

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

August 5, 2024

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 August 5, 2024, at 6:00PM. 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 attends 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.

Present: Mrs. Hazen (P), Mrs. Voelker (P), Mr. Carroll (P), Mr. Banicki (P), Mr. Emmons (A), Ms. Hahn (A), Mr. Mammolenti (P), Mr. Violi (P), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Also Present: Mike Trippel, Council Attorney

Minutes for the Regular Meeting on July 15, 2024, were approved as received from the Clerk's Office.

Clerk Block read the following appeal by title.

Appeal No. 2024-30 Use Variance to allow a Temporary Sales Trailer – NE corner of Fir Road and Beacon Parkway

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

PROPOSED ORDINANCE NO. 2024-21

AN ORDINANCE AMENDING TITLE 15, CHAPTER 162, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, HENCEFORTH KNOWN AS “EROSION CONTROL AND POST-CONSTRUCTION STORMWATER POLLUTION PREVENTION ORDINANCE” OF THE CITY OF MISHAWAKA, INDIANA
Sewer Use Ordinance Revisions – EPA Regulations
(Assigned to Public Health & Safety Committee)

PROPOSED ORDINANCE NO. 2024-22

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, AMENDING THE MUNICIPAL CODE BY UPDATING SEWER SERVICES TO COMPLY WITH EPA REGULATIONS

(Assigned to Public Health & Safety Committee)

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

PROPOSED ORDINANCE NO. 2024-20

AN ORDINANCE AMENDING ORDINANCE NO. 5868 FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT FOR MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS, AND MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA FOR THE YEAR BEGINNING: JANUARY 1, 2024

Amending Salary Ordinance No. 5868 – Police Department

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

Mayor Dave Wood spoke in favor of **PROPOSED ORDINANCE NO. 2024-20**. Mayor Wood stated this ordinance was the last of a series of positions that they had civilianized within the Mishawaka Police Department. Mayor Wood stated it began with IT many years ago when they civilianized a sworn officer who was doing IT work exclusively for the MPD who had since retired but was still with the city as a civilian IT representative. Mayor Wood stated they then had civilianized the training position and the recruiter and all three of the positions had allowed them to reassign the people with those responsibilities and putting them back on the street where they thought they belonged and serving their public in a very personal way. Mayor Wood stated this was always the last one they had foreseen to civilianize as this one was a big job, The Chief of Records Division. Mayor Wood stated sometimes the position was hard to fill, because you would get away from police work and you would be, in many ways, doing a lot of office management duties. Mayor Wood stated after civilianizing the position, the position created on the civil city side would be filled but the police position would not go away and it would be filled by an officer who could get back onto the streets and in the process, make it a force multiplier. Mayor Wood stated the position was vitally important to the department and it had a lot of responsibilities. Mayor Wood stated the individual in this position would maintain the department budget, maintain the fleet, run the records division and oversee it, run the property division, and they would also oversee procurement for all of their equipment. Mayor Wood stated if they were to fill that with an officer, they would pay \$96,500 per year. Mayor Wood stated they were proposing a salary of \$70,000 which thought was in line with assistant level management in the City of Mishawaka and this would be an appointed position as well. Mayor Wood stated they may be wondering what that meant for Chief Arndt who was currently in the position, and he was not going to go too far out on a limb by saying he had been an outstanding and one of the best Chiefs of Records that the city had ever had, so he would be reassigned if this were to be approved. Mayor Wood encouraged the Council to support this and stated that this would be a high-level management position, probably equal to Executive Chief at the Fire Department.

