

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

May 5, 2025

The regularly scheduled council meeting was called to order by Council Vice President Ron Banicki at 6:00PM. Mr. Banicki stated due to unforeseen circumstances; the Council would be going into a 10-minute recess immediately.

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the New Mishawaka City Hall and via telephone on Monday May 5, 2025, at 6:10PM. 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.

City Clerk Debbie Ladyga-Block called the roll.

Present: Mrs. Hazen (P), Mrs. Voelker (P), Mr. Carroll (P), 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 28, 2025, were approved as received from the Clerk's Office.

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

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

Mr. Carroll reported the Land Use Planning Committee 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. 2024-35AA**. Mr. Prince stated as they recalled at the time that they reviewed the convenience store at Fir and Douglas, there were numerous discussions regarding the need for more education, better available maps, and potential

ordinance modifications that better regulated land uses that surrounded the city wellfields. Mr. Prince stated several members of the Administration and councilmembers identified a need and a desire for an ordinance to both increase and formally codify restrictions and this was that ordinance. Mr. Prince stated specifically in terms of education, they conducted an informational session and also now had the time of travel maps that were readily accessible to the public and they could be viewed on the Mishawaka city website through GIS. Mr. Prince stated there were four current city wellfields: Division, Gumwood, Vigil, and Juday Creek. Mr. Prince stated the Gumwood wellfield, as indicated previously, was planned to be closed by 2026 as they had a maintenance issue, they were working through with the contractor that built the tower out there and barring the need to drain the tower for that fix, that the wellfield should go away within the next year. Mr. Prince stated the wellhead protection revisions were different than the County's wellhead provisions and the wellhead protection revisions of the County were regulating wells, and they were not regulating land uses. Mr. Prince stated as they discussed at the informational meeting, current wells could go as close as 200 feet to underground tanks and other issues that they considered potential contaminants for the wellfield, and they felt from a land use perspective that it was better to regulate that and to have an overlay district that further separated them. Mr. Prince stated the city's water system itself was a public water system subject to the continued environmental rule changes by the federal government which included increased standards for public water quality where private wells were not regulated the same way. Mr. Prince stated the ongoing environmental rule changes by the federal government included substances such as lead, copper, PFAS, arsenic, and manganese. Mr. Prince stated with everchanging standards for public water, the vulnerability for groundwater infiltration, the higher cost of treatment infiltration, and the potential that existed to force the closure of wells and wellfield from contamination made it prudent to further regulate significant threats to groundwater. Mr. Prince stated to aid in consistency between ordinances, the proposed land use modifications incorporated much of the county ordinance language that had been expanded and clarified for the purposes of regulating the storage, distribution of chemicals, material uses, and storage methods that were potential threats to groundwater. Mr. Prince stated the proposed ordinance was written specifically to regulate commercial bulk storage and distribution of chemicals, materials, and storage methods and the point was to make a regulatory distinction between commercial usage and incidental personal use both at the commercial and residential level. Mr. Prince stated the types of materials to be regulated included all petroleum products, antifreeze, solvents, inks, pigments, corrosion, rust preventive solutions, sanitizer, pesticides, acids, and road salts. Mr. Prince stated they also had a catchall provision for any other regulated substance in a quantity sufficient to present a reasonable likelihood that it would do damage to the groundwater or surface water or stored and transferred or used in a manner not in compliance with federal, state, or local requirements. Mr. Prince stated that it also included other land uses such as drum storage areas, waste piles, waste material, rail or truck loading or transfer areas, and auto salvage facilities. Mr. Prince stated it also included additional restrictions on underground storage tanks, specifically the city was only looking to regulate the commercial and the kind of high volume point source pollution points, so again they completely understood that there was a use at a residential level that would be permitted, so there would be a number of

exemptions including farmer residential tanks 185 gallons or less, tanks used for storing of heating oil for consumptive use on the premises where they were stored, septic tanks as regulated by the health department, pipeline facilities as regulated by various codes, surface impoundment, stormwater or wastewater collection systems, and storage tanks in an unground area such as a basement cellar where the storage tank was situated up on or above the surface of the floor. Mr. Prince stated within the ordinance they also regulated two different areas with one being the one-year time of travel and the second was the five-year time of travel and the uses that he had just mentioned would be prohibited within the one-year time of travel and then within the five-year time of travel that would be handled as a conditional use. Mr. Prince stated by state law, they were required to map the one-year, the five-year, and the ten-year time of travel when they submitted those and as they discussed at their informational meeting, they did not have a two-year time of travel and their division manager, Dave Majewski felt like it should be the five-year standard but that would be too much so they brought that back and because they did not have a two-year standard or a three-year standard, they went with the five-year but they were permitted by conditional use that way, for example if you wanted something between the one-year and the five-year time of travel and there were concerns about it you could have the company install their own monitoring wells and submit reporting to the city regarding potential leaks in that location. Mr. Prince stated adding conditions was something they thought was an important component for the transition area between the one-year and five-year time of travel. Mr. Prince stated he was happy to answer any questions they had.

