

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

June 2, 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 June 2, 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.

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 May 19, 2025, were approved as received from the Clerk's Office.

Presentment of the Annual Operational Report for Local Roads and Streets and Bridges

Mr. Hixenbaugh stated the record would reflect that the report had been presented to the Council pursuant to Indiana law.

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

PROPOSED ORDINANCE NO. 2025-13

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, AMENDING THE MUNICIPAL CODE DEFINING METHODS OF PAYMENT BY THE CITY

**Defining Methods of Payments accepted by the city
(Assigned to Budget & Finance Committee)**

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

RESOLUTION R2025-14

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, MAKING A FINAL DETERMINATION AND CONFIRMING THE DESIGNATION OF AREAS WITHIN THE CITY OF MISHAWAKA, INDIANA KNOWN AS 919 CLEVELAND ROAD AS AN ECONOMIC REVITALIZATION AREA FOR THE PURPOSE OF REAL PROPERTY TAX ABATEMENT Confirming Real Property Tax Abatement for 919 Cleveland Road – United Petfood Producers

Derek Spier, City Planner, spoke in favor of **RESOLUTION R2025-14**. Mr. Spier stated this resolution was a confirming resolution and it had been filed by United Petfood for a real tax abatement. Mr. Spier stated as was recently mentioned two weeks ago when the Council considered the declaratory resolution, United Petfood Producers was proposing to demolish their existing warehouse building and build a new 69,000 square foot building north of their main facility. Mr. Spier stated currently, they would demolish their 33,000 square foot building which was constructed back in 1958. Mr. Spier stated WellPet had received three other real and personal property tax abatements from the Council in 2014 and 2021. Mr. Spier stated with the current request, they proposed retaining 101 employees while adding 19 jobs because of the direct result of the investment. Mr. Spier stated similar to the previously approved abatements, they were recommending a five-year abatement for a standard phase in which would decrease over 20 years annually within the life of the abatement and for this resolution, they proposed a tax analysis to back the envelope analysis. Mr. Spier stated they used a 60% assessed valuation which was anticipated for the overall construction of the project so if it came in at a 60% AV, the actual assessed valuation would be \$3.2 million and if this was the case, the company over the life of the abatement would pay \$215,000 in taxes and they would have an abatement resulting in \$323,000. Mr. Spier concluded stating representatives from the company were present that evening if the Council had any questions for them.

Mr. Hixenbaugh thanked Mr. Spier for the information that he put together and the work he and staff had done on this. Mr. Hixenbaugh stated he was certainly in favor of the abatement, and he was pleased that this company was willing to continue to invest in Mishawaka, particularly since this was their sole location in North America so that meant something to him. Mr. Hixenbaugh stated the staff report two times referred to some future abatement requests and it harkened back to some discussions and conversations they had with their predecessor to the corporate entity in the past. Mr. Hixenbaugh stated he was interested in learning more about that, but he thought it would be important for them as a Council and for the community what was going to be different this time around and what additional servitude, they could provide the Council that would come to fruition. Mr. Hixenbaugh stated again, he appreciated the investment and commitment they were making to Mishawaka, and he looked forward to the conversations in the future as they moved forward with this.

Question called for at 6:06PM for **RESOLUTION R2025-14 Motion passed by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The resolution passed 9-0.

RESOLUTION R2025-15

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA DECLARING CERTAIN AREAS WITHIN THE CITY OF MISHAWAKA, INDIANA KNOWN AS: 1420 INDUSTRIAL DRIVE TO BE AN ECONOMIC REVITALIZATION AREA AND ECONOMIC DEVELOPMENT TARGET AREA FOR PURPOSES OF PERSONAL PROPERTY TAX ABATEMENT FOR JAMIL PACKAGING CORPORATION

Declaring Personal Property Tax Abatement for 1420 Industrial Drive – Jamil Packaging Corp.

Derek Spier, City Planner, spoke in favor of **RESOLUTION R2025-15**. Mr. Spier stated this was a declaratory resolution for personal property tax abatement by Jamil Packaging and their facilities were located at 1420 Industrial Drive. Mr. Spier stated they manufactured corrugated paper boxes, custom retail displays, and they also distributed packaging supplies. Mr. Spier stated Jamil Packaging was a family-owned company that was founded in 1974, and they had been with the city since 2002. Mr. Spier stated it maintained its Midwest operations in Mishawaka and also had Southeast operations in Tennessee. Mr. Spier stated they had received three other tax abatements which were also personal property tax abatements for equipment between 2006 and 2019. Mr. Spier stated with their current proposal, they were proposing to make a capital investment of \$4.85 million for manufacturing equipment and this would include a new stacker and conveyor and with the equipment, it would allow them to increase capacity for printing and become more efficient because they would no longer have to feed material through a system twice. Mr. Spier stated if approved, they were committed to immediately ordering and beginning installation of the equipment that month with anticipation of completion by October of 2025. Mr. Spier stated their facility currently had 179,000 square feet of manufacturing space and they had 131 employees. Mr. Spier stated employment had been stable over the years, decreasing slightly from 139 employees when the last abatement was approved in 2019. Mr. Spier stated their current payroll was approximately \$6.8 million, which was \$1.9 million higher than their total payroll in 2019. Mr. Spier stated wages for the hourly workers were between \$16 and \$23 with the blended average of \$24. Mr. Spier stated as a direct result of the investment, they were proposing nine new jobs, which would bring their total up to 140 employees. Mr. Spier stated hourly wages for the new hires were projected at just under \$20 with total salaries for the new employment to be just under \$300,000. Mr. Spier stated like they did with the last abatement, they had prepared some back of the envelope analysis and they were recommending a three-year phase-in, so it would be a standard phase in decreasing 33% over the life of the abatement. Mr. Spier stated with a projected 60% assessed valuation, the new equipment assessed at approximately \$2.9 million and if that assessment was accurate over the three-year

life of the abatement, \$174,000 would be abated while they would pay \$87,000. Mr. Spier stated this would be the first step of the process, so if the declaratory resolution was approved that evening by the Council, they would come back in two weeks for the confirming resolution. Mr. Spier stated he was happy to answer any questions, and the president of the company was also present that evening if the Council had any questions for him.

Mr. Hixenbaugh stated it was not ordinary that they would have two tax abatement requests back-to-back in one council meeting, so to avoid people assuming that they maybe had more tax abatements active than they currently did he asked Mr. Spier how many abatements were active at that point in time. Mr. Spier stated they were down considerably, and he thought they were down to three active abatements when he did the compliance reporting. Mr. Spier stated they had fewer abatements submitted over the last two or three years. Mr. Hixenbaugh stated even though there had been fewer submitted, they had said for years, and he still believed it was still their philosophy that they were very judicious with regard to the abatements that they approved and asked if Mr. Spier agreed with that. Mr. Spier stated yes, that was correct. Mr. Hixenbaugh asked if it had to be something where the benefit outweighed any negatives with regard to the abatement that they granted, and it had to be in the best interest of the community and asked if that was correct. Mr. Spier stated that was correct.

Question called for at 6:12PM for **RESOLUTION R2025-15 Motion passed by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The resolution passed 9-0.

RESOLUTION R2025-16

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS PURSUANT TO IC 5-13-9-5 Authorizing Investment of Public Funds

Rebecca Maguire, City Controller, spoke in favor of **RESOLUTION R2025-16**. Mrs. Maguire stated this was an annual item she brought forth each year and it allowed her to invest in CDs at depositories throughout the state of Indiana, so they were not limited to just St. Joe County.

Mr. Violi asked if they received a different rate on the CDs since they were a municipality or if it was just whatever the bank rate was. Mrs. Maguire stated they went for bids so they got the best rate they could.

Mr. Carroll stated given his profession as a financial adviser, he needed to abstain from voting on the matter.

Question called for at 6:12PM for **RESOLUTION R2025-15 Motion passed by unanimous roll call vote (summary: Yes = 8, Abstain = 1).**

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

Abstain: Mr. Carroll. The resolution passed 8-0 with one abstention.

