REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

April 28, 2025

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 28, 2025, at 6:00PM. The meeting was called to order by Council President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance led by Life Scout, Daniel Williams.

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.

City Clerk Debbie Ladyga-Block called the roll.

Present: Mrs. Hazen (P), Mrs. Voelker (P), Mr. Carroll (A), Mr. Banicki (P), Mr. Emmons (P), Ms. Hahn (P), 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 April 14, 2025, were approved as received from the Clerk's Office.

Clerk Block read the following appeals by title.

Appeal No. 2025-11	Use Variance to allow for a Group Home to be Occupied by Eight Unrelated Persons – Vacant Lot 811 W Catalpa
Appeal No. 2025-13	Use Variance to allow for a Beauty/Barbor Shop with Office Space in R-1 Single Family District – Vacant Lot south of 1925 N. Main St.

Presentment of Encumbrances, Two-Year Old Checks, TIF Report (No Action Required)

Mr. Hixenbaugh stated the record would reflect that they all had been submitted pursuant to state law.

Eagle Scout Project Presentation

Daniel Williams, Life Scout from Troop 525 and Sophomore at Mishawaka High School, addressed the Council. Mr. Williams stated the Eagle Scout project required a community service for building something that would help the community. Mr. Williams stated for the project overview, the amphitheater lacked a designated stage, so he raised funds for building the stage and he had already started on that. Mr. Williams stated the stage would hold concerts, parties, weddings, and his Eagle Scout ceremony when he got done with it. Mr. Williams stated his target completion date would be May 31st and was trying to make it there the best he could. Mr. Williams stated the size of the stage would be 15 feet by 22 feet and 330 square feet. Mr. Williams stated he had just set in posts over the weekend and with regard to materials, he would be getting them from TimberTech Legacy Collection, and it would be composite decking. Mr. Williams stated the handrails would be aluminum and it would also include stairs on two sides and would also have safety railings to get up. Mr. Williams stated it would be a hand scraped finish with a natural wood look-like appearance, and it would be exceptionally durable and there would be a 30-year warranty for the timber. Mr. Williams stated the stage would be low maintenance with occasional cleaning only, it would be faded and stain resistant, moisture resistant, and it would be eco-friendly. Mr. Williams stated The Res approved of his Eagle Scout project as of a couple of months ago and there would be no city permits needed. Mr. Williams stated in February he met with The Res to discuss concepts for the stage, how it would look, and how they wanted it and in March, he started collecting the materials he needed and had already dug holes and setting posts. Mr. Williams stated in April that construction was underway and in May the construction should be completed with landscaping and if he got any extra money, he would bring electricity to the stage so that they could host the concerts. Mr. Williams stated the estimated cost for the decking material would be $16,300. Mr. Williams stated sources of funding were donations from businesses and communities, sponsorships, and potential local funding. Mr. Willaims stated managing volunteer labor and coordination, securing donations and materials for businesses, overseeing construction, ensuring on-time delivery, budgeting and solving challenges, and building leadership skills were some of the responsibilities. Mr. Williams stated in conclusion, enhancing the theater as a community performance and event space support would support The Res by giving them more individuals coming into their area and it would help them by providing more things to do for the patrons there as well. Mr. Williams stated all donations would go towards supplies and materials and the original estimate needed to be fundraised was $16,300 and they still needed $6,000. Mr. Williams stated they needed assistance skilled in carpentry or general construction help during the building. Mr. Williams stated he knew the city had discretionary funds that were available, and he was looking for possible financial donations. Mr. Williams stated he would answer any questions.

Ms. Hahn asked if he could tell the Council a little bit more about some of the other ways, he had gone about getting financial donations as far as reaching out to businesses and advertising. Mr. Williams stated he had emailed about sixty-five separate businesses to raise money, and he also had been going to many meetings to receive any support toward his Eagle Scout project.

Mr. Mammolenti thanked Daniel for his very impressive presentation and mission he was embarking on and applauded him for all he included. Mr. Mammolenti asked if he had any knowledge or previous experience in construction or if he was just learning as he went. Mr. Williams stated he was learning as he went and this was a first-time thing for him, but he would be receiving help from the carpenters union and guidance. Mr. Mammolenti asked when he found time to work on this and if there was a schedule. Mr. Williams stated he had a set schedule pre-made and he posted the days and times on sportsYou for people in his troop if they are able to help, but he did not have the schedule with him that evening. Mr. Mammolenti suggested sending the schedule to the Clerk's Office and that would help promote those hours and spread the word.

Mrs. Hazen stated just so everyone knew, she gave Daniel the Mishawaka Business Association's contact information because they did grants for projects such as this many times in the past. Mrs. Hazen asked which troop was Troop 525. Mr. Williams stated it was at Willow Creek Church. Mrs. Hazen stated he should reach out to the Mishawaka Business Association as soon as possible.

