evening's proceedings and that they had consented to the rescission of the deductions for new manufacturing equipment for real property and taxes related there too. Mr. Hixenbaugh stated two things at a time could be true at one time in life and Wellness Pet clearly was a good corporate citizen and they employed a significant number of people in Mishawaka. Mr. Hixenbaugh stated by the same token, they had not lived up to their commitments with regard to the two tax abatements so in his opinion, it was appropriate to take the action to approve the resolution in question in order to finalize the rescindment of their tax abatements. Mr. Hixenbaugh stated certainly, he thought as a community it was in their best interest to be open to future partnership opportunities with Wellness Pet but he also thought it was important that they continued to seek to hold them accountable for the commitments that they had made, now two times with regard to two separate tax abatements with regard to odor control. Mr. Hixenbaugh stated they had installed the equipment and had made the investment and they had not fully invested as they planned, but he would call on the administration and the council to continue to keep their eye on it and take any actions that were available to them under Indiana law to address the odor issue on behalf of that neighborhood and the quality of life.

Question was called for at 7:06PM for **RESOLUTION R2023-09 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 for the record that passage of the resolution had the effect of rescinding the two tax abatements that were granted in 2021 for Wellness Pet moving forward.

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

PROPOSED ORDINANCE NO. 2023-13

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA AND PROVIDING ZONING CLASSIFICATION THEREFORE

**Annexing and Establishing Zoning as C-1 General Commercial District – 17018 State Rd.
23 (West of 5996 State Rd. 23)
Public Hearing – No Vote**

Tim McCollough, McCollough Scholten Construction 2112 Aeroplex Drive Elkhart, IN, spoke in favor of **PROPOSED ORDINANCE NO. 2023-13**. Mr. McCollough stated the reason for the rezoning was strictly for future commercial development. Mr. McCollough stated as they knew, the corridor was pretty good for commercial and currently, there were no plans for construction on the lot.

The public hearing on **PROPOSED ORDINANCE NO. 2023-13** was closed at 7:09PM. Mr. Hixenbaugh stated pursuant to state law, no vote would be taken that evening but a vote would be taken on the proposed ordinance at a subsequent council meeting.

PROPOSED ORDINANCE NO. 2023-14

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.

Annex and Rezone portions to I-1 Light Industrial – Property East of 2014 E. McKinley Public Hearing – No Vote

Steve Ruby, Abonmarche, spoke in favor of **PROPOSED ORDINANCE NO. 2023-14**. Mr. Ruby stated he was representing the petitioner, Zolman Tire, on this facility. Mr. Ruby stated they were looking to annex this portion of the property as well as rezoning to light industrial to allow for future use. Mr. Ruby stated they were asking for their consideration.

Mr. Banicki stated he noticed that the property at that point was just all stone and asked if he could elaborate a little bit on exactly what was going on there since they had not approved anything. Mr. Ruby stated what had happened with this was the owner of the property, Zolman Tire, had with good intention cut down and cleaned up the property site, removed some houses that were there over the past 10 years or so and with good intention, he had come out and had some of the trees removed, put gravel down to park some trucks they had on the site and those trucks had been parked there for quite some time prior to that but by opening the view into the site, it exposed the development or improvements to the property. Mr. Ruby stated unbeknownst to them, they were in violation of the ordinance and therefore, received letters from both county as well as the City of Mishawaka to say that he was in non-compliance. Mr. Ruby stated as an attempt to get it into compliance, they were now going through the process to annex this into Mishawaka as well as develop the site to the standards in which were set forth for the city ordinances. Mr. Ruby stated it was essentially correcting the problem he unknowingly created by trying to improve the property. Mr. Banicki stated he thought part of the proposal for this was to allow this for up to five years. Mr. Ruby stated that was correct and some of the improvements would improve a portion of the parking area that was there into a hard asphalt parking lot. Mr. Ruby stated he had plans to introduce a future building for his business operations within five years, therefore the time limit of five years that were set forth with the intention of building out a new facility existed. Mr. Ruby stated he did not want to put down a bunch of asphalt and then remove it within five years since that obviously was a short lifespan for that so it was kind of a hardship with regards to creating that improved surface for the entire lot. Mr. Banicki stated so what they were proposing was just parking for semis and trailers there. Mr. Ruby stated that was correct. Mr. Banicki stated when he looked at the pictures, it showed cars all over there and he was by there that day and there was more than a dozen cars parked there. Mr. Ruby stated it was part of the improvements that would allow for that parking to take place with the cars but it was part of the business operations adjacent to his current facility so obviously there was some overflow there but they were trying to improve that so it was a hard surface that met the ordinance standards. Mr. Banicki asked if part of it would be improved now or if it was five