Clerk Block read the following ordinances on second reading and opened the public hearing.

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

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

Michael Knight, Attorney at Barnes & Thornburg, spoke in favor of **PROPOSED ORDINANCE NO. 2025-10**. Mr. Knight stated he was representing Freed Capital LLC and with him that evening was Seth Freed, Manager for Freed Capital and Terry Lang from Wightman and Associates. Mr. Knight stated Mr. Freed lived in Mishawaka and was about a quarter mile away from the proposed development and he wanted to always be a good neighbor with this, and he wanted to answer any questions they had that evening. Mr. Knight stated this was a downzoning request, meaning they were requesting to rezone part of the property from C-1 to R-3. Mr. Knight stated part of the property was already R-3, so that was consistent and the C-1 zoning was consistent with zoning to the south as the commercial area was C-9 for a car dealership and across the street light industrial zoning. Mr. Knight stated to the north it was all R-3 multi-family zoning, and they wanted to fit right in with an R-3 multi-family development and that was why they wanted to change the zoning. Mr. Knight stated all units would have their own separate parcel number and they hoped to sell all of the units separately as new housing for Mishawaka. Mr. Knight stated all units had their own driveway and their own garage and public parking spaces were already included in the site plan, and they were not required by any other zoning or other regulations. Mr. Knight stated they were going to stick with all of the other regulations, and they would meet the 35-foot height requirement, they were going to build single story units in the northern part of the development. Mr. Knight stated out of concern for the Town and Country residences that would be by them on the north side, there were really only two, maybe four residences that would be considered neighbors to it, because the upper triangle of the development was going to be kept open for drainage. Mr. Knight stated they would not have neighbors on the north Town and Country side, except for two to four units. Mr. Knight stated the neighbors on the Main Street side to the east side had made no comments on the development and they had met

extensively with the Town and Country folks but they were changing it from a wooded area that was unkempt and they were trying to put in seven new buildings with twenty units in it and some were going to be two side by sides and some were going to be four quad units. Mr. Knight stated they would be removing the wooded area and would be building multi-family units there as they would match the area to the north and there was single-family on Main Street. Mr. Knight stated they did not expect much new traffic as there would only be twenty units, and all departments had reported favorably to the Plan Commission staff. Mr. Knight stated the staff reported and twice approved and recommended approval to the Plan Commission and it had been to the Plan Commission twice. Mr. Knight stated once it passed out of the Plan Commission and again it came from the Plan Commission with a negative recommendation for it. Mr. Knight stated there would be no harm to the surrounding property values and they would clean up the area and promote public health and safety. Mr. Knight stated it would be a good buffer for the business districts and with it being zoned C-1 at that time, there could have been almost anything there that could potentially be less desirable for the neighbors than the proposed multi-family development which was consistent with the neighborhood to the north. Mr. Knight stated they would be willing to accept covenants, and he believed Mr. Freed had submitted a letter to the Council saying that he would be willing to accept covenants and he was also willing to control size, number, privacy fencing, and rental practices all to be covenanted so that this would be a nice neighborhood. Mr. Knight stated zoning was an interesting negative about the free use of private property and they all enjoyed common law which was always for the free use of private property and zoning came around about 100 years ago. Mr. Knight stated there was an old case in 1926 that supported the municipal corporation's ability to regulate and the primary reason to regulate was to keep compatible uses near compatible uses. Mr. Knight stated you did not want huge industry next to residential, and you did not want farming operations next to residential, although typically a lot of what came first was certainly allowed. Mr. Knight stated what they were asking for was to keep the incompatible uses away from one another and frankly keep out the commercial zoning and add a little more R-3 zoning. Mr. Knight stated with this development, they would get construction, get new housing, get jobs, and it just fit better with the neighborhood, and it would be a nice development there on Schumacher. Mr. Knight stated for those reasons, they asked the Council to vote in approval of the minor zoning change from C-1 to R-3 because it fit. Mr. Knight thanked the Council.

Mr. Mammolenti stated he knew the last time they had recommended meeting with the residents in the surrounding area, and he had been told a couple of those meetings had been held and asked Mr. Knight if he could confirm that and what was discussed in some of those meetings. Mr. Knight stated he could confirm that and asked President Hixenbaugh if they would allow Mr. Freed to answer the second question. Mr. Hixenbaugh granted Mr. Freed the floor.

Seth Freed, 131 East Borley, spoke in favor of **PROPOSED ORDINANCE NO. 2025-10**. Mr. Freed stated he had met with a few neighbors and the board members of the HOA at the Town and Country Estates as well as a few other neighbors and businesses that were just south and west of the property. Mr. Mammolenti asked how he advertised that

he was hosting the meeting or if neighbors were invited to attend. Mr. Freed stated he reached out directly to Karen Grove, the President of Town and Country Estates and also spoke with Dixie Mason, a neighbor who lived in the community and in the same house for 52 years in that area. Mr. Mammolenti asked if he felt they were able to answer most of their concerns. Mr. Freed stated he did and felt like they did to the best of their ability and he made some revisions from the original time going through the process, he heard what they had to say, and he tweaked a few things along the way and he felt that they came to a good common ground with where the plans were set that evening. Mr. Mammolenti stated regardless of the outcome that evening, he appreciated his efforts to take their suggestions from the last time, meet with the folks, and try to come up with a common ground. Mr. Mammolenti thanked Mr. Freed.

Mr. Violi asked when Mr. Freed purchased the property as he was not on the Mishawaka Common Council two years ago when the matter was first proposed and he wanted some background. Mr. Freed stated 2023. Mr. Violi asked at any time since then, even after the meetings prior, if he tried to sell the property as it was or if he had not had it on the market. Mr. Freed stated they had not listed the property and just knowing a few individuals in real estate, they tried to lease the property as a C-1 zoning, but they did not have much luck with that. Mr. Freed stated it was not on a busy road and there was not a lot of foot traffic there so to be a C-1 property was not ideal for smaller businesses trying to grow in the area and it was more for an established company. Mr. Violi stated Mrs. Grove invited President Hixenbaugh, himself, and Ms. Hahn to all of the meetings where they were present and he appreciated that and one of the big questions he recalled at one of the meetings was that there was some confusion earlier in 2025 with the villas and if they were rent to own versus rent or own. Mr. Violi asked if that had been cleared up and if Mr. Freed remembered that and if he was remembering that correctly. Mr. Freed stated that was misunderstood at the time and that they would either be rented or would be for sale to the owner and not rent to own. Mr. Violi stated he was speaking just of the villas and not the properties that were going to be on the south side. Mr. Freed stated it would be for the whole development, and everything would either be for rent or for sale. Mr. Violi asked if even the two stories on the south side would be offered for outright purchase. Mr. Freed stated all 20 units could be a mix or match of both with for rent and for sale. Mr. Knight stated that was why they were all separate parcels at that time. Mr. Violi asked when they said rent or own, how long would he try to sell it before he changed the designation for the unit and how that process was going to work with to rent or to own. Mr. Freed stated the business plan was to list them either way and if they were going through and they were able to sell them prior to completion, that would be ideal. Mr. Freed stated if they got to completion and they got occupancy; the plan would be to just list it for rent until they got an offer first. Mr. Violi asked if he would never say they would be own first and if they did not sell it, then it would be for rent, and they would put the units out there from the beginning as for rent or for own as they went along. Mr. Freed stated that was correct. Mr. Violi asked if he was going to try to come up with a plan where he would list them all together and provide the site plan or if he was going to try to sell one at a time. Mr. Knight asked Mr. Violi if he was referring to the phasing of construction or the phasing of sale. Mr. Violi stated the phasing of sale. Mr. Hixenbaugh stated the Council wanted to hear from both Mr. Freed and Mr. Knight, but it made it

difficult for the Clerk to keep accurate minutes if they had speakers switching midstream, so they would finish with Mr. Freed and if Mr. Knight had other comments afterwards, he would be able to take the podium at that time. Mr. Freed stated similar to the development they saw down in downtown Mishawaka, during construction it said for leasing and for sale and from the beginning, the units in question would be labeled as available with the date they were planning to be sold. Mr. Violi asked if they were going to have a sign of some type as he did not know if there would be a for sale sign present in front of the units or if it would be on the internet. Mr. Freed stated there would be multiple avenues they could go down where you could list for rent or for sale. Mr. Freed stated they likely would not be listing them on the property, but it would be listed online with multiple different avenues promoting both. Mr. Violi asked if he was set with the financing for the project. Mr. Freed stated they had been in communication with Horizon who was financing the property currently with the C-1 with the building at that time.