Mr. Hixenbaugh thanked Daniel for his presentation and stated it was well done. Mr. Hixenbaugh stated with regard to the comment he made about discretionary funds on the part of the city, they were not set up to be able to identify projects like his in real time and their ability to be able to use the funding that they had available was more tied to the budget that they approved on a different cycle on an annual basis. Mr. Hixenbaugh stated anything was possible, but he did not know that it would be possible to identify a ready-made source of funding from the city to help support his project, even as much as he was confident that everybody in both the Administration and the Council thought it was a wonderful project and supported it. Mr. Hixenbaugh stated what he did think was very possible was that he believed this was the type of project that he had known the community to be very supportive of and he strongly suspected that some of the individuals in the room, including himself, would be willing to take a look at his GoFundMe account and try to fund it as individuals and certainly they would encourage other members of the community to take a look at providing support to him as well. Mr. Hixenbaugh stated not only was his project good in itself, but The Res was an organization and a location that the community had supported for many years, so supporting his project would support The Res and his hope was that he would have no problem hitting his target. Mr. Hixenbaugh thanked Daniel for his participation that evening and wished him the best in his continued effort to bring this home and to let them know when the ceremony was going to take place so those that were able to attend and congratulate him on his success. Mr. Williams thanked Mr. Hixenbaugh and the Council.

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

RESOLUTION R2025-07

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: 2019 & 2001 LINCOLNWAY WEST MISHAWAKA, INDIANA
Use Variance to allow for Outside Storage for Landscape Materials – 2019 & 2001 Lincolnway West

Pedro Rosio, owner of 2001 and 2019 Lincolnway West, spoke in favor of **RESOLUTION R2025-07**. Mr. Rosio stated that past week he got a permit, and he distributed several documents to the Council. Mr. Rosio stated he had come back to the Building Department for the fence permit, which was the first page of the documents he handed out. Mr. Rosio stated the second page showed the enclosed view of the mulch by putting six-foot vinyl fencing gates facing north around the parcel. Mr. Rosio stated on the south side of both of his properties he would like to enclose the property, so nobody had a view from the back because he had several dumps sitting on the back currently and that was the first option he produced. Mr. Rosio stated the second option was to enclose 2001 and 2019 Lincolnway West in the backyards and he owned 2023 as well, which was a partial lot. Mr. Rosio stated he wanted to enclose that in as well with the 6-foot vinyl fencing if it were possible to get that approved. Mr. Rosio stated his work trucks sat on the 2019 Lincolnway West property at that time and there was a light post at the end of 2019 and 2023 that sat about 13 feet away from the walkway and he wanted permission to put vinyl fencing out to the post. Mr. Rosio stated he would install a gate facing east, which would have it facing Carlton that way when he drove his vehicles in and out, he would not be interrupting anyone on Lincolnway West. Mr. Rosio stated those were the ideas he had at that current time.

Mr. Emmons stated when they had their meeting the other day, he sat down with him and talked about parcels 2019 and 2023 to be fenced in and asked if that was correct. Mr. Rosio stated that was correct. Mr. Emmons asked why it said that he was asking for 2001 and not 2023, 2021, and 2001. Mr. Rosio stated he owned 2001, which was in the picture that he handed out and everything that was asphalt, the main building, the small garage property, and the partial lot. Mr. Emmons stated he fenced in parcels 2023 and 2019 and he was confused about what Mr. Rosio was wanting to do to 2019 and 2001, and Mr. Rosio told him that when they had a meeting that that was not anything he was going to do and that it was only parking. Mr. Rosio stated that was correct, 2001 was not going to get fenced in and that was where his employees used to park their vehicles in the morning and throughout the day. Mr. Emmons stated he was talking about enclosing 2023. Mr. Rosio stated what he would be enclosing was 2019 and 2023, which was where he kept all of his vehicles at that current time. Mr. Rosio stated there was nothing there in 2023 basically and it was just an empty lot as nobody parked there and he did not park his vehicles there and it was just a lot that sat there. Mr. Emmons stated he understood that, but he wanted to fence that in and asked if that was correct. Mr. Rosio stated that was correct just to block the view of the vehicles are people were driving through Lincolnway West. Mr. Emmons stated they talked about in their meeting that that would be for the parking of his trucks and not employee parking but would have all of his working equipment and then also, 2019 would be for his landscaping materials. Mr. Rosio stated the materials sat in 2001 and 2019 and as they could see in the photos, there were some trailers parked there before but that was now where he had the materials. Mr. Emmons stated he also said that he had a building there where his fence was going to go around and asked if that was correct. Mr. Rosio stated that was correct and his idea in the future was to before the fall build a storage building on the empty lot, but that was something he would present to the Council later in the year. Mr. Emmons asked here he had the blue line that surrounded 2023 and 2019 Lincolnway West was where he planned to put his fence and if that was correct. Mr. Rosio stated that was correct and it would be a solid 6-foot vinyl fence. Mr. Emmons asked if the fence would be going around the alley and then coming around the building and then ending at the boundaries of 2019 and if that was correct. Mr. Rosio stated that was correct. Mr. Emmons stated he would then have a solid fence around mostly all of his property excluding 2001 and asked if there would be no fencing around that. Mr. Rosio stated that was correct and there would be no fencing around the front of 2001. Mr. Emmons stated he did have a blue line there at the 2001 property and asked what that was for. Mr. Rosio stated the blue line was the division of the properties. Mr. Emmons stated basically what he was asking for then was for 2023 and 2019 to be for his business and storage of his landscaping equipment and materials and that area was all going to be fenced where you could not see in from Lincolnway West or the alley and asked if that was correct. Mr. Rosio stated that was correct. Mr. Emmons stated then in front of those two pieces of property, he was going to have landscaping per instruction of the Planning Department and asked if that was correct. Mr. Rosio stated that was correct. Mr. Emmons asked when all of the work that was mentioned would be taking place. Mr. Rosio stated if it were approved, as soon as they got some opening time, he would certainly take care of it because something he did well in his business was install fencing. Mr. Emmons stated he would appreciate it if he did that in a timely manner so that his materials, equipment, and everything else were hidden from the view going down Lincolnway West as they wanted to keep that corridor professional looking, and he would appreciate that. Mr. Rosio stated he appreciated that, and it would be done before the end of the month but the week or so before Mother's Day, which was when they were the busiest. Mr. Emmons stated he appreciated his concern and also for meeting with him so they could keep some of the points ironed out before he came before the Council. Mr. Rosio thanked Mr. Emmons for his advice.