Mrs. Voelker stated she believed she read somewhere in the staff report that the city would not use road salt and asked if he understood that correctly. Mr. Prince stated no, and they actually would use road salt, and it was very important for public safety to use road salt. Mr. Prince stated what they would not do was store road salt within the area. Mrs. Voelker stated she was curious about the process for conditional use and asked if she came to the city and wanted to build a gas station, for example, within the five-year time of travel if it would first go to the Board of Zoning Appeals. Mr. Prince stated there were very few properties that had existing zoning that would allow a gas station, so more than likely it would be at the same time applying for a change in zoning, potentially annexation of the property and then conditional use at the same time, so it would go before both the Planning Commission and the Board of Zoning Appeals and in similar cases, normally on their agendas they would probably ask them to be heard simultaneously so you could consider the zoning and the conditional use at the same time. Mrs. Voelker asked if it would then come before the Council after that. Mr. Prince stated that was correct on both counts. Mrs. Voelker stated from an educational standpoint, they talked about as part of the process educating the community and she knew they had a meeting and asked if they had sent a letter out to people within 300 feet of the project or if they did anything similar to that to notify businesses or property owners that were currently located in the five-year time of travel. Mr. Prince stated they did not and as they discussed at the informational meeting, the only area that came up that he thought would be impacted would be the Home Street industrial area north of Jefferson. Mr. Prince stated he was not aware of any of those activities that currently occurred but that would provide further limitation on that property. Mr. Prince stated they

did not provide notice to those areas specifically and the areas were very well defined. Mr. Prince stated they did not prohibit any uses at Home Street, but it would merely require them to apply for conditional use, and they would not be prohibited, and it would be another step to go through, and a prudent one given the potential effects on groundwater.

Mr. Violi asked pertaining to the C-10 zonings, if there were any C-10 parcels of land that were empty parcels that had already been granted C-10 sometime in the past in that one-to-five-year time of travel in any of the three areas. Mr. Prince stated in all three wellfields there were no vacant C-10 properties except for the Casey's site, which was actually within the one-year time of travel.

Mr. Carroll asked if on Home Street, it came to be that someone was in violation of this and nobody knew what enforcement would be like from the city's perspective, if it was a code violation or if it was a different type of violation. Mr. Prince stated it would be a zoning violation, and it would be through his department, the Planning Department.

Mr. Hixenbaugh thanked Mr. Prince for the work he had done on this and his openness to work with them on the amendments throughout the process and stated it was very much appreciated.

Mr. Mammolenti thanked President Hixenbaugh for working very closely with the Council and in turn working closely with Mayor Wood, Mr. Prince, and his team. Mr. Mammolenti stated he knew this was somewhat of a contentious topic when it first came up and he thought it just proved that they were able to work well with each other in finding a middle ground and a great solution. Mr. Mammolenti thanked Mr. Hixenbaugh, and all involved in the process once again.

Mr. Hixenbaugh stated he appreciated the fact that they identified a problem and worked together as they typically did and he thanked all involved with that. Mr. Hixenbaugh stated he was certainly in favor of the proposed ordinance, and he believed it was in the best interest of Mishawaka, but he thought there were two components of the ordinance that they were going to have to keep front of mind as they moved forward with the implementation of the ordinance. Mr. Hixenbaugh stated the first was in that area beyond one year but up to five, that conditional use process that Mr. Prince described earlier, he thought they needed to approach that as an authentic process where they would be open to the approval. Mr. Hixenbaugh stated if they were going to extend the one-year prohibition to five years, he thought that they would be working for cross purposes with the intent of the ordinance, so where appropriate, he thought they needed to consider on a case-by-case basis those conditional uses. Mr. Hixenbaugh stated the second thing was that he thought they needed to be open to any modifications and revisions of the ordinance as they implemented it to find out that there were some changes that needed to be made. Mr. Hixenbaugh stated he was not aware of any and he thought this was really well done by Mr. Prince and he appreciated his willingness to provide input on the part of the Council, and he was proud of the work product, and it would serve the city, and he would be in support of it that evening.

Question was called for at 6:25PM for **PROPOSED ORDINANCE NO. 2024-35AA Motion passed by unanimous roll call vote (summary: Yes = 8, No = 1).**

Yes: Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh.

No: Mrs. Hazen. The proposed ordinance passed 8-1, thus it became **ORDINANCE NO. 5932.**

NEW BUSINESS

Mr. Emmons made a quick note that the First District Meeting for the month of May had been changed from Thursday May 15th to Wednesday May 14th at St. Bavo's Church at 7PM where Mayor Dave Wood would be presenting his State of the City Address. Mr. Emmons stated they were moving the date due to Police Honor Night being held on Thursday May 15th at St. Bavo's honoring police officers who were killed in the line of duty. Mr. Emmons stated West End Donuts would be served and all were welcome. Mr. Emmons stated he looked forward to seeing everyone on Wednesday May 14th.

Mr. Carroll announced the Second District Meeting would be Thursday May 8th at 7PM at the Blair Hills Pool Complex and all were welcome.

Mr. Prince stated on behalf of the Administration, they would like to ask for an informational meeting on Monday May 12th at 5:45PM to discuss payment in lieu of taxes proposal by a low-income senior housing project proposed off of Douglas Road, so the idea was to learn about payment in lieu of taxes and what they would be specifically proposing. Mr. Hixenbaugh stated they would go ahead and schedule that meeting for the following Monday at 5:45PM.

ADJOURNMENT 6:28PM

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.