years out. Mr. Ruby stated yes, part of it would be improved now and then the remaining part of that was aggregate where they would park the truck operation trailers that they currently had on site. Mr. Ruby stated as the business owner, he owned two facilities to the west with one dealing with semi-truck trailers and repairs and the other was car and automotive tire changing, oil and those type of things. Mr. Ruby stated with this, it was just to allow for that parking of the trailers and a few overflow pieces of the parking. Mr. Banicki stated for the zoning, they were looking at I-1 light industrial and when he thought about automotive or truck, it was more in the automotive classification. Mr. Ruby stated it would be a special use exception for this use and the special use exception also applied to the current industrial facility. Mr. Banicki asked if it was not as if they were going to be making anything there, because when he thought of industrial that was what he envisioned going on. Mr. Ruby stated that was correct and he was not quite sure of the history of the project site and it how was involved in his previous operation but it was zoned industrial with a special use at that time and they were just wishing to carry that over to allow for the automobile use within the industrial district.

Mrs. Voelker asked to clarify if the cars that were being parked there would not be parked on the asphalt and be parked on the lawn. Mr. Ruby stated no and those would be parked on the asphalt from what he had been told. Mrs. Voelker asked then if any vehicle that was being stored there temporarily would be on the hard surface. Mr. Ruby stated yes, with exception of the trailer for the semi-truck operation and what happened was they would have semi-trucks come to the facility to get repairs done and maybe a trucker that was on the road and they didn't have room for the trailer in the facility next door. Mr. Ruby stated so they would detach the trailer, park it there, bring the trucks in for service and then remove. Mrs. Voelker asked if those would not be on the hard surface and be on the gravel. Mr. Ruby stated yes, they would not be on the hard surface and be on the gravel and the long-term plan was that the site would be a semi-truck service facility to cater to that market.

Mrs. Voelker asked if the development did not happen within five years if the variance went away. Mr. Ruby stated that was correct and with the stipulation of the allowed use in the ordinance in changed that over, if the business did not come within five years, it was being asked that it be restored to the natural vegetative state in which it was originally at and that was part of the request.

The public hearing on **PROPOSED ORDINANCE NO. 2023-14** was closed at 7:16PM. Mr. Hixenbaugh stated pursuant to state law, no vote would be taken that evening but a vote would be taken on the proposed ordinance at a subsequent council meeting.

PROPOSED ORDINANCE NO. 2023-15

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

Rezone from C-1 General Commercial to R-1 Single Family Residential – 2009 W. Sixth St.

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.

Jessica Booker, 2009 W. 6th Street, spoke in favor of **PROPOSED ORDINANCE NO. 2023-15**. Mrs. Booker stated she was requesting rezone property at 2009 W. 6th Street from general commercial to single family residential district.

Mr. Hixenbaugh asked for the record if she lived at this address. Mrs. Booker stated yes.

Mrs. Voelker asked if she was requesting this change so she could refinance her home and it would make it easier for her to live there. Mrs. Booker stated yes to both of the questions and stated it was currently commercial. Mrs. Voelker thanked her.

Mr. Emmons asked if her intention was to live there and not rent it. Mrs. Booker stated that was correct.

Question was called for at 7:20PM for **PROPOSED ORDINANCE NO. 2023-15 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. 5837**.

NEW BUSINESS

Mr. Emmons announced that there would be no West End Neighborhood meeting on the third Thursday was cancelled for the month of May, as he would be out of town and they would resume their meeting in June on the third Thursday with Peter DeKever talking about the history of Mishawaka. Mr. Emmons stated everyone was invited to the June meeting and as usual, refreshments would be served from West End Bakery.

Mrs. Voelker announced for third Thursdays in the month of May, the Mishawaka Historic Preservation Commission, in keeping with the theme of Bike the Mish, they would be hosting a contest that would ask people to visit historic sites in Mishawaka, take a photo of themselves at the site, upload it to social media and they would have a chance to win a framed piece of the Main Junior High floor or a gift card to Vinyl Table and Tap. Mrs. Voelker stated if anyone was participating in Third Thursdays in downtown Mishawaka, they would love to have them participate in the Historic Preservation Commission contest and May was also Historic Preservation Month so they would see signs posted for that as well.

ADJOURNMENT 7:23PM

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

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