

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

December 1, 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 November 17, 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

Minutes for the Regular Meeting on November 17, 2025, were approved as received from the Clerk's Office.

Clerk Block read the following petitions by title.

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| Petition No. 2025-21 | Rezone from R-1 to R-2 Two-Family Residential to match existing use 902 & 902 ½ S. Main St. |
| Petition No. 2025-22 | Rezone from C-4 Automobile Oriented to R-1 Single Family Residential District to match existing use – 2106 N. Byrkit |
| Petition No. 2025-23 | Rezone from C-1 General Commercial to I-1 Light Industrial to expand business – 1825 E. 12 th St. |

Redevelopment Commission Spending Plan Report for 2026 (No further action necessary)

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

PROPOSED ORDINANCE NO. 2025-36

AN ORDINANCE DECLARING AN EMERGENCY AND TRANSFERRING AND REAPPROPRIATING FUNDS WITHIN THE MOTOR VEHICLE HIGHWAY DEPARTMENT IN THE BUDGET ADOPTED FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2025

**MVH Fund – From: Other Supplies (2201-50-429-12 Traffic Supplies - \$3,500.00) To: Rentals (2201-50-437-05 Uniforms - \$3,500.00)
(Assigned to Budget & Finance Committee)**

PROPOSED ORDINANCE NO. 2025-36

AN ORDINANCE AMENDING ORDINANCE 5915 FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS, AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA FOR THE YEAR BEGINNING JANUARY 1, 2025

**Amending Ordinance 5915 Civil City Salary Ordinance for 2025 – Central Services
(Assigned to Budget & Finance Committee)**

PROPOSED ORDINANCE NO. 2025-37

AN ORDINANCE AMENDING ORDINANCE 5950 FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS, AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA FOR THE YEAR BEGINNING JANUARY 1, 2026

**Amending Ordinance 5950 Civil City Salary Ordinance for 2026 – Central Services
(Assigned to Budget & Finance Committee)**

PROPOSED ORDINANCE NO. 2025-38

AN ORDINANCE AMENDING ORDINANCE 5875 OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING THE PARTICIPATION IN THE STATE OF INDIANA DEFERRED COMP MATCHING PLAN ADOPTION AGREEMENT AND AMENDMENT ONE

**Amending Ordinance 5875 Deferred Compensation Matching Plan
(Assigned to Budget & Finance Committee)**

PROPOSED ORDINANCE NO. 2025-40

AN ORDINANCE DECLARING AN EMERGENCY AND TRANSFERRING AND REAPPROPRIATING FUNDS WITHIN THE BUDGET ADOPTED FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2025

**Funds Transfer in Various Departments: General Fund – Human Resources (From: Personal Services 1101-04-411-03: Temporary \$16,000 To: Other Services and Charges 1101-04-431-04 Professional Services \$16,000), Information Technology (From: Other Services and Charges 1101-05-439-03 Subscriptions and Dues \$2,500 To: Personal Services 1101-05-411-65 Professional Certifications \$2,500)
(Assigned to Budget & Finance Committee)**

PROPOSED ORDINANCE NO. 2025-41

**AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE
EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31,
2025**

**Additional Appropriation: Various Departments \$824,500
(Assigned to Budget & Finance Committee)**

PROPOSED ORDINANCE NO. 2025-42

**AN ORDINANCE AMENDING TITLE 9 CHAPTER 100 RESTAURANTS AND FOOD
OF THE MISHAWAKA MUNICIPAL CODE OF THE CITY OF MISHAWAKA,
INDIANA**

**Amending Restaurant License Fees
(Assigned to Budget & Finance Committee)**

PROPOSED ORDINANCE NO. 2025-43

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA AMENDING THE UNIFORM SCHEDULE OF FEES**

(Assigned to Budget & Finance Committee)

PROPOSED ORDINANCE NO. 2025-44

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
ESTABLISHING A MERIT SYSTEM FOR THE MISHAWAKA POLICE
DEPARTMENT**

(Assigned to Public Health & Safety Committee)

PROPOSED ORDINANCE NO. 2025-45

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
ESTABLISHING RESPONSIBLE BIDDING PRACTICES AND SUBMISSION
REQUIREMENTS FOR PUBLIC WORKS PROJECTS**

**Establishing Responsible Bidding Practices and Submission Requirements
(Assigned to Public Improvements Committee)**

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

PROPOSED ORDINANCE NO. 2025-32

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION
THEREFORE**

**Annex & Rezone to R-3 Multi-Family Residential for Apartment Complex – 53000 Block of
Fir Rd.**

Public Hearing – No Vote

Andy Heltzel, Danch, Harner & Associates 1643 Commerce Drive in South Bend, spoke in favor of **PROPOSED ORDINANCE NO. 2025-32**. Mr. Heltzel stated he was representing the petitioner that evening. Mr. Heltzel stated the petitioner was proposing to annex, rezone, and have a preliminary site plan approval for an 18.99-acre track consisting of two parcels and dedicated right-of-way being used for drainage to be annexed into the city. Mr. Heltzel stated the site was zoned residential at that time with it being single-family residential and unincorporated in St. Joe County. Mr. Heltzel stated the proposed rezoning, once annexed, would be compatible with the adjacent residential and commercial uses. Mr. Heltzel stated there was wetland on site in the south portion of the property and only a small portion, less than a quarter of an acre, would be impacted with an access drive. Mr. Heltzel stated the client was working with another consulting agency that had already delineated it and would work through any necessary permitting through Army Corps of Engineer and IDEM.