Mr. Mammolenti thanked Mr. Rosio for his presentation and also being patient with the postponement and to take time to answer Mr. Emmons' questions and concerns. Mr. Mammolenti stated when he first presented this, he said he had option one on page 1 and then option two on page 3 and asked when they would know what option he was planning to go with. Mr. Rosio stated he would like to do option 2 because there was a lot of stuff going on at nighttime throughout Lincolnway, so sometimes when he came into the shop at night or early in the morning, sometimes gas cans would be missing that the guys sometimes forgot about and left outside or other times, people opened the trucks and took stuff out from the trucks. Mr. Rosio stated around two years ago, catalytic converters were being stolen around town and he actually had five that were taken from his trucks and that was a big expense out of his pocket. Mr. Mammolenti stated he would find comfort in option two as well and was happy to hear that it would be his choice. Mr. Mammolenti appreciated his work and the due diligence he had done up to that point and stated he looked forward to driving by there and checking up on completion.

Mr. Hixenbaugh thanked Mr. Rosio for the work he had done since the last time he was before the Council and appreciated the effort he had put in to work with Mr. Emmons and address the concerns that the Council had. Prior to asking Mr. Rosio a question, Mr. Hixenbaugh asked Mr. Trippel, Council Attorney, a question regarding a concern he had. Mr. Hixenbaugh stated his concern was that as much as they liked the commitments that had been made with regard to the expanded fencing, the appeal in front of them dealt with only two of the three parcels that had been referenced, so it seemed to him that there was a legal concern that had been raised by trying to enforce commitments that did not match up with the parcels that were subject to the appeal and then secondly, as he read the statute, those commitments to be enforceable had to be in writing rather than being verbal. Mr. Hixenbaugh asked if Mr. Trippel could elaborate on that. Mr. Trippel stated the commitments would have to be in writing for the parcels that he owned.

Mr. Hixenbaugh stated for clarification that the larger fencing wandered into an area that was not in front of them that evening with regard to the matter that they were considering. Mr. Hixenbaugh stated he thought that they all liked that, but it just was not within their ability to be able to enforce a condition with regard to that parcel. Mr. Hixenbaugh thanked Mr. Trippel for his answer. Mr. Hixenbaugh stated what was within their authority was to enforce conditions but ask him to uphold his word with regard to what he had committed to them that evening with regard to the fencing related to 2019 and 2001. Mr. Hixenbaugh stated anything else that happened beyond that would require him to work with the city and go through the normal process to have that reviewed with regard to the third piece of property that was not subject to that evening's proceedings. Mr. Hixenbaugh asked with regard to what he had committed to that evening relating to 2019 and 2001 Lincolnway West, would he be willing to agree to that in writing with the assistance of their Council Attorney if they were to provide them with a written document that reflected what he had promised to them that evening. Mr. Rosio stated yes. Mr. Hixenbaugh asked Mr. Trippel if he saw any problem with that process. Mr. Trippel stated he saw no problem with that. Mr. Hixenbaugh stated he appreciated the work that he had done and he had no doubt that he was going to follow up with the Council on the matter, but in other circumstances not involving him, they had people who had not been able to meet the commitments that were made to them, so his comfort level would be greater if they were to vote to approve the resolution, if it were subject to the additional written commitments approved by him after the fact in conjunction with their Council Attorney. Mr. Hixenbaugh stated it sounded like he had no objection to that. Mr. Rosio stated that was correct.

Mr. Banicki asked who Jessica Bauer was. Mr. Rosio stated she was the previous owner who he bought the property from, and she was legally still the owner, but they were working on the process of getting everything switched over to his name. Mr. Rosio stated she was out of town for the week but as soon as she got back in town, they would get everything taken care of. Mr. Rosio stated the property had already been paid off; he got his lawyer working on the process of getting the deed into his name. Mr. Banicki asked for clarification if that was true, then legally on paper it was still her property and if that was correct. Mr. Rosio stated yes, legally it was still her property. Mr. Banicki stated he did not know then that without her, authorization could be given to him to make the changes, and the Council did not know for sure if she was aware of what was going on. Mr. Banicki stated there was no written document or anything of the sort giving him authorization to work on her behalf and he saw the staff report which stated Jessica Bauer was the owner and New Generation Landscaping was the tenant, not the owner or proposed purchaser or anything like that and he had concerns with that. Mr. Rosio stated she called Woody and wanted him to ask for more time and she wanted to be at the meeting to help him out with the project he had going on, but in terms of getting everything switched over to his name that was going to happen within the next week or so. Mr. Banicki stated he did not know if they could approve the resolution given the fact that he was not the owner.