Mrs. Voelker asked for clarification if this would be a new position. Mayor Wood stated that was correct. Mrs. Voelker stated she was looking at the call reports for the 911 Center and it appeared their calls were up this year as opposed to the prior year and it seemed like getting an officer out on the street doing police work as opposed to administrative work was probably a good idea. Mayor Wood stated by going to 12-hour shifts, they had more officers on the street at that current time than they had ever had in the City of Mishawaka by a lot, and it was not particularly close. Mayor Wood stated this would only add to that and by going to the new shift strength, with two officers he had just hired, one who was going through PERF review and the other having to go to the academy, they were above staff with 102 and 100 budgeted. Mayor Wood stated they knew they had some retirements coming up so it was always in a constant state of flux, but it was their goal that year to remain above budgeted staff so that as retirements came as they knew they would next year, they could slide them into that. Mayor Wood stated the shift strength model was working great as it was expected, and he had never been more positive than he was about the Mishawaka Police Department at that point in time.

Mrs. Hazen stated he said this would be an appointed position and asked if it would be appointed by the Chief or someone different. Mayor Wood stated this would be similar to a management level position where he would have some involvement certainly as would the Chief.

Mr. Hixenbaugh stated he appreciated this initiative and the work that had been done to civilianize the other positions he referenced as well and it was to the benefit of the police department and the community to have more officers on the street, so he appreciated the leadership that he had shown along those lines. Mr. Hixenbaugh asked with regard to this specific position what the timeframe would be that they thought would be in play with regard to making the changes if they were approved that evening. Mayor Wood stated they would post it immediately getting the job description to HR and go that route and look to hire someone hopefully within the next couple of weeks, depending on how the application process went. Mr. Hixenbaugh asked with regard to the ripple effect of the change that addition of another officer to the street, if it would be a literal reassignment of someone and if there would be another officer assigned to the uniform division for road patrol purposes or if that was to be determined. Mayor Wood stated it was to be determined because as they were aware, Chief Ken Witkowski would be retiring in the very near future so he would have discussions with the new Chief to determine exactly those kinds of things. Mr. Hixenbaugh stated that made sense, but anyway you sliced it they were going to end up not losing a slot and they would have another sworn spot that would be repurposed to another law enforcement activity and asked if that was exactly correct. Mr. Hixenbaugh stated as this evolved, his hope would be that as the applicants came in that in addition to looking to those sworn officers, the responsibilities of this position were so unique at times that it may very well had been that there could be someone who did not come from a law enforcement background who would be suitable for the role, so hopefully they were going to look at the full range of applicants and consider the best person for the job as they typically did whenever they had a vacancy. Mayor Wood stated it was always his philosophy to take the most talented, best people, and hire them. Mr. Hixenbaugh stated he appreciated that and thanked Mayor Wood again for the work that had been done by him and the leadership at the police department on this initiative.

Question was called for at 6:13PM for **PROPOSED ORDINANCE NO. 2024-20** Motion passed by unanimous roll call vote (summary: Yes = 7).

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 7-0, thus it became **ORDINANCE NO. 5900**.

UNFINISHED BUSINESS

RESOLUTION R2024-15

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT: 940 E 12th STREET MISHAWAKA, INDIANA

Use Variance to allow for two permanent storage containers – 940 E. 12th St.

Mr. Hixenbaugh stated the record would reflect that the Council received the committee report at their last council meeting.

Mr. Carroll stated this issue was a little bit complicated and he called for the postponement just because they had received a last-minute letter from the Fire Marshal and his concerns, and he wanted to make sure they had time to go over it and to meet with the Fire Marshal. Mr. Carroll stated they actually did go to the site together to take a look at it and meet with the owner. Mr. Carroll stated he thought it made sense to have Fire Marshal Dempler be present for the council meeting that evening and asked him to come to the podium to answer some questions. Mr. Carroll stated they could start off with a quick overview of the containers and why he had suggested the owner should have them because overall, he believed they were all trying to accomplish the same thing and do what the safest thing was for the community, the business owners, the store, and so on.

