

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

August 18, 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 August 18, 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.

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

All present in the Council Chambers.

Minutes for the Regular Meeting on August 4, 2025, were approved as received from the Clerk's Office.

Clerk Block read the following letters from the Board of Zoning Appeals and the City Plan Commission regarding their recommendations from their August 12, 2025 meetings.

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

PROPOSED ORDINANCE NO. 2025-19

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.

**Vacation of Right-of-Way due to Realignment – Ballard Street south of Vistula Road
(Assigned to Land Use Planning Committee)**

PROPOSED ORDINANCE NO. 2025-20

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA TO PROHIBIT THE USE OF PUBLIC RECORDS FOR COMMERCIAL PURPOSES
(Assigned to Personnel Committee)**

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

RESOLUTION R2025-20

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING
APPEALS FOR THE PROPERTY LOCATED AT: 811 & 815 E MCKINLEY AVENUE,
MISHAWAKA, INDIANA**

**Use Variance to allow Outside Storage and Developmental Variance for Rear Yard
Setback, Paving, Fencing and Landscaping – 811 & 815 E McKinley**

Terry Lang, Wightman Office at 1402 E Mishawaka Avenue, South Bend, IN 46615, spoke in favor of **RESOLUTION R2025-20**. Mr. Lang stated the petition before the Council was to allow for outside storage and also for rear yard variances and things they got from the Board of Zoning Appeals. Mr. Lang stated it was a unique site and there was an existing older industrial building that sat two feet off of the rear property line, so instead of asking for a variance two-foot they proposed a building addition that would stay away from the southernly property line by ten feet to allow for some space for the existing seven-foot fence that was there and to leave room for landscaping between the building and the existing seven-foot fence there. Mr. Lang stated the existing town houses to the south were all owned by one person, so it was more of an apartment project than it was town houses and their existing fence along Went Street was one foot off of the back of the sidewalk and they had asked for that similar thing. Mr. Lang stated they had worked with the Planning Department and agreed to move their fence in from that and asked for a three-foot variance there. Mr. Lang stated what it amounted to was on the east side of the older building were overhead doors and they were going to have to replace the pavement and would need room to be able to swing vehicles into the overhead doors, so they were trying to give as much room as possible for that as well as allowing for a little bit of retention area there when they went through the design stage for the drainage portion of the project. Mr. Lang stated they also had a conversation with the Planning Department with regards to the project being done in two phases with the southernly portion where the existing buildings were would be done first so that the building needs and improvements around the outside would be addressed so that they could move their operation to Mishawaka in order to expand their business and do further development on the north half of the property in the future. Mr. Lang stated the plan at that time was just to develop the southernly portion for their tree service business. Mr. Lang stated when storms came, they took down trees and branches and they needed to haul it away. Mr. Lang stated they would temporarily have them in the yard area that was proposed to be stone and some of those logs could be three foot in diameter and dropping those on asphalt or concrete would just destroy them in a matter of a few weeks. Mr. Lang stated they were proposing it to be a stone type of material so that it would allow them to regrade it as things would be periodically brought in, processed, and hauled away from there. Mr. Lang stated the stone portion of it was more of a commonsense type of thing where they did not want to replace it year after year for that and with the existing building that was there, they were going be paving the portion of it where their vehicles would pull in. Mr. Lang stated that portion would strictly be used for storing

that material on a short-term basis. Mr. Lang stated the other item that came up was fencing and they had a fence that ran from east to west across the middle of the site and they would be putting a slatted type of material between the fence to screen that from McKinley even though the businesses on the north side did not have any slats on their fences but their storage yards for those businesses were way behind their buildings. Mr. Lang stated theirs would be a little more visible and they had talked with the Planning Staff and that was the agreement they came to. Mr. Lang stated he was happy to answer any questions the Council had with regards to the petition.

Mr. Violi stated in the staff report he saw where it said that the Planning staff would still want to see the landscaping, the seven-foot-high shrubs, or trees on the south side except up where the building butted up against it. Mr. Lang stated that was the landscaping he was talking about between the existing seven-foot fence and the proposed building addition along the southernly side there. Mr. Violi asked if he would be doing that on both sides of the building. Mr. Lang stated it would be on both sides of it.