Mr. Hixenbaugh asked Mr. Trippel if he could weigh in on the valid point Mr. Banicki raised if the commitment of a contingent purchaser on a piece of property be enforceable if it led to their approval of the appeal. Mr. Trippel asked if the prior owner signed the petition. Clerk Block stated she signed the petition. Mr. Trippel stated if the owner signed the petition, then they had what they needed in writing to go ahead with the resolution and project, and it was not unusual for something like this to occur. Mr. Hixenbaugh thanked Mr. Trippel for the explanation and Mr. Banicki for raising the point.

Mrs. Hazen stated she saw that Mr. Rosio went to the Planning Department to them for the permit for the fence and asked if they approved option two. Mr. Rosio stated they did not, and it was actually something that he wanted to do because of what was going on in the neighborhood, so option one was the only thing that got approved. Mr. Rosio stated it also said on top of the permit it was only part of 2001 and then adding the gates for the material storage. Mr. Hixenbaugh thanked Mr. Rosio for his patience with them.

Mr. Hixenbaugh asked Mr. Prince if he could come to the podium and chime in on the dialogue, in particular between himself and Mr. Trippel, with regard to the written commitments that could be made on part of the approval of the resolution. Mr. Hixenbaugh asked if he had any thoughts he would like to share. Mr. Prince stated there were different valid ways to attach conditions. Mr. Prince stated a written commitment was usually done with the zoning, because you did not have the ability to attach conditions to the application and this was a use variance, so he believed you could also add a condition to the approval knowing they already had two conditions on there, they could amend it and add those conditions as part of the approval and he believed it would be binding. Mr. Prince stated that that would be his suggestion on handling it so then Mr. Trippel did not have to draft a document, assuming they knew the language they wanted to adopt as part of that. Mr. Prince stated his understanding was that Christa Hill in his department issued that permit, but that was issued based on only what could be approved based on compliance with the zoning. Mr. Prince stated there may have been others that were tied to the site plan or future variances coming down the line, so he wanted to stress that the only thing that they would have been approved was the fencing in the back and also the gate in the front that screened the outside storage from Lincolnway. Mr. Prince stated everything else that was being discussed in the vacant lot he believed had to be a separate application. Mr. Hixenbaugh stated he appreciated that clarification and he had the statute in front of him that did made reference to use variances as being subject to the commitments and he thought they agreed on that it was just a question of how the commitment was memorialized and it seemed to him that the only downside of not having a written commitment drafted by Mr. Trippel as they had done in other circumstances as to the extent that they wanted to make it binding on future owners of the property, it had to be recorded and if they embedded it in the resolution, he supposed it would be no tragedy. Mr. Prince stated he had no issue, and he just wanted to suggest it as an option. Mr. Hixenbaugh stated he appreciated the expediency of his suggestion and asked Mr. Trippel if he could weigh in on Mr. Prince’s suggestion of a really expedient way to try memorialize the conditions. Mr. Trippel stated he thought that Mr. Prince was correct, and he misspoke earlier when he mentioned ordinance and he meant resolution as this was a use variance, so they could manage it either way. Mr. Hixenbaugh thanked Mr. Prince for his suggestion.

Mrs. Voelker asked about the fencing agreement being binding as part of the use variance and if there was a future owner that did not need fencing, why would they make them have fencing. Mr. Prince stated their commitment would be tied to the use variance, so if they had another business, he assumed Mr. Trippel would draft the language as such that it would only be applicable to the business as it stood or as it was being proposed. Mr. Trippel stated Mr. Prince was correct and because it was in fact a use variance, the condition or conditions were tied to the use. Mr. Hixenbaugh stated another way of saying that would be if there was a subsequent purchaser who did not engage in the same type of activities on the property, the use variance would essentially become a non-issue so to the extent that they did not maintain the fence that supported the use variance, there was really no non-compliance on the part of that subsequent purchaser. Mr. Prince stated that was correct and the fence could go away with another business.

Mr. Emmons asked when Mr. Rosio drew all of the blue lines for the fencing, if they were dealing with just the fencing that went on to 2019 or other parcels. Mr. Prince stated the blue lines were actually lot lines and were not anything proposed by the applicant. Mr. Prince stated he was not sure in terms of what was attached to the properties, because normally there was a better drawing regarding the fencing and the applicant could better address that, because he did not see markings for the fencing. Mr. Prince stated the white markings matched what the ordinance requirements were. Mr. Emmons stated he was concerned because when he sat down and talked with Mr. Rosio, he outlined to him the blue with the fencing and that was why he was confused. Mr. Prince stated per the permit, the only thing that Mr. Rosio had requested approval for and the only thing that he was issued a permit for were the white lines and that matched their current zoning ordinance, so he had future plans, and they acknowledged the future plans. Mr. Prince stated regarding the use variance, they had no idea when and what his plans were for the lot and that there would be separate action that would have to be brought forth at that time. Mr. Emmons stated when he met with him, he showed him something different. Mr. Prince stated he understood, and he had trouble reading the drawing as well as the white line did in fact conceal it from the tracks and it followed the property line. Mr. Emmons stated he only showed him a fraction of the fencing he planned to do and not the entire plan and that was where his confusion stemmed from. Mr. Prince apologized to Mr. Emmons and stated he did not know what their discussion consisted of and perhaps he should ask the applicant.

