

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

September 11, 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, September 11, 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, followed by a moment of silence in memory of those who lost their lives on 9/11 as well as the first responders who heroically responded to that tragic event that day and their families.

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 August 21, 2023 were approved as received from the Clerk's Office.

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

Appeal No. 2023- 27 Use Variance to allow Adult Daycare in I-2 Heavy Industrial District – 550 Union St.

A public hearing on Vacation 2023-04 required by State Statute on behalf of the City of Mishawaka for vacation of public right-of-way described as: the north/south alley located between West Front Street, West First Street, North Spring Street and North Mill Street

Ken Prince, Director of Planning and Community Development, spoke in favor of **Vacation 2023-04**. Mr. Prince stated the alley that they were requesting vacation of was really a cleanup item and the city owned the entire block. Mr. Prince stated they were in the process of replotting a number of the blocks after dedicating necessary right-of-ways and easements downtown. Mr. Prince stated this stood out as an outlier and they did not need that alley anymore. Mr. Prince stated at that point in time, they were requesting for the vacation to occur and then at such point

in time, they would need an alley or other easement that would happen at the time of development. Mr. Prince stated this was just a tool to help them market the property and he was happy to answer any questions.

The public hearing was closed at 7:04PM for **Vacation 2023-04** and would take action on the proposed ordinance related to the item under second reading later on that evening.

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

PROPOSED ORDINANCE NO. 2023-39

**AN ORDINANCE APPROVING A TWELVE HOUR SHIFT WORK SCHEDULE FOR
THE MISHAWAKA POLICE DEPARTMENT
(Assigned to Public Health & Safety Committee)**

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

PROPOSED ORDINANCE NO. 2023-25

**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 S-1 Extensive Open Space to C-3 City Center Commercial – Northeast corner
of Cedar & E. Third St.**

(Requested to be continued until October 2nd regularly scheduled meeting)

Mrs. Voelker made a motion to honor the request to postpone until October 2nd. Mr. Banicki seconded the motion and a voice vote was held. The motion passed unanimously and was postponed.

PROPOSED ORDINANCE NO. 2023-35

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, ESTABLISHING A DESIGNATED OUTDOOR REFRESHMENT AREA**

Establishing a Designated Outdoor Refreshment Area - DORA

(Assigned to Public Health & Safety Committee)

(Requesting postponement to November 20th)

Mr. Compton made a motion that the Council postpone **PROPOSED ORDINANCE NO. 2023-35** to the November 20th council meeting. Mr. Banicki seconded the motion and a voice vote was held. The motion passed unanimously and the matter was postponed to the November 20th council meeting.

PROPOSED ORDINANCE NO. 2023-36

AN ORDINANCE AMENDING CHAPTER 50, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “PARKS AND RECREATION ORDINANCE” OF THE CITY OF MISHAWAKA, INDIANA.

**Amending the Municipal Code Park and Recreation – DORA
(Requesting postponement to November 20th)**

Mr. Compton made a motion that the Council postpone **PROPOSED ORDINANCE NO. 2023-36** to the November 20th council meeting. Mr. Banicki seconded the motion and a voice vote was held. The motion passed unanimously and the matter was postponed to the November 20th council meeting.

PROPOSED ORDINANCE NO. 2023-37

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

Right-of-Way Vacation of unimproved alley – N/S alley bounded by W. Front St., N. Spring St., W. 1st St., and N. Mill St.

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.

Ken Prince, Director of Planning and Community Development, spoke in favor of **PROPOSED ORDINANCE NO. 2023-37**. Mr. Prince stated his previous remarks still stood regarding the vacation and it was essentially a paper alley. Mr. Prince stated they wanted to be able to market the property without the alley and was happy to answer any questions.

Question was called for at 7:10PM for **PROPOSED ORDINANCE NO. 2023-37. Motion passed 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. 5857**.

PROPOSED ORDINANCE NO. 2023-38

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 Microblading in Unit 14 – 6910 N. Main St.

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

Nicole Walasinski, 27218 State Road 4, spoke in favor of **PROPOSED ORDINANCE NO. 2023-38**. Mrs. Walasinski stated she was just seeking approval to do microblading in her unit and was happy to answer any questions.

Mrs. Voelker asked since her main address was in North Liberty, if she was opening a satellite office. Mrs. Walasinski stated no, that was just her home address and she did not have the other address memorized. Mrs. Voelker asked if she was doing other services besides microblading. Mrs. Walasinski stated she did hair already, already had a salon there and had been in business there for about a year and was just adding microblading. Mrs. Voelker asked what the name was of her salon. Mrs. Walasinski stated it was NXT Studio.