Mrs. Hazen asked as far as selling the units if they had a range of pricing. Mr. Freed stated with pricing, they had based it on comps in the area of condos which was hard in Mishawaka, but they were looking at \$275,000 to \$325,000. Mr. Freed stated that was current value and obviously once the development was completed, those could hopefully change in a favorable position. Mrs. Hazen stated she had been discussing the project with many realtors and mortgage people and the City of Mishawaka was in desperate need of single-family homes for sale that were in the \$300,000 range or below. Mrs. Hazen stated with one gentleman she talked to, his firm was in the range of 64 pre-approved buyers ready but there was just nothing out there to purchase. Mrs. Hazen stated she would be very much in favor of this and hopefully he would be able to sell them, and they would be filled with homeowners. Mrs. Hazen stated she thought they had a lot of properties for lease in their city already she assumed in the price ranges Mr. Violi had given her, and she asked what the price range of the leases would be. Mr. Freed stated they would also be based on comps, and he would be looking at new construction. Mr. Freed stated he had seen them listed at upwards of \$2,500 to \$3,000, which he did not believe would be the case for them as they were looking closer to \$1,800 and \$2,200 in rent. Mrs. Hazen stated again, she got a lot of information from Mr. Violi, and he was saying the single story were believed to be three-bedroom units with two baths and asked if that was correct. Mr. Freed stated that was the plan to be three-bedroom and two bath and they had been exploring the option of a city road there, which would actually limit the amount of space they would have for the first two units on the north side, so they would have to explore two-bed two baths for those units but the plan would be three-bedroom two baths for all of the units. Mrs. Hazen asked if the road would be city-owned and if they would be responsible for the snow removal amongst other things or if that had not even been figured out yet. Mr. Freed stated he could not commit to the city road or the private drive that evening and that was not something he was able to put together and he apologized. Mrs. Hazen stated she knew that they really had a need for home ownership, and it would be great if he could sell them all.

Ms. Hahn asked if he preferred all of the units to be sold because he previously said that each unit could be sold or it could be rented and if two people showed up and one wanted to rent and one wanted to buy, what would his preference be. Mr. Freed stated as a

developer, if you were looking to develop and then were able to sell them hands off and still be in and out as they pleased with an HOA or establishing one for the twenty units, that would be ideal but to sit on twenty units for eight months for example and could not sell them, there would have to be some kind of pivot there in his opinion to another option. Ms. Hahn asked if renting would be the second choice. Mr. Freed stated yes, renting would be the pivot.

Mrs. Voelker stated she knew he had worked very hard on the matter over a long period of time, and she wanted him to know that she appreciated that, and she was sure he had spent a fair amount of money as he was going through the process. Mrs. Voelker asked if he was a realtor. Mr. Freed stated no, he was not a realtor. Mr. Freed asked if he had a realtor that was working with him. Mr. Freed stated he had a couple of friends that were realtors, but they had not determined who they would use to sell. Mrs. Voelker asked if the rezoning was approved and he went into the construction phase if he did plan on using a realtor to market. Mr. Freed stated that was correct. Mrs. Voelker stated she just wanted to make sure for clarification because she was confused as far as the marketing plan was concerned. Mrs. Voelker asked if he needed to lease a unit, who would be responsible for the maintenance. Mr. Freed stated that would fall onto him or they would use a management company. Mrs. Voelker asked if he would then be the property manager. Mr. Freed stated yes, he would manage the property, and he had a few other properties in the area that he managed, one of them being the commercial building that was there which was unoccupied at that time. Mrs. Voelker asked if it would be his plan at some point for the HOA fees to cover maintenance. Mr. Freed stated yes and if they were rentals, the rent would cover the management and if they were selling the units, the HOA fees would cover the maintenance side, similar to the Town and Country Estates.

Mr. Carroll asked if he went with a private drive on this, how he saw the repair, upkeep, and snowplow with the road which was a public-private partnership. Mr. Carroll stated their emergency vehicles had to get there, their trash trucks, and other vehicles of that nature. Mr. Carroll stated they had issues in the past where there were private roads that they did not give access to the city in snowstorms and things like that, because they had HOAs that had gone defunct and other issues such as that. Mr. Carroll asked if they had some that were owned and managed by him and some that were homeowners, how did he see that working. Mr. Freed stated there was just planning that needed to be done and if it was taking the HOA fee and using that as part of the rent and using that just as saying that the renters were part of the HOA or adding a fee onto the rent and lowering the rent to make sure it was all smooth sailing, that would be the best way in his opinion with the research that he had done with the HOA with owners and renters. Mr. Carroll asked if he would have any control over those owners if for example, half of the units were owner occupied and if they simply said they did not want to pay their dues anymore, which has happened in the city, whose ultimate responsibility would it be in that scenario. Mr. Freed stated that it would be his responsibility as well as the HOA's. Mr. Freed stated as the developer, he would have to take care of those things until everything was sold and then the HOA would be responsible. Mr. Carroll asked as long as they were in there, even if they had one unit, he was committing to no matter what the HOA decided to do and who got elected president and whatnot, he was committed to using his own funds to make sure

that the road was plowed and taken care of for their city and asked if that was correct. Mr. Freed stated he would be as involved as possible. Mr. Carroll stated to him, going with a public road solved all of the issues and it would be less profit for him and all of that then asked if he did go that route, would he be open to as part of the deed restrictions making sure that the homeowners bared personal responsibility for that even if the HOA went defunct. Mr. Carroll stated the problems they were seeing was with the HOAs, it created a legal issue to where if they walked away, you could not sue anybody and you could not go after them for code violations, because that belonged to the HOA that did not exist. Mr. Carroll stated if it were at all possible for them to record that in the deed that if the HOA did not take care of it, the homeowner would be responsible and asked if that were something he would be willing to look at. Mr. Freed stated he would have to converse with Mr. Knight, but it sounded reasonable if there was a mix of both. Mr. Carroll stated he just wanted to make sure that with the public private partnership, many years down the road, it did not create an issue for safety. Mr. Freed stated he was not committing to either one that evening but he would love to explore the city road as it would be less of a cost to the developer long term, like Mr. Carroll referenced, and it would be more upfront but there were pros and cons both ways.

Mr. Emmons thanked Mr. Freed for all of the work he had done and giving the Council an idea of what he wanted to do and why he wanted to do it and also for meeting with the constituents out there. Mr. Emmons asked if this was rezoned, if he had any interest or desire to sell it to another developer. Mr. Freed stated no, and the plan was to maintain it himself and not sell to another developer.

Mrs. Hazen asked if they did have to rent, if there would be long-term rentals and what the leases would be like. Mr. Freed stated the plan would be long-term and with the other properties he owned at that time, there were long-term tenants. Mrs. Hazen asked if he did a yearly lease usually. Mr. Freed stated yes and also two-year leases if they considered it, but that was not particularly common.

Mr. Mammolenti asked regarding Mr. Emmons' comment and question, wasn't it correct that whatever stipulation passed that evening, that those would stay with the property even if he were to sell to another developer or owner and if that was correct. Mr. Trippel stated that was correct and the commitments would be tied to the property.