Mr. Emmons stated this caught him off guard as far as what he was told about what Mr. Rosio's plans were and now, they were different, and he did not know if he could back the proposal. Mr. Emmons stated Mr. Rosio told him that he would be fencing off Lincolnway so it would block the view of all of the ground cover and the equipment and now he was going to put a fence in the back. Mr. Emmons stated he did not care what was back there by the railroad tracks and he was concerned about what was facing Lincolnway. Mr. Hixenbaugh asked the appellant to come back up to the podium.

Mr. Hixenbaugh appreciated his patience with the Council. Mr. Hixenbaugh stated part of what was going on was that they were trying to look for ways to be able to approve his request but part of what was also going on was that he did not appear to be an architect and he had not brought them drawings that were typically brought to them by someone who wanted to do what he was asking for them to approve and that was not fault of his own, it was just that it was not in the format that they were used to seeing so they had a clear understanding of what it was he was willing to do as part of the variance he was asking approval for. Mr. Hixenbaugh stated they needed to start out by talking about the northing part of the property and asked if they were to approve the resolution, what type of fencing he was willing to commit to that would shield the mulch and other materials that he wanted to store outside from people seeing on Lincolnway. Mr. Rosio stated the type of fence that he wanted was white vinyl fence up to six feet high and it would be solid. Mr. Rosio stated with what he got approved of from the Planning Department, it was option one which was to enclose the back property of 2001 up to 2019 and then gates in front of the storage units where he had mulch currently. Mr. Rosio stated the second option was to enclose the back of 2001 and then the back of 2023 along the west side of 2023 and then across the north side facing Lincolnway of 2023 and 2029.

Mr. Hixenbaugh asked if he understood him correctly and matching it up to the document, the second option was a fence that was much further away from the building toward Lincolnway that would not only enclose the mulch and other materials outside but would also enclose the parking area on the lot next door. Mr. Rosio stated that was correct and his understanding was they did not want people driving down Lincolnway to see his trucks or trailers parked up front, so that was why he did the second option, and this was the option he would love to enclose all of his equipment inside of a fence. Mr. Hixenbaugh asked if he was able to commit to fencing that would shield any mulch or other material that was stored in 2019 and 2001 from the material being visible from Lincolnway. Mr. Rosio stated yes.

Mr. Emmons stated at 2001 Lincolnway West, he was not parking anything there and he was not putting anything there other than his employee parking. Mr. Rosio stated that was correct. Mr. Emmons stated all of his materials and equipment would be stored down in 2019 and 2023 Lincolnway West. Mr. Hixenbaugh stated they could not enforce a condition for a piece of property that was not part of the matter that was in front of them, so at that point in time they either had to come up with a condition that would address his concerns, which were valid, but at that point in time if they could not come up with that then they would have to call for the question and take a vote on the petition as it had been presented to them without any additional condition in it which he did not think would give Mr. Rosio the best chance of success. Mr. Hixenbaugh asked Mr. Emmons if there was anything he could hone in on as a suggestion to address the two pieces of property in front of them that evening. Mr. Emmons stated he thought he did, because when they had their meeting, the proposal was different than what was presented that evening and that was where the confusion was, and they only talked about option two. Mr. Hixenbaugh stated his understanding was what had been referred to multiple times as option 2 was the last page in the packet, which based upon their previous discussion appeared to encompass fencing that went beyond the scope of the petition and related to a separate piece of property and asked Mr. Trippel if he agreed that for them to embed a condition in the resolution as part of the approval that reflected option two would run afoul of legal advice he gave them earlier with regard to what they could do for a piece of property that was not subject to the vote that evening. Mr. Trippel stated he agreed with that. Mr. Hixenbaugh stated that then took them back to option one and that appeared to him to reflect in the 'W' shape that was gated and asked if that would also be white vinyl fencing. Mr. Rosio stated that was correct. Mr. Hixenbaugh asked if that would be erected such that people would not be able to see the mulch he was storing from outside. Mr. Rosio stated that was correct. Mr. Hixenbaugh stated then that fencing would run between both buildings so that there would not be any gap and asked if that was correct. Mr. Rosio stated that was correct and it would run along the back of 2001 as well. Mr. Hixenbaugh stated with regard to the issue that appeared to be a primary concern, what was visible from Lincolnway, option 1 would also shield the mulch and other materials from being visible from Lincolnway and asked if he was willing to agree to that as a condition of their approval if they were to grant his request and vote in favor of the resolution that evening. Mr. Rosio stated that was correct.

Mr. Banicki asked if he wanted to amend his appeal, what would the process be for him to go back to add the additional lot. Mr. Trippe stated since the additional lot was not part of the original petition, he would have to start over and go from square one, which would be the simplest way to accomplish what he is trying to accomplish.

