

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

May 15, 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 15, 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 (E), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Others Present: Clerk Block, Mike Trippel, Council Attorney

Minutes for the Regular Meeting on May 8, 2023 were approved as received from the Clerk's Office.

Clerk Block read the following letter from the City Plan Commission regarding their recommendations from their May 9th meeting.

Petition No. 2023-09 Annex and Rezone property – 15793 E University Drive to C-1 General Commercial District

Petition No. 2023-10 Rezone property – 2027 E Lasalle from I-2 Heavy Industrial District to R-1 Single-Family Residential District

Clerk Block noted that Mrs. Voelker had just arrived to the meeting virtually. Mr. Hixenbaugh stated the record would reflect that Mrs. Voelker was participating remotely, meaning there would be a vote on all items.

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

PROPOSED ORDINANCE NO. 2023-17

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

**Annex & Establish Zoning as C-1 General Commercial District – 15793 E. University Dr.
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2023-18

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

**Rezone from I-2 Heavy Light Industrial to R-1 Single Family Residential to match existing
use – 2027 E. Lasalle
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2023-19

**AN ORDINANCE TRANSFERRING FUNDS FROM THE MOTOR VEHICLE
HIGHWAY RESTRICTED FUND OF THE CITY OF MISHAWAKA TO THE LOCAL
ROAD & BRIDGE MATCHING GRANT FUND OF THE CITY OF MISHAWAKA FOR
THE CALENDAR YEAR ENDING DECEMBER 31, 2023 AND AN ORDINANCE
APPROPRIATING ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31,
2023**

**Transfer: MVHR to Local Bridge & Road Matching Grant Fund - \$774,648.49 AND
Additional Appropriation: Local Road & Bridge Matching Grant Fund - \$1,549,297.00
(Assigned to Budget & Finance Committee)**

PROPOSED ORDINANCE NO. 2023-20

**AN ORDINANCE AMENDING CHAPTER 5811 FIXING THE SALARIES OF ALL
EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT SWORN PUBLIC SAFETY,
MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS AND THE
MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE
YEAR BEGINNING JANUARY 1, 2023**

**Amending Ordinance 5811 Civil City Salary Ordinance
(Assigned to Budget & Finance Committee)**

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

RESOLUTION R2023-10

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, INTRODUCING AN ORDINANCE FOR ANNEXATION, ADOPTING A WRITTEN FISCAL PLAN, AND A DEFINITE POLICY FOR ANNEXATION FOR THE PROPERTY LOCATED AT: 17018 STATE ROAD 23 Fiscal Plan for Annexation of 17018 State Road 23

Ken Prince, Director of Planning and Community Development, spoke in favor of **RESOLUTION R2023-10**. Mr. Prince stated that evening, they had two annexation fiscal plans on their agenda and these were very small annexations, with one being on State Road 23 and the other already had the frontage on McKinley in the city and just had to do with the back portion of the property. Mr. Prince stated as required by Indiana Code, they had to prepare a fiscal plan identifying that they provided services as part of every annexation. Mr. Prince stated as part of that process, they distributed the request to every department and each department identified they could provide service within their respective existing budget. Mr. Prince stated the contiguity requirement had been met and it was a 1.29 acre parcel and it was 28% contiguous to the city. Mr. Prince stated this was adjacent to the All Secure Self Storage units that had been proposed. Mr. Prince stated he was happy to answer any questions.

Tim McCollough, McCollough Scholten Construction 2112 Aeroplex Drive Elkhart, IN, spoke in favor of **RESOLUTION R2023-10**. Mr. McCollough stated he was representing All Secure Self Storage that evening and they were asking for annexation and change of zoning for future commercial development.

Steve Ruby, Abonmarche Consulting, spoke in favor of **RESOLUTION R2023-10**. Mr. Ruby stated he was representing the petitioners and as Mr. Prince mentioned, this was contiguous to the property and also in the area for the city's services and it was the back portion of the site that would be annexed into the city.

Question was called for at 7:09PM for **RESOLUTION R2023-10**. **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 resolution passed 9-0.

RESOLUTION R2023-11

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, INTRODUCING AN ORDINANCE FOR ANNEXATION, ADOPTING A WRITTEN FISCAL PLAN, AND A DEFINITE POLICY FOR ANNEXATION FOR THE PROPERTY LOCATED AT: 2014 E. MCKINLEY AVE Fiscal Plan for Annexation of 2014 E. McKinley Ave.

Ken Prince, Director of Planning and Community Development, spoke in favor of **RESOLUTION R2023-10**. Mr. Prince apologized for having Mr. Ruby speak under the previous resolution as this resolution was the matter he was involved in. Mr. Prince stated with

that, he would not repeat what he just said and that the parcel was 1.82 acres and was 50% contiguous to the city. Mr. Prince stated he was happy to answer any questions.

Steve Ruby, Abonmarche Consulting, spoke in favor of **RESOLUTION R2023-11**. Mr. Ruby clarified that his matter was for the annexation at this address and apologized for the mistake. Mr. Hixenbaugh thanked Mr. Ruby.

Question was called for at 7:12PM for **RESOLUTION R2023-11**. **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 resolution passed 9-0.