Mr. Hixenbaugh asked Mr. Knight with regard to the written commitments that were referenced and discussed and to follow up on Mr. Trippel's answer, if his client was willing to pay for the written commitments to be placed in final form and recorded so that they would run of record along with the title of the property. Mr. Knight stated yes. Mr. Hixenbaugh stated he may have mentioned it in his earlier presentation, but he wanted to make sure that the commitment that was referenced in the staff report which was to limit the building height to 35 feet as opposed to 120 feet was within his understanding that it was reflected in the written commitments provided to the Council. Mr. Hixenbaugh asked if he believed that that commitment that was requested by the Planning staff was also incorporated in the document dated June 2, 2025, that they had been provided. Mr. Knight stated if it was not, it would be, and they anticipated agreeing with it. Mr. Knight

stated he believed that it was included in the staff recommendation, and they had no problem with it. Mr. Hixenbaugh thanked Mr. Knight for being patient with him as he tried to keep them on track procedurally.

Mrs. Hazen asked what the timeframe would be for this to come to fruition. Mr. Freed stated the original plan was to start within the first year, which was three years ago, and now he did not get any commitments from contractors or anybody since and it was still kind of unknown, but it would likely be in the middle of 2025 to break ground completely and in 2027 to 2028 would be the time of completion.

Malcolm Cabello, 123 Greenwood Court, spoke in favor of **PROPOSED ORDINANCE NO. 2025-10**. Mr. Cabello stated he recognized that his fellow Town and Country Estate residents would not like it, but he was going to speak about how he felt ever since he learned about the plans. Mr. Cabello stated he watched the recording from the prior meeting on YouTube and even after watching that and after meeting with Mr. Freed a couple of times, he was in favor of the plans and thought there were some good points made. Mr. Cabello stated one of those points being the alternatives to the housing project and he thought one of the council members mentioned that it could potentially be a vape shop or an add-on to the car dealership, for example. Mr. Cabello stated he believed this would be the best use of the land and he knew there were concerns about them potentially becoming rentals but as Councilwoman Hazen mentioned, there was a big need for housing in the Mishawaka area and he did not think everyone wanted to live in the suburbs on the edge of town and there were a good amount of people who wanted to live in condos like in their neighborhood and he found that townhomes in their neighborhood sold quickly. Mr. Cabello stated he would be surprised if all of the twenty units did not all become owner occupied. Mr. Cabello stated Mr. Freed would fill them with homeowners as he wished and that would be the reality even though that was his guess and he did not know that for sure. Mr. Cabello stated he heard that the homes Mr. Freed owned had been rented by people long-term and he felt good about that, and he knew Mr. Freed lived close by to the proposed project and he is not an out-of-state suitor trying to just rack up a bunch of properties to make a profit. Mr. Cabello stated he got the sense that he wanted to develop the community and build up more and he knew a lot of people did not like to hear the word density, but he personally liked that. Mr. Cabello stated he was very much in favor of the new development and being someone who was similar in age to Mr. Freed, he could sympathize with him being younger and he wanted to see younger people be given an opportunity like this. Mr. Cabello asked everyone involved to give Mr. Freed a chance. Mr. Cabello stated he lived on the last cul-de-sac on Northwood Drive and he recognized that his area would be the least affected by the project but that said, he lived very close to Remington Court, and they never had any issues with that apartment complex, and it was considerably more units than what was being proposed that evening. Mr. Cabello stated he spoke on behalf of everyone else on his cul-de-sac that they did not have an issue with more rentals or owner-occupied units being built nearby.

Ms. Hahn thanked Mr. Cabello for coming out to the meeting that evening and following along with what was going on in his neighborhood and being involved and talking to his

neighbors and being brave enough to come before the Council that evening maybe not with the popular opinion among the rest of the neighborhood, but to take time out of his scheduled to be involved in the proceedings. Mr. Cabello thanked Ms. Hahn for her comments and also thanked Mr. Freed for being so available to answer a lot of questions because he did have some concerns and after speaking with him, he felt even better about it than he did from the beginning even though he was already on board with it.

Terry Lang, Wightman Company, spoke in favor of **PROPOSED ORDINANCE NO. 2025-10**. Mr. Lang stated he had been working with Mr. Freed for the last three years trying to get the project put together and he would answer questions the Council had with regard to the site plan itself, but personally with regard to what Councilwoman Hazen was discussing, he had inherited a house a couple of years ago and decided to put it on the market last weekend. Mr. Lang stated it had been on the market for six hours and he had three hundred views and twelve couples came through the house in just a short time. Mr. Lang stated there was drastically a need for housing in the City of Mishawaka and he believed Mr. Freed's development would be something that would be a benefit to satisfy some of that need as a local resident and owning the project and being a part of it, it was not like you were working with a developer putting in five hundred apartments and they were located in California some place with a property manager on site. Mr. Lang stated he just wanted to share his experience with what he had seen in the City of Mishawaka and that was just in the short time that it was online. Mr. Lang stated he advertised it himself through Zillow and a huge number of people responded and a dozen couples came out and at that time, he was trying to pick who he wanted to sell it to so it was a good problem to have, but it was a problem that Mishawaka was facing. Mr. Lang stated he would answer any questions the Council had.

Rick Long, 113 W Leyte Avenue Mishawaka, IN, spoke in opposition to **PROPOSED ORDINANCE NO. 2025-10**. Mr. Long stated his main reason for being opposed was the traffic concerns with it as they already had a car dealership on McKinley and the cars would be unloaded on Schumacher and the trucks would park on the road to unload the cars and it would happen a few times a week. Mr. Long stated they also had the pallet factory and he believed some other industrial over there that he did not exactly know what they were, but there was semis there in the road all the time and he had seen people sleeping in their semis waiting for the factories to open and they would park right where the entrance to the development was going to be. Mr. Long stated it concerned him with children crossing with those semis right there in the neighborhood and whatnot. Mr. Long stated semis would come down their street even though there was a sign that said no trucks, but they still came down their street all the time. Mr. Long stated they were having problems with semis coming down their street now and he believed if the new development passed, it would become worse. Mr. Long stated there would be maybe 40 more cars in the neighborhood with the incoming residents. Mr. Long stated the semi used Leyte to get back to McKinley or Main Street because that was the direction they were facing already since they turned in off of McKinley, causing the light that is located at Leyte and Main Street to become backed up. Mr. Long stated the light was terribly slow at Leyte and it was not unusual to see a semi there followed by numerous cars sometimes. Mr. Long stated he believed the road would become even more backed up if

there would only be one entrance into the complex, but they could change the light at Leyte to make everything move quicker but then you would have more stoppage on Main Street and that would adversely affect the traffic going north to the restaurants and shopping centers. Mr. Long stated if you were going down Schumacher and you wanted to turn east onto McKinley; you had to pull out sometimes too far into the intersection and it was not safe. Mr. Long stated if this went through, a turn lane could be put in there, but it seemed dangerous with people who were going to come out of that complex there and turning. Mr. Long stated if it remained like this, there would be a lot of traffic backed up on Leyte and if they re-timed the light, people would realize it would be faster to go that way but there would still be traffic problems, and he saw it as a no-win situation with the traffic. Mr. Long stated he had family in Mishawaka forever and they had always been there, and he lived in and out of Mishawaka for most of his life. Mr. Long stated he had moved into the Town and Country Estates in 2019, and he was happy with the convenience of being close to restaurants, shopping, and everything and he and his wife did not have to go too far. Mr. Long stated he felt that this proposal would take away the nice, quiet aspect of their neighborhood and it made him sad.