Mr. Banicki stated he was concerned about the temporary storage of all of the trees they had cut down and when he drove through different cities similar to Mishawaka, there were some places that were supposed to be temporary but they always had storms so there was always going to be rotation and it was never going to end and he was really concerned about having all of that there. Mr. Banicki asked if they planned to cut some of it up, splicing it up, and selling it as firewood out of the location as well. Mr. Lang stated he had never had that discussion whether it would be used for firewood and a lot of it would be mulched and then it could be sold as mulch to be used in people's yards, around their yards, or something like that. Mr. Lang stated in fact, he had a huge 36-inch oak tree in his yard that he had to move just before the very first storm that spring and the large trunk of the tree left a nasty indentation in the yard when it came down and he saw the need for what they were asking for firsthand in his own yard. Mr. Lang stated it would be constantly rotating and when there was a storm, they would bring the material in, cut it up, process what was necessary, and it would leave the site then. Mr. Lang stated their long range plan was that with the northern portion of the site, if things continued to develop and grow, they would like to turn it into something similar to McKinley Landscaping, a place where you could go buy bushes and shrubs and things such as that, but that was more of a long term type of plan. Mr. Lang stated at this point, they were only concentrated on the southernly half of the site and that was one of the reasons why they agreed to put the fence with the slats in it midway down through there to make it so it was not visible from McKinley. Mr. Lang stated it was zoned industrial, so it fell in the use, but he understood what Mr. Banicki was saying. Mr. Banicki stated that stuff could be stacked extremely high and a ten-foot fence was not going to block all of it. Mr. Banicki stated it was going to be a growing fire hazard at some point. Mr. Lang stated they had fire protection on site and they had fire hydrants right there on site, so they did have that to their benefit and that was why it was not going to be staying on site any longer than it took to process it and get it cut up and moved out, because storms came by periodically. Mr. Lang stated they were trying to make sure that it did not stack up, otherwise you would end up with a huge pile that would be a nuisance, and they were going to make sure that did not happen. Mr. Lang stated they wanted to be a good neighbor and talked with the Wealth Management Office to the

west about what they were proposing to do and he was not sure if they would hear from them with regards to that, but they had been upfront with everyone involved with what they were proposing to do there on site.

Mrs. Voelker asked if the fence would be halfway across the property between the north and the south. Mr. Lang stated it would run east to west about halfway from McKinley back to the south property line. Mrs. Voelker asked how tall the fence would be. Mr. Lang stated they were anticipating it to be six feet. Mrs. Voelker asked if that would be a privacy fence or a slat fence. Mr. Lang stated it would be a chain link fence with slats in it so that you could not see through it. Mrs. Voelker stated she actually had emergency tree service at the end of March and it just so happened that they had talked to the company about a week beforehand about taking some trees down and they did a great job for them and they chipped up their trees that were 130 years old and chipped up most of it on site and then took the bigger trunk pieces away. Mr. Lang stated she experienced the exact same thing he did because the large 36-inch pieces could not be grounded up and it was easily hauled off and then the large things would be disposed of easier off site where they would be able to process them. Mrs. Voelker stated she wanted to add that she found the company to be very professional and she actually talked to the owner of the company about what they wanted to do in Mishawaka some time ago and they came across to her as being very professional for them to work with in an emergency and they also had good resources, because they needed some special stuff and they had good connections. Mrs. Voelker stated she wanted to vouch for them as a company and believed they would be a good addition to Mishawaka. Mr. Lang stated in his situation, they had to have a climber go up and cut the tree branches and drop them in sections from that and there were not many services that had climbers that would go up and bring trees down in sections.

Mr. Carroll asked with the processing, how much of any given day or week would the sounds of something chipping or shredding be going on. Mr. Carroll stated they would not be immediately next to a neighborhood, but there was one on the other side of the buildings. Mr. Lang stated on the south side, there were the apartments and to the west, there were storage units which covered about two thirds of the western property line and then you had Wealth Management up to the north end up there. Mr. Lang stated a lot of that would be determined by how frequent storms occurred and that would drive how often there would be a need for the chipping or shredding. Mr. Carroll asked if he did not see it being an all day and everyday usage of chainsaws and chippers. Mr. Lang stated he did not anticipate that, and they went the last five to six weeks without any rain or storms and in that situation, there would not be anything going on during that type of timeframe.

Question was called for at 6:17PM for **RESOLUTION R2025-20 Motion passed by majority roll call vote (summary: Yes = 7 No= 2).**

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

No: Mr. Banicki, Mr. Emmons. The resolution passed 7-2.