RESOLUTION R2023-12

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA AMENDING RESOLUTION R2023-03 WHICH ADOPTED A PLAN FOR DISTRIBUTION OF THE PROCEEDS OF THE CITY OF MISHAWAKA'S GRANT FROM THE AMERICAN RESCUE PLAN ACT OF 2021 Amending Resolution No. 2023-03 American Rescue Plan Act

Becky Maguire, City Controller, spoke in favor of **RESOLUTION R2023-12**. Mrs. Maguire stated previously, they had a project approved for \$5.5 million in ARPA funds, West Street Phase 3B, and this project came in under-bid, so Engineering and the city would like to take the difference, \$900,000, and use it towards another project along the same lines. Mrs. Maguire stated this would be for CSO 23A which involved the long-term control plan. Mrs. Maguire stated this would be for the full length of Manor Drive and Manchester Drive north of Lincolnway East and the project included extensive water main replacement with upsizing water main diameter and moving for fire capacity as well as led service replacement, new storm sewer including sewer separation with reconfiguration of CSO 23A, sanitary lateral replacement, new concrete curb and gutter, new ADA ramps and sidewalk and pulled out pavement replacement.

Mr. Mammolenti asked what the total cost of the project was and what the additional money would cover. Mrs. Maguire stated she did not know the full cost but it was more than the \$900,000 and they were just using the remaining money from the \$5.5 million from ARPA.

Question was called for at 7:15PM for **RESOLUTION R2023-12**. **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 resolution passed 9-0.

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)**

VOTE ONLY

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.

Clerk Block polled the council on the Committee Report. Voting began at 7:16PM. **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 committee report passed 9-0.

Mr. Hixenbaugh stated given that this was an annexation and pursuant to state law they held the statutorily required public hearing at their last council meeting, at that point the floor was opened for any questions or comments from the council.

Question was called for at 7:17PM for **PROPOSED ORDINANCE NO. 2023-13. 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. 5838.**

PROPOSED ORDINANCE NO. 2023-14

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA AND PROVIDING ZONING CLASSIFICATION
THEREFORE AND 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 of I-1 Light Industrial – Property East of 2014 E. McKinley

VOTE ONLY

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

Clerk Block polled the council on the Committee Report. Voting began at 7:18PM. **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 committee report passed 9-0.

Mr. Hixenbaugh stated given that this was an annexation and pursuant to state law they held the statutorily required public hearing at their last council meeting, at that point the floor was opened for any questions or comments from the council.

Question was called for at 7:19PM for **PROPOSED ORDINANCE NO. 2023-14. 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. 5839.**

PROPOSED ORDINANCE NO. 2023-16

AN ORDINANCE REESTABLISHING A CUMULATIVE CAPITAL DEVELOPMENT FUND

Mr. Emmons reported the Committee of Budget and Finance recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Clerk Block polled the council on the Committee Report. Voting began at 7:20PM. **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 committee report passed 9-0.

Becky Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE 2023-16.** Mrs. Maguire thanked the Council for having a special meeting for first reading to make this possible for that month and meet their statutory deadlines. Mrs. Maguire stated the Cumulative Capital Development Fund had a max rate of .05 and it trended down year to year and occasionally needed to be reestablished to earn that max rate. Mrs. Maguire stated she was asking for approval for a modest increase to move from .045 to .05 and she was told by the state that the trending would no longer happen, so hopefully this would be the last time she would have to come forward on this item. Mrs. Maguire stated this fund provided the budget for their IT Department and as they knew, the budget needed to increase periodically every year, because of different items the IT Department had to pay for. Mrs. Maguire stated since it was a tax increase, it was estimated that a homeowner whose home was assessed at approximately \$200,000 would see their tax bill increase a modest \$5 per year.

Question was called for at 7:23PM for **PROPOSED ORDINANCE NO. 2023-16. 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. 5839.**

PRIVILEGE OF THE FLOOR

Connie Johnson, 1719 Panama Street, spoke under PRIVILEGE OF THE FLOOR. Mrs. Johnson wanted to thank the councilmembers that were at the Southwest Little League meeting last

Thursday night and she heard a lot of the neighbors saying how much they appreciated them coming down. Mrs. Johnson thanked the Council for being there and for providing the information that they did.

UNFINISHED BUSINESS

PROPOSED ORDINANCE NO. 2023-10

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA AMENDING TITLE III, CHAPTER 34 OF THE MISHAWAKA MUNICIPAL CODE

Amending the Municipal Code Personnel Policies – Call to Active Military Duty

Mr. Hazen made a motion to postpone **PROPOSED ORDINANCE NO. 2023-10** to the June 19th regularly scheduled council meeting. Mr. Bellovich seconded the motion, thus Clerk Block polled the council on Mr. Hazen's motion.

Clerk Block polled the council on the motion. Voting began at 7:26PM. **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 motion passed 9-0.

NEW BUSINESS

Mr. Mammolenti made a brief reminder that the monthly Twin Branch Neighborhood Watch meeting would take place Wednesday May 17th at 7PM at Fire Station #4 on Harrison Road. Mr. Mammolenti stated Mayor Wood, as he did every year, would be giving his State of the City Address and Barnaby's pizza would be served,

Mr. Emmons announced the West End Neighborhood meeting for May was postponed and they would meet again in June on the third Thursday and at that meeting, Pete DeKever would be talking about the history of Mishawaka.

ADJOURNMENT 7:27PM

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

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