Bill Dempler, Mishawaka Fire Marshal 2000 East Harrison Station #4, spoke in favor of **RESOLUTION R2024-15**. Mr. Dempler stated Mishawaka worked very hard to build a relationship with IDHS, their state inspector and state fire marshals. Mr. Dempler stated when their state inspectors came into their city, they would get a hold of him, and he scrimmaged and would make sure that they worked with them and worked together to do a better job with life safety in all aspects that he inspected. Mr. Dempler stated fireworks was a big one and the state regulated the permits, the amounts and the state inspected, and they would show up with them so that way when they did joint investigations, they had equal knowledge and everyone got the same word, same element because the last thing you would want would be the state telling you one thing and local telling you something different. Mr. Dempler stated with the location at hand, the pervious state fire marshal asked why they did not allow the containers. Mr. Dempler stated it was a zoning issue and not a code issue and the zoning did not allow them to have the containers but the state fire marshal posed other fireworks businesses and locations that had containers, whereas he again mentioned it was a zoning concern. Mr. Dempler stated he then went to

Planning and asked if they could allow the other containers on a temporary basis, since they were already allowing them for others and the agreements were made and the owner had abided by the rules for the temporary tank container, but now it was gone. Mr. Dempler stated to the owner that he needed to have a variance to have the containers full-time and that was why they were there. Mr. Carroll asked in his mind, what the safest thing was to do in regard to having containers, having no containers, having the containers part-time, or having the containers full-time because it seemed abnormal to have a fireworks store in an area with other businesses being in close quarters. Mr. Dempler stated it was not abnormal, as there were fireworks stores all over the place with Meijers, Menards, and Sam's Club who all had fireworks and there were other occupancies where they were connected to other units. Mr. Dempler stated this unit here was actually one of his better ones, because they had a sprinkler system and a one-hour firewall and he personally made sure the fire calking was done properly when the self-storage on the other side of the building opened up, so that way they had separation. Mr. Dempler started by code, it was a separate entity even though it was connected, because with the firewall and sprinkler system, it was a separate entity. Mr. Carroll asked if he felt that the storage trailers were a safer option. Mr. Dempler stated as a firefighter and as one of Mishawaka's firefighters, he would rather deal with a fire in a container than in the building. Mr. Dempler stated with the container, he was just going to spray it and protect his exposure but with the building, you need to worry about everything else. Mr. Dempler stated there would be less damage and less concern for his firefighters with the storage containers and it would be a dangerous area his guys would have to go into if the building were to catch fire. Mr. Dempler stated as their Fire Marshal, the code stated if the containers met all of the requirements, they were allowed to have it at their business. Mr. Carroll stated they had neighbors who expressed their concerns, and they had valid concerns between the pawn shop owners as far as with break-ins at their location and Builders Iron Works being right next door and in proximity to that. Mr. Carroll asked if Mr. Dempler could speak to the safety of their people at all with these containers and what risk it may or may not pose. Mr. Dempler stated by all means, it was not a code issue, it was a zoning issue and the fact was that the properties neighboring it were industrial, so you could have storage containers in there. Mr. Dempler stated he had no idea what was in the storage containers, and he could not ask or look, unless they allowed him to do so. Mr. Dempler stated there were plenty of storage units where they had no idea what was in there but with this one here, he knew where it was at and he was regulating the distance, as well as regulating notification. Mr. Carroll asked if he felt the containers posed a risk at all or an increased risk in any way to the neighboring businesses. Mr. Dempler stated with the buildings that were connected, he felt it would be safer for them to have less material in that building and off to the side because when the season ended, all the leftovers would go right into that building and it could be crammed and packed full of fireworks, in this case. Mr. Dempler stated the owner had to maintain 8 to 10 inches from the sprinkler heads and he had to leave space him a clear path to egress and that was it. Mr. Dempler stated at least with a storage container, they could get him to agree to keep the amount down in the building and keep the extra in the storage containers, because again, he was just going to have to spray the storage containers in case of a fire and would not have to go in the building. Mr. Dempler stated it was a defensive fire and storage containers would risk much less than keeping the excess of fireworks in the building. Mr. Carroll stated they had seen a lot of questions that the neighbors

had about the potential for the containers to explode and create danger to people around that and asked if that posed a risk. Mr. Dempler stated with that one there, he would have to ask what fireworks were in there along with what heating element was in there and what human factor was involved in that. Mr. Dempler stated it was not like it was a giant wick and it was just going to blow up.