RESOLUTION R2025-21

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, ADDING PARCELS TO THE CITY'S PROPERTY ACQUISITION LIST ASSOCIATED WITH A PREVIOUSLY APPROVED COMMON COUNCIL RESOLUTION 2014-07 WHICH APPROVED AN ORDER OF THE CITY OF MISHAWAKA PLAN COMMISSION APPROVING A CERTAIN DECLARATORY RESOLUTION, AN AMENDMENT TO THE BOUNDARIES OF THE NORTHWEST AREA IMPROVEMENT PROJECT, CONSOLIDATION OF THE SOUTHSIDE ECONOMIC DEVELOPMENT AREA AND THE NORTHWEST IMPROVEMENT PROJECT INTO ONE CONSOLIDATED AREA IMPROVEMENT PROJECT, AND AN AMENDMENT TO THE ECONOMIC DEVELOPMENT PLAN FOR THE CONSOLIDATED AREA IMPROVEMENT PROJECT ADOPTED BY THE CITY OF MISHAWAKA REDEVELOPMENT COMMISSION
Adding Property to the City Acquisition List

Ken Prince, Director of Planning and Community Development for Mishawaka, spoke in favor of **RESOLUTION R2025-21**. Mr. Prince stated as they had done multiple times that year, in order to acquire property because they were using TIF funds, state law required that they add the property to an acquisition list. Mr. Prince stated in this case with 1107 S. Union Street, it was acquired by the current owner at a sheriff's sale and when they acquired it, they reached through Code Enforcement to see if they could inquire about buying it before the property was reinvested in. Mr. Prince stated the purchaser was willing and they offered them what they were paying taxes on; the assessed value of the property and the assessed valuation was \$174,000. Mr. Prince stated the property was two doors down from the 331 Inn they acquired in 2024 located on the southwest corner of South Union and 12th Street. Mr. Prince stated there was now only one home remaining between 12th Street and 13th Street on the west side of the street that they would need to acquire at some point in time. Mr. Prince stated this was advantageous even without the future widening of the street, because it had a small parking area that required you to back up immediately onto Union Street that was a hazard, and it would be good to get that out of there. Mr. Prince stated he was happy to answer any questions.

Mr. Emmons asked when the 331 Inn was going to come down. Mr. Prince stated he could not tell him, but they were waiting for NIPSCO to confirm that the gas had been shut off from the property and they were giving notice and Roger Shields was checking on it while he was out on vacation, so he would have an update for Mr. Emmons as soon as that Tuesday and he would provide an update to the Council as soon as he could regarding the removal. Mr. Prince stated the hold up on it had been the shutting off of the gas line as they could not proceed with demolition until it was shut off and he also knew because of the narrowness, they were having issues of shutting off the gas and that had been the hold up for that and the former greenhouse where they had removed the asbestos siding. Mr. Prince stated both of those were bid at the same time and they would be coming down at the same time by the same contractor.

Question was called for at 6:21PM for **RESOLUTION R2025-21 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.

PRIVILEGE OF THE FLOOR

Karen Hoffman, 715 E. 10th Street Mishawaka, IN 46544, spoke under **PRIVILEGE OF THE FLOOR**. Mrs. Hoffman stated on August 14th of that year, she had an animal hearing upstairs and she had an issue with a dog that she was watching and she was building a fence and the dog went under the fence and as a result, the neighbor let her Pitbull dogs out and one of them mauled and killed her sister's seven pound dog. Mrs. Hoffman stated she had put up a wooden fence and tore her shoulder out of socket in the process and had postings of no trespassing and beware of dog in her front window on her fence posts. Mrs. Hoffman stated it was a mistake and poor judgement on her sister's dog's behalf, but he was a good dog and none of her sister's dogs ever bit anyone or caused any problems. Mrs. Hoffman stated the Humane Society told her that there was no such thing as an emotional support animal and a lot of places were stopping individuals from having them accompany them. Mrs. Hoffman stated on August 14th, the Human Society told her that emotional support animals were not real, and she was shocked by that. Mrs. Hoffman stated she knew her sister's dog was wrong, and he trespassed and the result of him making a poor judgement cost his life. Mrs. Hoffman stated she took care of him after the incident and then drove him to be cremated for \$142, and she felt great remorse. Mrs. Hoffman stated she had come to know that the city had codes to keep the place safe, clean, and orderly and she understood that but the dog did not deserve to die and with the codes she was asking them to look at, Ken Witkowski the Director of Code Enforcement told her that the Council would look at changing the code in January. Mrs. Hoffman stated the Humane Society was going to deem her two little dogs dangerous animals and she could not believe that. Mrs. Hoffman stated she went to great lengths to find a lawyer, get an affidavit, she got twelve people to write papers, and the affidavit was notarized. Mrs. Hoffman stated she spent her last dollar on pictures of the fence line that was taken care of on top of the signage and whatnot, and she was okay with them searching the property and looking at her house. Mrs. Hoffman stated she worked hard at this, and she would like the code to be addressed. Mrs. Hoffman stated her neighbor could not pull her Pitbull off of her sister's dog and the Humane Society told her that the dogs shook her sister's dog like a rag doll, punctured his lungs, broke his neck, and broke his back along with damaging several organs and he suffered greatly. Mrs. Hoffman stated she found him lying there by himself and she thought there should be something in place where this can be prevented in the future and she thought her sister's dog's passing and the \$142 cost of cremation was enough punishment. Mrs. Hoffman stated during the hearing, this was all new and unfamiliar grounds for her, and she changed the designation for her dogs from dangerous to a public nuisance, which still meant \$100 per animal for the rest of their life. Mrs. Hoffman stated neither one of her dogs would hurt anybody, but the Humane Society was still charging her anyways and she felt that was unfair. Mrs. Hoffman stated she was glad she was able to keep her dogs, but she wanted the codes of animals looked at and changed, because that was a first-time incident and she felt it was an extreme punishment. Mrs. Hoffman stated if she did not pay the money, they would take her dogs, impound them, and penalize her. Mr. Hixenbaugh stated he, along with the rest of the Council, were all very sympathetic to what she had gone through with regard to everything she shared with them that evening and the information she received from Ken Witkowski, the Director of Code Enforcement, was accurate. Mr. Hixenbaugh stated he actually had been