Mr. Banicki asked if they did not make that area housing, what would be acceptable on that piece of property. Mr. Long stated he did not know, and he knew the land was not going to stay the way it was, but a couple of houses back there would be fine, a city park would be nice as there was no real place for kids to play in that area without crossing one of the major streets. Mr. Banicki stated the city was going to be spending millions of dollars on Normain Park, so that was going to be a beautiful park. Mr. Banicki stated it sounded like some of the traffic concerns needed to be reported to the city for enforcement and it did not sound like the development would be the issue and it sounded like he had an issue with semi traffic and that was where it needed to be reported to the city. Mr. Long stated it was not all about semi traffic, but he was correct. Mr. Long stated the traffic concerns would not get any better because of the development and it would be at least twofold with all of the extra traffic coming through. Mr. Banicki asked if he noticed different amounts of traffic during different times of the day as during peak times it could be tough, but after 6PM, he drove in that area all the time and it was just not as congested as during the day and asked if he agreed with that. Mr. Long stated he agreed with that, and he thought anywhere later in the day had been that way. Mr. Banicki stated there were peak times during the day where there would be some problems, but they had that now and with city streets, it was hard to control people cutting through and they knew that people ran that stop sign quite often and they did have some enforcement occur there. Mr. Banicki stated there were just five houses built on five smaller lots in his neighborhood, which was right across the street from Mr. Long's neighborhood, and the house sold very quickly and there was that huge need for housing in the community. Mr. Banicki stated the reality was that while it may have seemed like a lot, the proposed area was fairly large for 20 units. Mr. Long stated he disagreed with that and the 2.8 acres in question seemed like a small area for the development, especially since it was landlocked on three sides so there was only one way in and out of there currently.

Mr. Mammolenti stated looking at some diagrams, he assumed that the semis had to back into the docks, so they were perpendicular to Schumacher and asked if that was correct.

Mr. Long stated no, and he was not necessarily talking about the semis pulling in but generally you saw the trucks parked on Schumacher just on the street. Mr. Mammolenti asked if the trucks were getting unloaded and loaded while they remained on Schumacher. Mr. Long stated yes, he had seen it, and he was not saying all of them did, but some of them pulled up to the overhead door, but it was not unusual to see one on the street getting loaded with a forklift. Mr. Mammolenti seconded Mr. Banicki's comment and stated he should address some of the traffic concerns with the City Traffic Department.

Mr. Violi stated he lived on Homer Avenue, so he was not particularly in that district, but he was pretty close to their neighborhood, and he appreciated everything that Mr. Long and all of the residents had said. Mr. Violi stated the traffic was not going to be flowing all at once with people going to work and whatnot with the new development, but what he was really afraid of was if nothing was done to the area and instead of putting residential there, commercial was left there and a little mini mall shopping center with a Subway, for example would be put there and that could be done without coming to the Council for permission. Mr. Violi stated he was concerned that if they just kept the area as was, then they were really going to have a traffic issue in his opinion and was genuinely worried about what would happen if they had a commercial retail type of establishment where they may be a lot of cars going in and out whereas if this were to become a family unit with people who go to work during the day or retired individuals living there, he did not know if there would be severe traffic flow that Mr. Long was worried about. Mr. Violi stated he did not know that the problem with the trucks existed in the area, and he agreed with Mr. Mammolenti and Mr. Banicki in saying that the city should look at that particular issue. Mr. Violi appreciated him bringing that to his attention. Mr. Long stated he did not mention the issue of sale versus rental, which they definitely preferred home ownership, but he just wanted to speak on the issue of traffic and not everything. Mr. Violi stated he appreciated Mr. Long's comments, because to him it had always been a question of rental and ownership, and he never really thought about the traffic aspect of the proposal but where the real traffic issue would be is if it was not going to be a residential area other than staying the way it was now, which was not going to happen and it would not just stay a wooded lot forever.

Paul Kelly, 2705 Northwood Drive, spoke in opposition to **PROPOSED ORDINANCE NO. 2025-10**. Mr. Kelly stated he moved to Mishawaka from Massachusetts 13 years ago and he liked to call himself a proud Hoosier. Mr. Kelly stated in Massachusetts he was a realtor for several years and he had a couple of concerns that upset him. Mr. Kelly stated in the Town of Country Estates, there were 58 structures and 108 units and only one of the 108 units had children because of how small they were as his unit was 800 square feet. Mr. Kelly stated there was one recently sold on Leyte Street that was 720 square feet, and no families could live there. Mr. Kelly stated his concern was safety as half of the units were occupied by single elderly women and as he looked at the project, from McKinley which was just south of where the proposed development was up to the north of Northwood Drive was about 7/10 of a mile and from Main Street to Grape Road was 7/10 of a mile, so it was not a very big area and as had been discussed, there were no parks and there would be a lot of junk in between. Mr. Kelly stated the kids were going to

have to cross dangerous streets and they had wonderful people from Schumacher who walked over to his neighborhood because they lived on a quiet, dead-end street and they had a lot of dogs that came through and he did not think it would be safe with the new development. Mr. Kelly stated safety was his main concern and he loved Mishawaka and the parks were incredible and he loved this down and Mayor Wood and all of those involved had done a great job but this was just not a place where Mishawaka needed it's next family neighborhood as it did not fit, it was risky and it was not worth it in his opinion. Mr. Kelly stated he knew a lot of real estate developers and he did not have anything against development, but he just thought this was just trying to take a square peg and put it into a round hole. Mr. Kelly stated he knew Mishawaka needed some more units, but they had to have some space that was better than this one.

Ellen Bystrom, 153 West Leyte Avenue, spoke in opposition to **PROPOSED ORDINANCE NO. 2025-10**. Mrs. Bystrom stated her property would be directly adjacent to the property that would be developed. Mrs. Bystrom stated she had major concerns throughout from the very beginning and acknowledged that Mr. Freed and his team had come up with answers to some of the concerns they had. Mrs. Bystrom stated she recognized that they had conceded to put only one story on the north side, which would be adjacent to their property and a few other things but in general, she did not think the 2.8 acres in question was large enough to accommodate 20 units and the comings and goings of those families. Mrs. Bystrom stated it was landlocked and that was why, as a commercial property, no one had bitten on it. Mrs. Bystrom stated having upwards of over 40 vehicles that came in, this would add a lot of additional traffic on. Mrs. Bystrom stated she noticed there were no fire hydrants on Schumacher Drive and if they were going to put in 20 residential units, she did not know how that would work if it was a city road, would they then also have to run the lines for the fire hydrants on the city road and if it was a private drive, did they have to provide that coverage a different way. Mrs. Bystrom stated she thought it was very congested and if you were marketing to three-bedroom units, you were marketing to families, and his grandson was one of the children mentioned that lived in the neighborhood and he had very limited space to play even though he could ride his bike down Leyte around the corner to Schumacher on the sidewalk. Mrs. Bystrom stated there were a couple of small children in the neighborhood that she had seen and they had the elderly who were out walking or people walking their dogs and all of that additional traffic in and out of a single space was a concern to her. Mrs. Bystrom stated you would have a very congested area, and individuals would continue to blow past the stop sign as that still went on currently. Mrs. Bystrom stated she wanted to know what the developers would do to be able to work with the city to make the intersection safer with that many more units and that many more people there. Mrs. Bystrom stated several of them in Town and Country Estates individually had tried to contact the Traffic Department about flashing stop signs or speed bumps or things of that nature and with the individual calls, they would essentially just say that they could not do that, so maybe the developer could have better input. Mrs. Bystrom stated in reading through the covenants, she knew they did say that they would put a privacy fence behind their properties up to where the retention pond was and at one point, they said they would fence the retention pond as well, but the covenants only said the privacy fence would go

to the retention pond. Mrs. Bystrom stated there was nothing in there about keeping the retention pond fenced so it would be safer for the community.

Kim Bergon, 2725 Northwood Drive, spoke in opposition to **PROPOSED ORDINANCE NO. 2025-10**. Mrs. Bergon stated she had a problem with the amount of units that would be going in and the possibility of rental. Mrs. Bergon stated there were 2.8 acres and she was not sure on what acreages they would be reserving for retention, but that would take away the acreage so you would be packing in that many more people in a smaller area than a full 2.8 acres, not to mention the cul-de-sac turnaround where they were planning on putting the dumpster at the end of the cul-de-sac. Mr. Bergon stated in Mr. Freed's presentation and comments, he had no plan for a realtor but yet he said that he could sell them even though he had not come forth with any positive plan or intention of selling because if that were the case, in her opinion, they would have a realtor trying to market to sell them. Mrs. Bergon stated if you truly had ambition or intention to sell, would you not already have that as part of your plans. Mrs. Bergon stated he said he was not planning on putting a sign on site showing they would be for sale and not everybody was going to specifically look to purchase an entry level home online and there were still older people that may want a home that was in an association that were not necessarily internet savvy. Mrs. Bergon stated if he truly was wanting to sell them, maybe in those definite plans he could have a contract with a realtor to market those for sale rather than for sale or for lease. Mrs. Bergon stated there were multiple questions that evening brought to Mr. Freed's attention where he could not give a definitive answer yet. Mr. Bergon stated this had been in the works for several years and she imagined if you were planning on putting millions of dollars forth then you would have a stronger plan and know more of what you wanted to do. Mrs. Bergon stated she thought he did not want to sell them and wanted to hold on to them for rental because that was long-term rental income and anyone who had rentals knew if you had good rental income then it was residual which was a good thing and building it and then selling it was not a residual income.