Mr. Mammolenti stated regarding the discussion on spontaneous combustion, he had mentioned that there needed to be a human element to that, not necessarily just the internal heat of a storage unit could cause it to combust and asked if that was correct. Mr. Dempler stated it could, but it would have to be at 500 degrees or higher and these fireworks were shipped from China in containers and trains, and it was no different from that. Mr. Dempler stated spontaneous combustion could happen and there always was a chance but, on this element, if it was going to happen, it would have a human factor or a factor of natural causes like lightning or something like that, but that was going to happen anywhere. Mr. Mammolenti stated he knew Mr. Carroll asked the question, but with the container being outside, that pretty much eliminated regulations, caulks, etc. and if that was correct. Mr. Dempler stated with the regulations, if they were to approve the zoning, and he did not care either way whether this was passed or not, they could ask them to maintain a 10-foot clearance, make sure they were not stacked more than one high, make sure it was marked, and have other different factors that the Council could ask them to abide by to make the zoning agreeable. Mr. Dempler stated the things that he had asked of the owner to be done were more stringent than what was required.

Mrs. Hazen asked if these were normal storage containers or if they would be special containers for fireworks. Mr. Dempler stated the owner provided him with the paperwork and he was not going to go get the typical storage unit. Mr. Dempler stated they were designed for hazmat and explosives, and they had ventilation, and he also mentioned that he was going to get some kind of security on it, so there would be some kind of monitoring.

Mr. Hixenbaugh stated he appreciated Mr. Dempler being present that evening and the work that he had done on this as well. Mr. Hixenbaugh stated the staff report referred to other retailers having received transient merchant licenses to operate in parking lots where they were allowed to keep fireworks in storage containers and then it went on to say however, they had not permitted this as a permanent solution in commercial areas. Mr. Hixenbaugh asked based on his experience having inspected those types of business operations, were they changing their philosophy regarding the permanency of these type of containers and had it truly been in the past that only transient merchants for a short period of time were allowed to store these types of containers in his experiences. Mr. Dempler stated he had seen containers full-time throughout the city and different companies had gotten different permission to have the containers and they had different things, and he knew because this had to do with fireworks, the Council was concerned and they had every right to be, but they could be full of furniture or Christmas trees or lithium-ion batteries and nobody had worried about that. Mr. Dempler stated he and other firefighters would still have to fight it, and it was still a fire. Mr. Dempler stated lithium-ion batteries were way worse than fireworks as far as he was concerned. Mr. Hixenbaugh stated he agreed with Mr.