involved, along with his colleague Mr. Carroll, in taking a look at their animal control ordinance and it was more of a comprehensive review, so it was not just the issues she raised but the ordinance in general that they were looking at. Mr. Hixenbaugh stated while he could not promise her that there was going to be a particular outcome based on the information they had heard from her that evening that would impact how they would revise the ordinance, he promised her that they would consider what she had shared with them and would look to see what needed to be adjusted along the lines of the issues she raised along with all of the other issues they wanted to try to address as they revised the animal control ordinance. Mr. Hixenbaugh stated that they were very sympathetic to it but this was not the place for them to get into the specifics of the hearing she had and those details and while they could not get into that specific situation and that specific hearing, he promised her that they would take to heart what she had shared with them and would incorporate that into the work that they were going to do to revise the animal control ordinance. Mr. Hixenbaugh stated he did not anticipate that it was going to take as long as January to adjust the animal control ordinance and his hope was that it would be sooner than that, but they wanted to try to do a really good job of addressing it so that it was a good solid ordinance that served the needs of Mishawaka. Mr. Hixenbaugh stated it was a very long and involved ordinance, as he suspected she already knew, but they were working diligently on it and he promised they would continue to move forward with it and try to get something on the agenda for Council consideration and public input as soon as possible.

Mr. Carroll stated they were close to getting to the full review and to reiterate what Mr. Hixenbaugh had said, it was a 55-page long ordinance in its draft form, so they were going to make sure that went over it and got it right.

Mrs. Hoffman stated she knew a lot of Pitbulls as her sister's son had one and it was very gentle, but she knew a lot of other ones that were not very gentle. Mrs. Hoffman stated if it was known that a resident has a dangerous animal, they should at least have to post some signage to make others aware. Mr. Hixenbaugh stated the whole concept of animals that were dangerous to other animals and to human beings was an issue they were looking at very closely as part of the review of the animal control ordinance and he promised her once again that they would take to heart what she shared with them and he was confident they would have a better animal control ordinance once they completed the process than they had at that point. Mr. Hixenbaugh stated they could certainly talk about the ordinance off of the Council floor if she would like. Mr. Hixenbaugh thanked Mrs. Hoffman for sharing what she shared that evening and they were sympathetic to what she was going through and they would take into consideration what she shared as they considered revisions to the animal control ordinance. Mr. Hixenbaugh thanked Mrs. Hoffman for being there that evening. Mrs. Hoffman thanked Mr. Hixenbaugh and the Council for their time, and she appreciated all of them.

NEW BUSINESS

Mr. Emmons made an announcement that the West End First District meeting on Thursday, August 21st would be a little different than usual meetings because instead of having a guest speaker, they would be going on a tour of the new sports facility. Mr. Emmons stated for anyone who was interested, they would be meeting at St. Bavo's at 5:45PM and would board the bus at 6:30PM and they would be transported there and back. Mr. Emmons stated they would still have

West End donuts before and after the tour and all were welcome. Mr. Emmons stated it should be an interesting evening.

Mr. Mammolenti asked what the capacity of the bus was. Mr. Emmons stated there were 42 total seats on the bus.

ADJOURNMENT 6:38PM

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.