Mrs. Voelker asked if option two was really a Planning Department issue and he would have to go back to Planning to get option two approved. Mr. Hixenbaugh stated he agreed with Mr. Trippel's earlier comment that to make the third piece of property subject to any action on the part of the Council, the current appeal would have to be withdrawn, and the petitioner would have to reinitiate an appeal with regard to all three properties. Mr. Hixenbaugh stated to a certain extent, it was combining two separate concepts because the fencing that applied to the third piece of property would require a use variance and would not be part of their typical analysis as part of the erection of fences so to do otherwise, his fear would be that they had a 60-day clock under Indiana law to approve the petition from the time that the Board of Zoning Appeals acted. Mr. Hixenbaugh stated one other option that might be more beneficial would be if they had some time, time could be their ally in terms of being able to work through it because he feared that with the way it had been presented, it was hard for any of the Council to follow between multiple options, multiple pieces of property, and who owned what. Mr. Hixenbaugh stated in the absence of having a clear picture of what he wanted to do and what he was willing to commit to, he might feel compelled to vote against it when otherwise he would be in favor of what he was proposing but it was not their job to make the case for him, it was his responsibility to make the case. Mr. Hixenbaugh stated Mr. Rosio had done a vast majority of the work, but he felt like they were just a little bit short.

Mr. Prince stated the Board of Zoning Appeals meeting was held on April 8th, so they had until June, and they would be able to hear it up until their first regularly scheduled council meeting in June as a final date. Mr. Hixenbaugh thanked Mr. Prince for that clarification. Mr. Prince stated for staff recommendation to the applicant and bringing it back to them was to try to address what you could and in their conversations with the applicant, he still did not understand what he was doing on the property adjacent. Mr. Prince stated he may be able to commit to the fencing, but his understanding was there was pricing of a building involved and because of those things with the separate property, they said to make it easier for the Council he needed to do what he could do in screening the materials which was what they understood to be the direction from the last meeting before it was brought back to the Council, which was why he came in and got the permit issued that day regarding what he could do for that in preparation for the meeting that evening.

Mr. Hixenbaugh stated they did have some time to be able to work through the issues and he did not want to see them delay for delay's sake but it felt like that the uncertainty was not going to be in his favor and that was going to make what otherwise could be approved by the majority of the Council more difficult for them to approve and asked if they had some time to be able to clarify some of the issues, would he have any objection to them postponing the matter once again in order to get a better idea of what he was going to do with regard to the two pieces of property only that were subject to his appeal. Mr. Hixenbaugh stated what he was going to do to the third property was useful information, but it was not in front of them and would only muddy the water if they got bogged down talking about a third piece of property. Mr. Rosio stated the first option he had mentioned earlier was what had been approved, so he was okay with sticking with that. Mr. Hixenbaugh stated his strong suggestion would be to forget about the second option. Mr. Rosio stated he was fine with doing that and sticking with the first option.

Mr. Emmons stated he was confused about what they talked about when they met and during the evening that night, it was different, and he just needed to get himself clarified about what they actually talked about and apologized if he confused Mr. Rosio. Mr. Rosio stated in the meeting they had, he told Mr. Emmons that he owned 2023 Lincolnway West and that was where he wanted to put a storage building, but that was not something he wanted to talk about at that time.

Mr. Mammolenti asked for clarification when the question was called for, they would be voting on option one. Mr. Hixenbaugh stated subject to a motion and a second and approval by the Council that they would embed the commitment made by the appellant reflective of option one then yes, they would be voting on option one. Mr. Hixenbaugh asked once again regarding option one if he was able to commit to them if they were to approve his request that he would erect fencing, which was reflective of what they provided them with under what they called option one. Mr. Rosio stated yes. Mr. Hixenbaugh asked how long it would take him to be able to have the fencing in place. Mr. Rosio stated two weeks. Mr. Hixenbaugh appreciated the concrete answer from Mr. Rosio.

The chair entertained a motion to embed the conditions of approval that had been committed to by the appellant that evening as reflected in option one, the first map that had been presented to them, into the proposed resolution if the Council approved it. Mr. Mammolenti moved the motion and with a second from Mrs. Voelker, a voice vote was held. The motion passed unanimously, and the amendment was made.

Question called for at 7:06PM for **RESOLUTION R2025-07 Motion passed by unanimous roll call vote (summary: Yes = 8).**
Yes: Mrs. Hazen, Mrs. Voelker, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The resolution passed 8-0.

RESOLUTION R2025-10

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 AND WITHDRAWING A

PREVIOUSLY APPROVED REAL AND PERSONAL PROPERTY TAX ABATEMENT FOR LIPPERT COMPONENTS MANUFACTURING INC.
2025 Tax Abatement Compliance Report