Dempler that there was a whole universe of unknowns out there, but in this situation, they knew for sure that in this location in close proximity to some other businesses that there were going to be fireworks there, so he wanted to focus on the particular situation in front of them. Mr. Hixenbaugh asked if this was a different situation that they were being asked to approve in terms of the outside storage or was this consistent with other fireworks retail operations in the city. Mr. Dempler stated Spiderworks had at least two of them on their property at that point in time and then on Edison, the cash pawn shop had a storage unit on the far northeast corner, when Perry Fireworks were in the strip mall, that was full of fireworks as well. Mr. Hixenbaugh stated there was some precedent for those type of containers being used in conjunction with those type of operations. Mr. Dempler stated that was right and they had county addresses that had storage units of their own that were packed full. Mr. Hixenbaugh stated the staff report also made reference to the fact that the containers be labeled as explosives which may not be alarming to him but if it were a neighbor or someone else, that would get his attention when something would be labeled as explosives. Mr. Hixenbaugh asked if he could talk about what that meant in his world. Mr. Dempler stated he nailed it on the head and it was information, so when his guys would show up and see the label on the cargo trailers, his guys knew that they did not have a normal cargo container on their hands and they needed to have special precautions in place and with that being said, if this were to be approved, his guys would pre-plan and would make sure they understood the tactics so that way if this event were to occur, they could properly handle it and move forward. Mr. Hixenbaugh asked if this, in his professional opinion, promoted not just public safety but firefighter safety in the event that there was a fire in the location to have them housed outside in the trailers as opposed to in the building. Mr. Dempler stated absolutely, and, in every site, you were going to have to do special looks and, in this circumstance, if they could have less fireworks in the store and his guys could go check on that riser and check on that fire alarm without hesitation, this was a safer plan for his guys. Mr. Hixenbaugh asked given his expertise and the work that he did inspecting firework retailers, if hypothetically a firework retailer of the kind that was at issue that evening, if the employees of the firework retailer were in close proximity to the store or close to the store or to the trailers that could be approved, if they were shooting off fireworks, would that pose a concern to him. Mr. Dempler stated typically, the fireworks stores did shoot off fireworks during the day and during the loud ordinance time out in the parking lot and they saw it all the time. Mr. Dempler stated if they did not like that and it was upsetting the neighbors, they were more than welcome to say that they did not want them doing that. Mr. Dempler stated then if he knew that as a rule, he could go ahead of state and make that rule, because it was an agreement that he would go upon that he knew the owner would be supposed to maintain. Mr. Dempler stated they were being stricter than what the state would, so if the state's fire marshal came and said the owner was allowed to shoot off fireworks at a certain time and this and that, he could tell that fire marshal that because of the prior agreement, they were not supposed to. Mr. Hixenbaugh asked if within the state permitting process, he had the ability to make as part of one of the conditions of approval for that state permit or if the state had the ability to say what the conditions were. Mr. Dempler stated it was part of their zoning and it was not state. Mr. Hixenbaugh stated he agreed to a certain extent, and they had their fireworks ordinance that limited the use of fireworks throughout the community by whomever whether they held a license or not. Mr. Hixenbaugh asked outside of

the allowable periods, if they should be shooting off fireworks. Mr. Dempler stated they should not be doing that. Mr. Hixenbaugh asked if that posed any enhanced risk to them or any neighboring facilities. Mr. Dempler stated if they shot fireworks off and they were in the containers and the containers were completely closed, he would not be worried. Mr. Dempler stated it would be no different than shooting off a firework by your home, he would be more worried about the home catching on fire than the metal container. Mr. Hixenbaugh stated he appreciated his expertise and his understanding.

Joshua Visser, Attorney at Sopko Nussbaum Inabnit Kaczmarek 210 S Michigan Street, South Bend, IN 46601, came before the Council to answer questions. Mr. Hixenbaugh stated if he recalled the exchange they had at their last meeting and he appreciated the information he shared, one of his concerns had to do with the fireworks that were reportedly being shot off outside of the scope of when they were allowable under their ordinance and what he asked was to hear from his client with regard to their willingness to commit to following their ordinance if this would in fact be approved. Mr. Hixenbaugh asked if his client was with him that evening. Mr. Visser stated yes, Mr. Long was with him that evening. Mr. Hixenbaugh asked if he was going to have any problem with his client committing to following the ordinance that everybody who lived or worked or owned a business in Mishawaka was subject to and if there would be a problem for them agreeing to follow that scrupulous law. Mr. Visser stated there would be absolutely no problem.

Mr. Violi stated they had discussed at the last meeting about security cameras, and he believed Mr. Visser had mentioned that it would be a blink or something similar to that where they had it as an app on their phone and he had asked if they would be willing to do something more permanent like 24-hour surveillance or something on the outside. Mr. Visser stated that was something Mr. Long could speak to, but his understanding was that since the last meeting, Mr. Long had reached out to SimpliSafe about having something going forward and they discussed he believed he ordered four cameras to be on the area and to be always monitored by somebody. Mr. Violi stated he was familiar with SimpliSafe and thanked Mr. Visser.