Question was called for at 7:14PM for **PROPOSED ORDINANCE NO. 2023-38. Motion passed 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. 5858**.

PRIVILEGE OF THE FLOOR

Doug Southworth, 1901 Division Street, spoke under **PRIVILEGE OF THE FLOOR**. Mr. Southworth stated he did not know if this was the proper forum for his issue but he was there that evening to speak about Division Street as it was a relatively wide street that had no traffic control between McKinley and Jefferson. Mr. Southworth stated living right there on Division, he had some concerns about traffic enforcement. Mr. Southworth stated the posted speed limit there was 35 miles an hour and as he was sure the Council was aware, there were two schools, an elementary school and a junior high school, right in the vicinity there and there were kids walking through there on a regular basis and it was very common to see vehicles traveling well in excess of the posted speed limit. Mr. Southworth stated he worked from home so he was there all the time and he regularly heard motorcycles and cars with very wound out and aggressive sounding engines as they were going from stoplight to stoplight through there. Mr. Southworth stated he knew the police force was already stretched thin and traffic enforcement was tough to do but he was curious to explore any kind of options they had to address this. Mr. Southworth stated he knew in South Bend, there were temporary speed bumps placed in different areas for traffic enforcement like this and there were different options available. Mr. Southworth stated he was a pretty tolerant person, he did not always follow the speed limit himself and was not trying to cause any trouble but it was concerning with the frequency that it was happening at that time. Mr. Southworth stated it just seemed to be a straight shot and people were taking advantage of that.

Mr. Hixenbaugh began stating this was the proper forum for the issue and he heard about matters such as this quite frequently although as a legislative body, the fix or the remedy for those valid concerns was not always within their control but what they could certainly do was they could pass along his name to the Police Chief and ask him or one of his officers to contact him to discuss anything that could be done to address this. Mr. Hixenbaugh stated with regard to physical barriers and the temporary speed bump he talked about, those were issues that he may want to talk to Mr. Prince about and he may be able to connect him with the City Engineer and their Traffic Engineer more to the point who perhaps would be in a position to be able to address those issues. Mr. Hixenbaugh stated his concerns were well taken and they all shared them wherever they lived in Mishawaka but particularly in the area Mr. Southworth lived in and he could understand his concern. Mr. Hixenbaugh stated they would do what they could to facilitate some communication between the Police Department and himself and perhaps Mr. Prince could help him make contact with the Engineering Department so he could discuss that component as well. Mr. Southworth stated that would be outstanding and his wife actually reached out to the community line for the Mishawaka Police and they just had not gotten a response so they wanted to see what kind of options were available. Mr. Hixenbaugh stated that was what the Council was there for and they were glad he was present.

Mr. Compton stated Mr. Southworth may have heard earlier that there would be a change in the shifts the policemen were going to work, so they were hoping this would add more police to the street and they were hearing an awful lot about traffic and he knew traffic had changed and people seemed to be driving faster and not as defensive as they once did. Mr. Compton stated he knew he and other council members would encourage the Mayor's staff to relook at options that they had been somewhat resistant to in the past, for good reason, but he was anxious to see the effects of what South Bend was doing and measure that against if they should do some of the same things in Mishawaka. Mr. Compton stated he lived right around the corner from the area Mr. Southworth was talking about and stated he was not sure if Division would be a good spot for speed bumps, but certainly some of the side streets might. Mr. Compton stated he understood what he was saying and appreciated him coming before the Council and speaking to them about this and it was good to see him.

Mr. Mammolenti asked if he could tell the Council what time of the day that he typically saw it or heard it mostly. Mr. Southworth stated the morning was fairly well controlled and people respected the speed limit more at that time and it tended to be at the 5 o'clock hour when people were getting out of work in the late afternoon and into the evening when he and his wife noticed most of it. Mr. Southworth stated during weekends, traffic patterns were different and it could be any time of the day that this was occurring but on average it was more towards the evening than the morning.

Mr. Hixenbaugh thanked Mr. Southworth and asked him to make sure that at the conclusion of the meeting, to make sure the Clerk's Staff had accurate contact information for him, that way they could pass it along to the Police Department and ask them to follow up. Mr. Southworth appreciated the Council's time.

ADJOURNMENT 7:21PM

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

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