Dana Wilson, 118 Woodland Court, spoke in opposition to **PROPOSED ORDINANCE NO. 2025-10**. Mrs. Wilson stated her concern was how the development could affect their property taxes. Mrs. Wilson stated if they were looking at selling the units for \$275,000 plus, what would that do to Town and Country's property taxes. Mrs. Wilson stated hers had already tripled since she first bought her residence because the value kept going up, which was great, but she wanted to know how much more they were going to go up. Mrs. Wilson stated she was also concerned about the added traffic and if these would be built with gas lines there and if those would be available to Town and Country Estates.

Albert Nagy, 130 West Leyte Avenue, spoke in opposition to **PROPOSED ORDINANCE NO. 2025-10**. Mr. Nagy stated the traffic problem was a concern of his with turning east off of Schumacher on to McKinley and the car dealership there had their vehicles so far up front that you had to get into the lane almost before you could turn left as you could not see that turn safely. Mr. Nagy stated he had lived in Town and Country for 18 years and when he first bought into it, it was advertised as a senior

community more than anything and he thought with the increase in traffic and things that were mentioned earlier, he was concerned with having young people come in and families and he was not sure how everyone would mix. Mr. Nagy stated he was not saying it couldn't work but there would be different values as far as ages were concerned and they were more into a peaceful, quiet community which it pretty much had been. Mr. Nagy stated building all of the units into the 2.8 acres would be a change from the current structure of the neighborhood and he did not see how there could be any continuation of having openness and space between the homes with everybody piled up on top of each other. Mr. Nagy stated it would be a total drastic change for the area.

Mrs. Voelker stated with the issue regarding turning left onto McKinley he brought up a couple of times, if the car dealership was visually obstructing people's ability to turn, they should probably talk to the car dealership to see if an adjustment could be made so that it could be safer. Mrs. Voelker asked if it would be acceptable to have a right turn only onto McKinley since turning left was so difficult. Mr. Nagy stated the traffic would then increase on Leyte if they could not turn left. Mrs. Voelker stated she was just curious what his feelings on that were. Mr. Nagy stated he was an older gentleman, and he liked peace and quiet in the neighborhood and he realized time went on, but it was a shame. Mr. Nagy stated he moved in there for the quiet neighborhood, and it had been peaceful and had good people there. Mrs. Voelker stated the people coming in could be nice people too with them being pretty new places. Mr. Nagy stated it would change the whole dynamic of the area there and he thought it would be a lot of units coming in.

Carrie Roberts, 145 West Leyte Avenue, spoke in opposition to **PROPOSED ORDINANCE NO. 2025-10**. Mrs. Roberts stated she was concerned with the retention pond and if it was going to be stagnant water sitting there or if there would be a fountain there similar to other apartment complexes to make it more desirable. Mrs. Roberts stated she was worried about the smell, the mosquitoes, and a pond of just stagnant water sitting there.

Mr. Mammolenti asked a question regarding the staff report documents as it stated that the property was Penn-Harris Madison and not School City of Mishawaka and if that was correct. Mr. Hixenbaugh stated he would have thought it would be School City of Mishawaka as well. Dixie Mason stated it was Penn-Harris Madison. Mr. Hixenbaugh stated that made sense with regard to how the attendance district bounced back and forth into the apartments and up and down Grape Road.

Mr. Banicki stated this had been an ongoing issue for a couple of years and the question became they had someone who owned the property, and they had the right to do, within reason, with the property what they thought was best. Mr. Banicki stated there was no doubt that there was definitely a shortage of houses in Mishawaka and Mr. Freed's price points he was talking about seemed to be right on the spot. Mr. Banicki stated when they looked at some of the apartments downtown with some of the newer folks, they did not worry about it and they would rather go on trips to the zoo or things like that rather than cutting their grass or working on their yard all day, so the world had changed and kids tend sit and play on their tablets rather than going out and playing like they used to. Mr.

Banicki stated he did not know if there would be that much of a change in traffic, maybe a little bit but with everybody now that was driving up and down there and people that cut through, it was almost like how people were concerned with speed limits on Grape Road a couple of years ago and people were concerned because it was increased a few miles an hour. Mr. Banicki stated the reality was that there were just certain times where that traffic was regulated and during Christmas time, for example you would not be going more than a couple of miles an hour at the most. Mr. Banicki stated it was the same with some of the traffic and it if took longer to turn, then it was what it was, and he did not think the traffic was there day and night as he lived in the neighborhood himself and he drove through that neighborhood. Mr. Banicki stated he knew there was concern there, but he believed the biggest fear among the residents was change and he did think it would be a change for the better. Mr. Banicki stated with property values, everyone worried about their property taxes until they went to sell and then they wanted the most for their property, so it was the weight of justice that the Council had to figure out and what was best, and, for those reasons, he would be supporting it that evening.

Mr. Emmons thanked all of the constituents from that area for coming out that evening and voicing their opinions. Mr. Emmons stated this had been going on for two years and people kept coming back every time it came to the Council, and he liked to hear the voices of the constituents. Mr. Emmons stated he always voted for the constituents of the area as far as whether most people were for or against something and for them to come out for two years and voice their opinions against the development showed that they were passionate about it. Mr. Emmons stated he had nothing against Mr. Freed, but he also recognized that it was their community too and their presence showed that they did not want the development in their neighborhood. Mr. Emmons stated it was not against the person; it was against the development. Mr. Emmons stated he was sure Mr. Freed had a good plan, but it was nothing they wanted in their area, and he was brought up by his father saying you listen to your constituents, and it was about what they wanted. Mr. Emmons stated he was having trouble saying he would vote in favor of something that nobody in the area wanted, so he would be voting no. Mr. Emmons thanked the residents for showing up and voicing their opinion and he hoped they continued to do that on any item that came up and their voice counted.

Mr. Violi stated this was his district and back in the fall of 2024, he was sitting at the airport picking up some friends and Mr. Freed reached out to him saying he was going to bring this back before the Council and he asked if he had made some changes from the last time it was voted down and he said they made them before the vote and he told him if nothing had been changed, there was no reason to bother bringing it back before the Council. Mr. Violi stated he suggested that Mr. Freed reach out to the same people that were against the proposal before, the HOA people, and the neighborhood people, and he believed he did. Mr. Violi stated it sounded like he did because he talked to a few people about the whole issue and when Mr. Hixenbaugh, Ms. Hahn, and himself met with the developer and Mr. Freed, he kept hearing things like being a good neighbor and it sounded like as the talks began, he sensed there was a lot of good open-mindedness between all parties. Mr. Violi stated he agreed with Mr. Emmons that it was great to come out and speak up against it and knew people were for it as well, but he wished there

were people in the middle who weren't necessarily against it and were going to be okay with it, speak before the Council. Mr. Violi stated he called five people who lived in that area the weekend before because he wanted to talk to people he knew and one person called him first who was against it, which was fine, and he gave his reasons for that and the other four people that he spoke to, two of them had no problem with it and they were not present that evening and a couple other residents made it clear that they were not going to object with it, that they were okay with it and would live with it. Mr. Violi stated he respected the opinion of those who were against it, but it would have been good to hear from the people who were not against it. Mr. Violi stated with the discussions that he listened in on and from where it had gone from the beginning to that evening, he felt that there was not a consensus in the neighborhood and the HOAs, so it was now up to the Council to decipher what to do. Mr. Violi stated he appreciated everyone's opinion, but it was hard for them too and he hoped there would be no hard grudges regardless of however the voting went, because at the end of the day they were left to decide really what that area wanted. Mr. Violi stated he thought that there was a silent majority that was not going to speak up for it or against it.