Mrs. Voelker stated Fire Marshal Dempler said that this would be a special type of container designed for explosives and asked if he could tell them about that or perhaps his client could tell them about that. Mr. Visser stated if he could not answer it his client could speak more to it, but it was his understanding that his client had reached out to a vendor that provided containers to places across the country and the containers they provided had a special ISO certification and with that, it went through more rigors, and these were specialized for fireworks. Mr. Visser stated it had also been mentioned that there were some vents in them as well and since the last meeting, he tried to do some of his own research and everything he saw said that fireworks could not spontaneously combust and they needed a heat source that was 867 degrees and that the hottest temperature in the U.S. was 134 and the articles he was reading were put out by places in Texas and California and they had no issues with temperature.

Mr. Violi asked what a typical cost for the container that Mrs. Voelker referenced was as opposed to a regular container. Mr. Visser stated unfortunately, he had no idea, but he was sure Mr. Long knew more about that. Mr. Hixenbaugh thanked Mr. Visser and asked his client to approach the podium.

Charles Long, 940 East 12th Street Mishawaka, Indiana 46544, spoke in favor of **RESOLUTION R2024-15**. Mr. Hixenbaugh asked if he had anything he wanted to tell the Council before they asked him a few questions. Mr. Long stated no, he would wait for the questions.

Mr. Violi asked with the special containers if he had a ballpark amount of what each one would cost him. Mr. Long stated they were \$5,000 apiece. Mr. Violi asked if he knew what a normal container would cost. Mr. Long stated the special containers were recommended by Homeland Security and they came with an ISO rating of 45 TI. Mr. Long stated the containers were made to handle explosives and toxic materials. Mr. Violi asked if he was looking to increase his inventory or if it was going to be the normal amount that he would usually keep in the store and then maybe keep a third of it in the store and a third in each of the other two containers and if he was going to become a wholesaler and tripling or quadrupling his inventory during off seasons, for example. Mr. Long stated they still brought inventory in around May, and they went through May and June. Mr. Long stated they increased the inventory by about 50% in the busy season but after the holiday, it broke down and there was nothing coming in and by having three containers, they could keep a third in each. Mr. Long stated God forbid if an accident were to occur, it would happen in one spot and not all three and if they had to enter the building, it would be a lot more dangerous. Mr. Long stated the containers would never ignite on their own as it took 867 degrees Fahrenheit. Mr. Long stated his fireworks were only ignited by somebody igniting them and he understood Rudy showed a video at one of the meetings and he did not know if he gave a follow up on that particular container catching fire. Mr. Long stated the fire marshal said it was arson and there was nobody hurt in that fire and there was no property damage. Mr. Long stated the first was ignited at 5:45AM and it burned for 45 minutes, and the fire department put it out and there were two fireworks stores alongside of it that were open for business as usual with absolutely no damage to their building. Mr. Long felt that they needed to know the facts and not just pictures. Mr. Violi asked if he was not looking to increase his inventory in any large amount. Mr. Long stated it increased during the season. Mr. Violi stated he understood that. Mr. Long stated they sold out 90% of it and it dropped down and he invited Tony with Builders Iron Works over to give him an idea and he understood his stance on business, but he wanted to try and ease things. Mr. Long stated he had spoken to Tony and apologized to him for the past fireworks being fired off. Mr. Long stated they normally shot them off around the Fourth of July to promote business. Mr. Long stated he had a clerk that worked for him that would shoot them off here and there quite often, around New Year's and he assured Tony that that would not take place anymore and that was all he could do. Mr. Long stated he asked him to come over for a meeting so he could try and ease his mind on the security precautions they were taking, and the containers were going to be monitored by a security system 24-7. Mr. Long stated there were

contacts being put on the doors so that as soon as the doors opened, it would send a signal to them, and he was doing everything he could to keep it as safe as possible.