Derek Spier, City Planner, spoke in favor of **RESOLUTION R2025-10**. Mr. Spier stated property owners who had applied for or had been granted either real or personal property tax abatement must file with the Council and the County Auditor's Office reporting the extent of compliance with the goals that they set forth in their statement of benefits when they applied for abatement. Mr. Spier stated currently they had three projects with five active abatements in the city and all five required reporting for 2025 and all the property owners had responded to their request to complete the statement of benefits forms. Mr. Spier stated in summary, two of the projects with three active abatements which required reporting were complying and had exceeded, nearly met, or were working toward expectations. Mr. Spier stated Lippert Components received a real and personal property abatement back in the summer of 2017 and they had become non-compliant based solely on a reduction in employment they experienced in 2024. Mr. Spier stated, despite the downturn, they stated they remained committed to the Mishawaka facility and they anticipated a rebound in employment in 2026. Mr. Spier stated as a token of good faith, the company requested withdrawal of both the real and personal property tax abatement prior to any discussions with staff. Mr. Spier stated since the prior reporting period, they had none of the abatements as the previous approved abatements had expired. Mr. Spier stated all of the compliance forms were due to the County Auditor's Office no later than May 15th of every year. Mr. Spier stated they received information from all of the companies, and they reviewed it. Mr. Spier stated Lippert Components had previously stated they had an abatement for renovating and improving the former AM General warehouse facility on Byrkit and they proposed real estate improvements included at $7.4 million and had been completed. Mr. Spier stated they included a renovation of the building, a building addition, and other site improvements. Mr. Spier stated the actual real estate investment that they had stated on their forms was $13.3 million. Mr. Spier stated the personal property taxes included in the abatement were estimated at $1.6 million and they had all been purchased and the actual personal property investment they stated was $9.7 million. Mr. Spier stated when the abatement was filed back in 2017, the existing employment was listed at 247 with 200 jobs to be added and at present, there were only 249 employees, a substantial decrease from the 423 employees recorded in the prior year. Mr. Spier stated the total payroll was listed at $15 million, which was more than the $10 million listed in the SB1 and a decrease from $18.9 million in the prior year. Mr. Spier stated that given the fact that the employment levels had declined due to an economic downturn in the RV industry, the abatement should be considered in substantial non-compliance and for that reason, they were requesting withdrawal of the abatement. Mr. Spier stated Front Street was the next abatement and this was a mixed-use development that was approved right outside of City Hall in 2022. Mr. Spier stated this was a mixed-use building for apartments on the upper floors and first floor commercial. Mr. Spier stated construction began in November of 2022and was completed in July of 2024. Mr. Spier stated total employment for the project was listed as zero, but when the abatement was filed, an estimated additional two or three new jobs were anticipated. Mr. Spier stated the business was currently in the process of hiring an employee as they transitioned from their current employer. Mr. Spier stated as the residential units and commercial spaces were leased, they planned to hire an additional one or two employees. Mr. Spier stated the occupation rate for the apartments was 82% occupied out of 108 total apartments. Mr. Spier stated they had letters of intent signed to lease the main commercial space and the smallest of the three commercial spaces on the first floor. Mr. Spier stated the estimated and actual value of construction was $25 million and the current assessed valuation which was just released last week by the Assessor's Office based on 100% completion was $9.2 million. Mr. Spier stated that since the improvements for the project as envisioned were complete, the cost projections were met and additional employees were anticipated, the abatement should be considered in substantial compliance. Mr. Spier stated lastly with Helios Hydraulics Americas, they received a real and personal property tax abatement in October of 2022 for a building expansion and new manufacturing equipment. Mr. Spier stated they were a manufacturer of hydraulic manifolds, and they purchased the old Daman Products facility on North Home Street. Mr. Spier stated the real property improvements included a $4.8 million addition, expanded parking areas, and other site improvements and construction began in December of 2022 and the building addition and site improvements were completed by the end of 2024. Mr. Spier stated actual real estate investment was listed at $9.2 million and the personal property improvements included an estimated $11.5 million for new manufacturing equipment and they had purchased $14.5 million. Mr. Spier stated when the abatement was filed, the total existing employment was 139 with an additional 73 jobs to be added over the life of the project. Mr. Spier stated by the end of 2024, they hired an additional 62 employees, which was only 11 less than envisioned. Mr. Spier stated total payroll was listed at $12.5 million, which was more than the $10.2 million listed on the forms filed for the abatement. Mr. Spier stated given the investment and the payroll was higher than the projected amounts and the employment levels were nearing what they agreed to when they filed the abatement, the abatement should be considered in substantial compliance. Mr. Spier stated he was happy to answer any questions.

Question called for at 7:14PM for **RESOLUTION R2025-10 Motion passed by unanimous roll call vote (summary: Yes = 8).**
Yes: Mrs. Hazen, Mrs. Voelker, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The resolution passed 8-0.

RESOLUTION R2025-11

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA APPROVING AN AMENDMENT TO THE MISHAWAKA UTILITIES RETIREMENT SYSTEM
Amending Mishawaka Utility Retirement System

Rebecca Maguire, City Controller, spoke in favor of **RESOLUTION R2025-11**. Mrs. Maguire stated this was last amended in 2007 and they worked with May Oberfell Lorber to bring their plan into compliance and also include the amendment from 2007. Mrs. Maguire stated they removed 30 years of credited service for employees hired after January 2025 as a sole criterion for normal retirement. Mrs. Maguire stated they increased the base formula for pension calculation from $120 to $175 and this was for employees who retired after January 1, 2025. Mrs. Maguire stated they also defined the criteria for pensioners to receive a 13th check. Mrs. Maguire stated as she mentioned, they added language from the 2007 amendment, so it was not a separate item and they also updated the vesting and payout schedule for what they had been following, but mostly they had to update definitions and legal terms to follow state and federal laws concerning pensions. Mrs. Maguire stated she was happy to answer any questions. Mr. Hixenbaugh thanked Mrs. Maguire for her presentation and work on this. Mrs. Maguire stated Utility Pension Secretary Maureen Childress did most of the work on it and kept them all moving forward.

Question called for at 7:16 for **RESOLUTION R2025-11 Motion passed by unanimous roll call vote (summary: Yes = 8).**
Yes: Mrs. Hazen, Mrs. Voelker, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The resolution passed 8-0.