Mr. Carroll stated he wanted to shift back to his concerns and some of it was to Mr. Freed and some of it was to fellow council members and the city in general. Mr. Carroll stated dealing with the issue with private roads a lot, the people who were not present to speak that evening were the ones who would occupy the units if they went through. Mr. Carroll stated the biggest concerns he got were that people who lived on private streets paid the same taxes as everybody else, but they did not get the same city services. Mr. Carroll stated they did not have leaf removal. Christmas tree removal, or snow removal and these could be expensive contracts, especially in smaller developments and smaller HOAs and with the legal issues, it could be problematic going forward. Mr. Carroll stated he had concerns about safety issues on private streets and whether their police and fire had access in emergency situations, disasters, and those types of things when the city was not responsible for keeping that road free, clear, and open for those services. Mr. Carroll stated road replacement could be expensive as they were talking about at least five figures for it and that required a lot of planning ahead for those entities that owned it. Mr. Carroll stated there was also an administrative burden and he had a number of HOAs and just having people who were willing to sit down and do these things and meet the legal requirements and have to deal with the ins and outs that they dealt with as a city and caused them headaches, it was a lot harder the smaller you got to that. Mr. Carroll stated those were certainly concerns he had. Mr. Carroll stated he had a good conversation with Mr. Prince that day about some of the concerns, so he felt good after that call, and he spoke directly with Mr. Freed and appreciated his commitments to maintaining the roads as long as he had any share of ownership in that and that was very important. Mr. Carroll stated it sounded like he was interested, if possible, in having the homeowners bear the responsibility for maintenance by covenant so they did not have this 'whose baby was it' kind of situation. Mr. Carroll stated as for the city going forward with the bigger picture, he would be interested in finding some solution to this so going forward they did not have multiple private roads going through that could potentially cause problems for this public private partnership later on. Mr. Carroll stated he thought his concerns had been satisfied and he would be supporting this but with heavy reservations and hoping that if this did go

through as a good neighbor that he would honor that and make sure that this did not create an issue for future residents in the city.

Ms. Hahn stated she wanted to echo what Mr. Emmons said and although she represented the whole city at large, she did live in the first district, which was home to a tight-knight community the West End much like the Town and Country Estates and when things changed in the neighborhood, people tended to get a little nervous even when they were starting to improve Rose Park, there was some trepidation there. Ms. Hahn stated Mr. Banicki mentioned too that sometimes it was just the thought of change and the unknown of what was going to happen, but she appreciated the developer working so closely with the HOA and the board. Ms. Hahn stated that was something in her short time on the Council that she had never seen, which was very impressive to host the meetings to make changes to his plans and to also have all of the people continue to come out before she was even on the Council for the last several years. Ms. Hahn stated that was their right and they did listen to them, and she liked seeing it and some of the concerns were not things she had originally thought of, so she wanted to thank them for coming out. Ms. Hahn stated she understood them wanting to protect their neighborhood and the trepidation with change of things that could come, but she would be supporting this.

Mr. Mammolenti thanked Mr. Freed and the folks that showed up that evening, not only for just that evening but for the constant communication and concerns they brought to their attention. Mr. Mammolenti stated more importantly, he thought it was good for them to see that they had met and tried to come up with a solution that fit for all. Mr. Mammolenti stated he knew with Mr. Freed he had mentioned his ideal plan would be to sell them all, but there would be some chances where he may have to rent them to kind of help fund some of that project and just because they started out as a rental, did not mean that they had to stay as a rental and you could sell that unit as well. Mr. Mammolenti stated as they had explained, it was a difficult decision and what he tended to do in situations like that was he asked himself what he would like to see done if he lived there if this was in his backyard. Mr. Mammolenti stated he understood some of their questions and concerns and he thought they were all valid but for him, he thought if he were to live there, what would scare him more than the traffic and the change in demographics would be what could go there and the way that it was zoned currently, the Council would have zero control and the residents would not have a voice in the matter. Mr. Mammolenti stated, based on the fear of the unknown, he believed to Mrs. Hazen's point that the city was in dire need of family-owned properties, so with all of those being said he would be voting in favor of it that evening.

Mrs. Hazen stated this had been a really hard decision but she would be voting in favor for it that evening but she wanted to tell each and every person in the neighborhood that as this came about, they could reach out to any person on the Council and come to them with concerns or with things that were not going on. Mrs. Hazen stated all of their numbers were listed on the website and they were more than welcome to call, and they would help in any way they could, and they were happy to help in the process.

Mr. Hixenbaugh stated they heard from a couple residents with regard to the retention pond and he wanted to focus on that initially and his understanding from attending some of the meetings was that Mr. Freed was committed to not just fencing the perimeter to provide a buffer between

himself and the properties to the north but that there would also be interior fencing around the retention pond itself and asked if he was correct on that. Mr. Knight provided a picture of the fencing and what it would look like. Mr. Hixenbaugh asked for the record if Mr. Knight agreed with him that there would in fact be a privacy fence on the perimeter of the property up to the woods in the far northeast corner and then there would also be interior fencing surrounding the retention pond. Mr. Knight stated yes sir. Mr. Hixenbaugh stated with regard to the question about standing water, none of them would want to have a bunch of standing water next to their house and asked if it was Mr. Freed's intent to comply with all the city ordinances and local health codes and whatnot so that the retention pond did not become a mosquito infested swamp that folks in the neighborhood had to put up with. Mr. Knight stated yes and if he would like more clarification, Terry Lang could address it. Mr. Knight stated with retention ponds, the amount of water fluctuated but he did not believe it was intended to have receding water. Mr. Hixenbaugh stated that was his understanding as well that a retention pond anticipated that there would be some receding of the water into the groundwater so that it would not be a concrete based lake and it would be a place to capture runoff from the surrounding real estate that then would filter down into the Earth and asked if that was his understanding as well. Mr. Knight stated that was his understanding. Mr. Hixenbaugh stated with regard to traffic, as they heard a lot about that that evening and it was a justifiable concern in his opinion, there was a question posed rhetorically with respect to whether Mr. Freed would be willing to cooperate with the neighborhood to the extent that they would advocate for the city to address traffic concerns in the area and asked if he was willing to commit to that that evening. Mr. Knight stated yes and every opportunity to address safety and be a good neighbor was what they were looking for.

Mr. Violi asked if they would have Nipsco and Mishawaka Utilities or if Nipsco was not available in that area because he believed somebody said that they would like to see how they could get Nipsco if it was possible. Mr. Freed stated originally the plan was to have Nipsco as it looked like there was electrical running there and then he saw a gas line that was on McKinley, so looking into the extension of those utilities was a question mark but they were just trying initially to get everything rezone. Mr. Freed stated whether the utilities were going to be electric, or gas was up in the air.

Mr. Mammolenti stated he believed Mr. Freed had mentioned that he had two realtors and he was just further out in the project than he anticipated and asked if he did have two in mind and if he planned to move forward as the project got closer and if he could confirm that. Mr. Freed stated that was correct and they were two to three years out from starting the development and from that point, to give him a name or names at that point would be unrealistic.

Mr. Knight thanked the Council and thanked all of the Town and Country residents for their comments that evening and they appreciated the Council's consideration.