Mr. Carroll asked as far as the fireworks he used, if he was only using retail and only planning to use retail fireworks that had a maximum of 500 and if that was correct. Mr. Long stated they were 1.4G and those were the only ones they could use unless they got a pyrotechnic license. Mr. Long stated these came in four grades: 1.1, 1.2, and 1.3 and they were very high-end explosives, and they were not allowed to handle them at all and could not even purchase them. Mr. Carroll asked if he had no intention of pursuing that in the future. Mr. Long stated no, he was 77 and he did not want to go for a pyrotechnic license. Mr. Carroll stated as he heard from Fire Marshal Dempler, his biggest concern was the safety of their firefighters and for his part, it sounded like he was saying that lower inventory inside of that building would be the safest possible thing for his firefighters. Mr. Carroll asked if they approved the resolution that evening, if he was committed to lowering the inventory inside of his building. Mr. Long stated absolutely and that was why he wanted the containers because he wanted to bring it down. Mr. Long stated they were allowed to go as high as the rafters and were allowed to stay 18 inches from the sprinkler system. Mr. Long stated they put an extensive amount of money into the building and they had to up their sprinkler system a half an inch, they had to put double sheet of three quarter inch sheetrock in the entire store, they had to seal off the top with special foam, they had to put in a suppression system that was monitored 24-7, and they had to put a lock box outside of the building for the fire department to enter. Mr. Long stated they had followed everything required and the state issued their license unlimited, which meant he could take all of his shelves out of there and put 100,000 pounds of explosives in there and Fire Marshal Dempler could not do anything about it as long as he was below the sprinkler system. Mr. Long stated he was trying to avoid all of that and put stuff into containers where if something happened, it would be limited and only a limited amount in one area. Mr. Carroll asked him directly if he as a business owner was committed to, he and all of his employees following their fireworks ordinance. Mr. Long stated he issued a notice to every one of them and he gave Tony an assurance that at any time, not just the Fourth, to prompt the business would anything be shot over there at all.

Mr. Mammolenti asked if this were to be approved that evening or not when he would light off fireworks during the approved time, if he could get with some of his neighbors and let them know about it so if they had some personal property, they wanted to move that they had the time to do that or come up with an agreement. Mr. Long stated he assured the Council, even at the allowed time, they would not shoot off any fireworks on that property at all.

Mr. Carroll asked if he was committed to allowing the fire marshals to inspect the containers at the annual time and open them up. Mr. Long stated the fire marshals could enter his property any time 24-7 and could open any of the containers, inspect them, check them and see what exactly was in them.

Mr. Hixenbaugh appreciated the additional information, especially from Fire Marshal Dempler. Mr. Hixenbaugh stated from his perspective, if it were not for his recommendation and his

expertise, and the firefighter safety component, he would not vote in favor of this. Mr. Hixenbaugh believed this was an idiosyncrasy of their ordinance that hopefully would be addressed as they went through the comprehensive plan process and look at their zoning ordinances and that was not the fault of the business owner, but it was a topic he thought needed to be discussed as they moved forward. Mr. Hixenbaugh stated that evening they had to deal with the statute and the ordinances they had, not the ordinances that they wanted to have. Mr. Hixenbaugh stated he was going to defer to the Fire Department and their expertise, but that was the only reason he was going to vote in favor of it that evening and his other request would be that all of the departments of city government held the appellate to the commitment that they made that evening with regard to being good neighbors and with regard to zero use of fireworks on the property whether it was their Planning Department, their Fire Department, their Police Department, their Building Department, or whomever it was. Mr. Hixenbaugh stated he thought that their expectation was that the commitments that were being made that evening would be enforceable and followed through on and asked that all their departments made sure that they held that commitment to be enforceable. Mr. Hixenbaugh stated with that, he would reluctantly err on the side of supporting the Fire Department and would be voting in favor of the resolution that evening.

Question was called for at 6:46PM for **RESOLUTION R2024-15 Motion passed by unanimous roll call vote (summary: Yes = 7).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The resolution passed 7-0.

ADJOURNMENT 6:47PM

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

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

These minutes are a summary of actions taken at the Mishawaka Common Council meeting. The full video archive of the meeting is available for viewing at www.youtube.com/@cityofmishawaka635 for as long as this media is supported.