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

PROPOSED ORDINANCE NO. 2025-06

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-1 Light Industrial & R-2 Two Family Residential to C-4 Automobile Oriented Commercial 1032 E. Jefferson (NW corner) & 1023 E. Jefferson (SW corner)

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

Grigor Petkov, 1315 Highland Village Drive, spoke in favor of **PROPOSED ORDINANCE NO. 2025-06**. Mr. Petkov stated he was expanding Greg's Automotive LLC as he was the owner and operator of the business, and they purchased the north and southwest corner of the intersection of Merrifield and Jefferson Boulevard. Mr. Petkov stated the plan was to be able to expand, so he was cleaning up the north section and wanted to rezone both, so everything was complying, and he wanted to develop it.

Mr. Violi asked if he had already torn down the house on the northwest corner and if he was building where the old Reggio's was. Mr. Petkov stated that was correct and that the project should be completed by the middle of June of 2025. Mr. Violi asked if that was where he was going to have his repair shop. Mr. Petkov stated yes, and he was out of space as far as what he could do with servicing vehicles and things like that, so he wanted to make something nicer and bigger and bought the existing building. Mr. Violi stated the area looked a lot nicer and thanked him for his efforts.

Mrs. Hazen asked at 1023 if he would be leaving the building up there. Mr. Petkov stated the plan was to take that building down.

Question was called for at 7:21PM for **PROPOSED ORDINANCE NO. 2025-06 Motion passed by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5929**.

PROPOSED ORDINANCE NO. 2025-07

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 R-1 Light Industrial to R-1 Single Family Residential for an Existing House – 1113 Ann St.

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

Rob Colleen, owner of the property, spoke in favor of **PROPOSED ORDINANCE NO. 2025-07.** Mr. Colleen stated the property was pending sale and the individual purchasing the finance company was looking to get it rezoned so it was R-1.

Mrs. Voelker asked if the home was currently occupied and if it had been used as a residence in the past. Mr. Colleen stated it was not occupied at that time, but it had been used as a residence for many years in the past. Mrs. Voelker asked if the reason he needed the rezoning was for financing. Mr. Colleen stated it was for whoever was purchasing it to be able to finance it.

Mr. Banicki asked if he knew if it would be owner occupied or a rental. Mr. Colleen stated it would be owner occupied.

Question was called for at 7:24PM for **PROPOSED ORDINANCE NO. 2025-07 Motion passed by unanimous roll call vote (summary: Yes = 8).**
Yes: Mrs. Hazen, Mrs. Voelker, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5930**.

PROPOSED ORDINANCE NO. 2025-09

AN ORDINANCE TRANSFERRING FUNDS FROM THE MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE CITY OF MISHAWAKA TO THE LOCAL ROAD AND BRIDGE MATCHING GRANT FUND OF THE CITY OF MISHAWAKA FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2025, AND AN ORDINANCE APPROPRIATING ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2025
Transfer: Motor Vehicle Highway Restricted Fund From: Capital Outlays – 2203-50-442-01 Street Repair $1,271,670.00 Local Bridge and Road Matching Grant Fund To: Other

Services and Charges 2404-50-436-03 Street Repair $1,271,670.00 Additional Appropriation: Local Road and Bridge Matching Grant Fund Other Services and Charges – 2404-50-436-03 Street Repair $2,543,340.00

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

Rebecca Maguire, City Controller, spoke in favor of **PROPOSED ORDINANCE NO. 2025-09**. Mrs. Maguire stated each year when they were awarded community crossing grant funds, this was the procedure they must follow. Mrs. Maguire stated they were transferring $1,271,670 from the Motor Vehicle Highway Restricted Fund to the Local Bridge and Road Matching Grant Fund and with that amount of $2,543,340, they would be appropriating that as an additional appropriation so they could spend it legally.

Question was called for at 7:27PM for **PROPOSED ORDINANCE NO. 2025-09 Motion passed by unanimous roll call vote (summary: Yes = 8).**
Yes: Mrs. Hazen, Mrs. Voelker, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 8-0, thus it became **ORDINANCE NO. 5931**.

PROPOSED ORDINANCE NO. 2025-10

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-3 Multi Family Residential to allow 7 Multifamily Residential buildings with 20 dwelling units - 2400 and 2406 Schumacher Drive
(Petitioner requesting postponement to June 2nd council meeting)

The chair entertained a motion based upon the request of the petitioner to postpone second reading and public hearing on **PROPOSED ORDINANCE NO. 2025-10** until their regularly scheduled council meeting on June 2nd, 2025. Mr. Banicki moved the motion and with a second from Mr. Emmons, a voice vote was held on the motion. The motion passed unanimously, and the matter was postponed.

PROPOSED ORDINANCE NO. 2024-35AA

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 THE CITY OF MISHAWAKA, INDIANA.
Amending the Wellhead Protection Ordinance

The chair entertained a motion to amend PROPOSED ORDINANCE NO. 2024-35AA pursuant to the amendment proposed by the Administration which addressed one minor clerical error and delete some surplus language from the last portion of the ordinance. Mr. Banicki moved the motion and with a second from Mr. Mammolenti, a voice vote was held. The motion passed unanimously, and the matter was amended once again.

Mrs. Hazen requested postponement of the hearing for **PROPOSED ORDINANCE NO. 2024-35AA** until their next regularly scheduled council meeting on May 5th. With a second from Mr. Banicki, a voice vote was held on the motion. The motion passed unanimously, and the matter was postponed to the regularly scheduled council meeting on May 5th.

ADJOURNMENT 7:31PM

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