Mr. Hixenbaugh stated they appreciated everyone's attendance that evening and the way they advocated for their neighborhood, and it did make a difference. Mr. Hixenbaugh stated for him, whenever they had issues such as these where there was significant concern on the part of the neighborhood, he tended to look at a couple of different factors with the first being whether they had listened to the concerns of the neighborhood and what the fair outcome for that particular neighborhood that was so close to the proposed development was. Mr. Hixenbaugh stated that

evening, they convinced him and he suspected his colleagues as well that there was a general traffic concern in their area and there was something that needed to be addressed and they did not have the ability to fix it, nor did Mr. Freed, but he was confident that based upon what they heard from them on two separate occasions that he believed they got the attention of city government and he could not promise them a particular outcome, but he could promise them that the Council would work with the Administration to see what could be done through the Police Department, through the Engineering Department, and through the Traffic Department whatever could be done to address the traffic and he was confident that they would. Mr. Hixenbaugh stated he also thought it was important for them to be fair to the developers that came before them because all of them had a desire and a right to be able to make use of their property and he echoed the gratitude to Mr. Freed for his willingness to listen and to make some adjustments and even concessions to his proposal as he had gone forward. Mr. Hixenbaugh stated this was much different in his opinion than it was the first time around and that the move to having individual lots rather than one comprehensive rental business plan was incredibly significant, so he appreciated Mr. Freed listening and making those changes. Mr. Hixenbaugh stated but again, he thought everybody whether they owned a residence or whether they owned a commercial property had some right to be able to develop it. Mr. Hixenbaugh stated he started thinking back to when the matter was last in front of them and at that time, he voted against it but he went back and checked the minutes and at that time he said at some point, this gentleman had a right to develop his property and he thought that he had made a significant improvement in what he had proposed. Mr. Hixenbaugh stated another thing they had to always keep in mind was what was fair to the community, and it was important to the individual neighborhood what went on there, but there was some interest that everybody who lived in Mishawaka had in making sure that they were doing the right thing with regard to development. Mr. Hixenbaugh stated his role as somebody who was a Councilman At Large, as referenced by Ms. Hahn, was to represent not just their neighborhood but the entire community. Mr. Hixenbaugh stated he agreed with the comments made by Mrs. Hazen and others that they had an affordable housing problem in Mishawaka, and they needed to be open to developing not just this lot, but all similarly situated lots within the City of Mishawaka. Mr. Hixenbaugh stated the right common sense development was good for Mishawaka, and it allowed them not only to support the city, not only to help stabilize the tax rate, but it was good for the school corporations whether it was Penn-Harris Madison or School City to be able to have new housing where families could move into the school corporations was important. Mr. Hixenbaugh stated the other thing was this property had been vacant for just about 40 years, and he knew that because his mom lived on West Leyte when he was in high school and even when it was the Pizza Hut delivery place that he also remembered, like Mr. Violi, and it was still primarily a wooded lot. Mr. Hixenbaugh stated it was a very legitimate and understandable perspective to want to keep that lot and maintain it, but where he struggled with it was that it came at the expense of someone else to maintain that idyllic country-like atmosphere and it had been vacant for quite some time. Mr. Hixenbaugh stated as an attorney, and based upon the oath of office they took, he always looked at the legal considerations involved and with the staff report, he agreed had memorialized that the petition beat the legal standards both in terms of consistency with their comprehensive plan whether this was the highest and best use because this was a proposal to have the property reflect the same zoning as the property to the north of it and that this was going to be a responsible development and growth not only for the neighborhood but for the community as a whole. Mr. Hixenbaugh stated he appreciated the comments everyone had made and the passion they brought to the issue

and the fact they advocated for their neighborhood but based upon those factors and in particular based upon what Indiana law obligated them under their oath to consider, he would also be voting in favor of the matter that evening.

Question was called for at 7:49PM for **PROPOSED ORDINANCE NO. 2025-10 Motion passed by unanimous roll call vote (summary: Yes = 8, No = 1).**

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

No: Mr. Emmons. The proposed ordinance passed 8-1, thus it became **ORDINANCE NO. 5933.**

PROPOSED ORDINANCE NO. 2025-11

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-1 Single Family Residential for an Existing House – 115 Virginia 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.

Denia Hester, 52324 Prescott Avenue South Bend, IN, spoke in favor of **PROPOSED ORDINANCE NO. 2025-11**. Mrs. Hester stated she was representing the company who purchased the property and were asking for it to be rezoned from C-1 to R-1 for an existing home.

Mrs. Voelker asked if the financing company was asking for the rezoning and if that was the reason they wanted to have it rezoned from commercial to residential. Mrs. Hester stated that was partly why they were asking for it to be rezoned and they needed it so they could be able to go forward with them because they used their money and had a little bit more flexibility than the traditional homeowner who was looking for financing but they wanted to be able to help homeowners avoid any hurdles they may come against so they wanted to go ahead and do that prep work and make it a lot easier for any homeowner wanting to get into a new home.

Mr. Banicki asked if this would be owner occupied or a rental. Mrs. Hester stated they would be selling it to be owner occupied.

Mrs. Hazen stated she wanted to stop by as she saw them working on it all the time and she lived close to the house, and she was delighted they were going to sell it and make it owner occupied. Mrs. Hazen stated she was really excited about it and thanked her for her work.

Question was called for at 7:53PM for **PROPOSED ORDINANCE NO. 2025-11 Motion passed by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5934.**

PROPOSED ORDINANCE NO. 2025-12

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA AUTHORIZING SPECIAL UTILITY SERVICE AGREEMENTS FOR ECONOMIC DEVELOPMENT AND CUSTOMIZED UTILITY NEEDS (Postponement requested)

The chair entertained a motion to postpone second reading and public hearing on **PROPOSED ORDINANCE NO. 2025-12** until their regularly scheduled council meeting on June 16, 2025. Mr. Banicki moved the motion and with a second from Mr. Mammolenti, a voice vote was held on the motion. The motion passed unanimously, and the matter was postponed.

PRIVILEGE OF THE FLOOR

Andy Rutten, 55304 Cedar Trail, spoke under **PRIVILEGE OF THE FLOOR**. Mr. Rutten stated he was recently elected as a new council member for St. Joseph County, and he represented Osceola and the eastern part of Mishawaka. Mr. Rutten stated he had not been in the Council Chambers yet and he wanted to come in and introduce himself. Mr. Rutten stated he did not have any pressing concerns at that time, but he wanted to say he thought Mishawaka was doing well and was in a good fiscal position moving forward now that Indiana had approved the property tax cut. Mr. Rutten stated in their community the number one issue being discussed was the sharp increase in property taxes and the seniors were particularly affected by that. Mr. Rutten stated Indiana revised tax law that changed how local government entities could levy taxes and now was a good time to revisit spending strategy to find ways to improve efficiency and realign focus to help voters. Mr. Rutten stated one example on how to do this was how the state and federal governments both eliminated the dubious DEI programs. Mr. Rutten stated hopefully spending cuts would not affect core services as they still needed to keep their neighborhoods safe and roads in good condition. Mr. Rutten stated with the County and the City of Mishawaka, they would cooperate and make sure all of their local governments could serve their community well.

Mr. Hixenbaugh appreciated Councilman Rutten being there that evening and he too was in favor of both entities cooperating, including their friends in South Bend where it made sense. Mr. Hixenbaugh stated he agreed that he heard fairly regularly from people with regard to property taxes, especially as those property tax bills just went out and some people had some sticker shock to say the least. Mr. Hixenbaugh stated he suspected they differed with regard to the merits of the legislation that was passed in Indianapolis and he was all in favor of cutting property taxes, but what he understood was that the benefit for the homeowner was going to be far outweighed by the detriment to the finances of every governmental entity, including St. Joseph County and the City of Mishawaka and he feared it would put them in an unfortunate predicament of having to decide what valuable service they were not going to be able to provide the same way they provided it in the past based upon that action that was taken. Mr. Hixenbaugh stated they would work through it and hopefully they would be able to work through it together,

but he thought it was fair for the public to understand that there was a significant amount of concern and a significant amount of effort and work that would have to go into trying to navigate that legislation moving forward. Mr. Hixenbaugh appreciated Mr. Rutten's attendance that evening and his comments.

NEW BUSINESS

Mr. Carroll announced the Second District Community Meeting would take place on Thursday June 12th at the Blair Hills Pool Complex and all Mishawaka residents were welcome to attend.

ADJOURNMENT 7:59PM

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.