Mrs. Voelker stated on the wetland, he had said less than a quarter of an acre would be affected and asked how big the wetland was. Mr. Heltzel stated he had that on the site plan, but he did not have a copy of what was presented before the Council or a total amount. Mr. Heltzel stated if he had to guess, it was five acres. Mrs. Voelker asked if it was just a road. Mr. Heltzel stated that was correct and it was just the interior access drive. Mrs. Voelker asked if there would not be anything built on the wetlands. Mr. Heltzel stated that was correct and it was just an access drive crossing over a small portion of the site. Mrs. Voelker stated on the site plan that there was one detention pond on the site, but it would not be big enough. Mr. Heltzel stated that was correct and they had not done a drainage or stormwater analysis up to that point in time, but he anticipated that they would probably increase the detention pond. Mrs. Voelker asked if he believed the detention pond would be a pretty good size. Mr. Heltzel stated he guessed it would be similar to the size on the site plan. Mrs. Voelker stated she was asking the question because she was curious about whether the detention pond would be fenced off or not. Mr. Heltzel stated it would be something they could look into, and he did not know if they were opposed to it, but a portion under the fence would have to be kept open so the sheet flow could go under. Mrs. Voelker stated they had had some issues in the past with detention ponds so it was on the top of her mind and she saw that some roads were going to be heading into the pond and she would be interested in them taking a look at some kind of barrier so that they did not have problems with children, pets, or cars going into it. Mr. Heltzel stated he would make a note about that. Mrs. Voelker thanked Mr. Heltzel.

The public hearing for **PROPOSED ORDINANCE NO. 2025-32** was closed at 6:12PM. Pursuant to Indiana Law, the Council's vote would be cast on the matter at their next regularly scheduled council meeting on Monday, December 15, 2025.

PROPOSED ORDINANCE NO. 2025-33

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS THE "ZONING ORDINANCE" OF 1966 OF THE CITY OF MISHAWAKA, INDIANA.

Rezone from R-4 to S-2 PUD Development for Single Family, Attached Single-Family, and Multi-Family dwellings and Clubhouse – SW corner of Byrkit & McKinley

Mr. Carroll reported the Land Use Planning Committee recommended that this proposed ordinance be adopted. Upon a second by Mr. Banicki, the motion carried. The committee report passed unanimously.

Steve Ruby, Abonmarche Consulting, spoke in favor of **PROPOSED ORDINANCE NO. 2025-33**. Mr. Ruby stated he was representing the petitioner. Mr. Ruby stated the site was being requested to be rezoned from R-4 to S-2 PUD to allow for flexible housing types within it. Mr. Ruby stated it was purchased by Habitat for Humanity of St. Joe County and they had the President of Habitat for Humanity of St. Joe County, Jim Williams, present that evening. Mr. Ruby stated the project was pretty straightforward and they were looking forward to the removal of the current mobile home park units. Mr. Ruby stated he would let Jim speak a little bit more about that, but they were removing the units in light of putting more affordable housing in place of that as part of Habitat's mission and build process. Mr. Ruby stated the site was approximately nine acres in size and there were two main front streets, one being McKinley and the other being Byrkit. Mr. Ruby stated there were several arterial streets that would serve the property and it was anticipated they would have stormwater on site. Mr. Ruby stated there would be some public and private road developments within the site itself and they would be working with the city engineering staff to accommodate the measures and needs necessary for the public roadways and infrastructure to be inputted into the development. Mr. Ruby stated Habitat also engaged with the University of Notre Dame on the project to help them with development plans to help with different types of housing and needs that they saw were beneficial to the clientele base that they were looking to assist and help. Mr. Ruby stated that they had partnered with the University of Notre Dame to come up with a plan that was presented in their packet from the initial Plan Commission meeting from the staff report. Mr. Ruby stated they were looking to move forward over the next coming months with a future build in the spring or mid-summer of 2026.

Jim Williams, President and CEO of Habitat for Humanity of St. Joseph County, spoke in favor of **PROPOSED ORDINANCE NO. 2025-33**. Mr. Williams thanked the Council for their continued support of Habitat as they tried to provide more home ownership opportunities for people in St. Joseph County and many people in Mishawaka. Mr.

Williams stated as they knew they had spent a lot of time and effort in their Fields At Highland subdivision at the corner of Byrkit and Jefferson. Mr. Williams stated he was excited to say that with approximately five houses, all seventy-six homes and the pocket park would be finished, and this would be their next major development. Mr. Williams stated this development would be called Woodfield Crossing and what was unique about the project was that it represented a variety of housing solutions for residents in Mishawaka. Mr. Williams stated they were known for building single-family detached homes, but this would not only include single-family detached, but also some town homes and duplexes which would be side by side with some being stacked duplexes, and even some cottage courts which they envisioned perhaps some senior citizens would enjoy in the community. Mr. Williams stated that was what they were looking forward to and they were still in the process of getting the title work handled and had and they had an attorney working with them on it, because when they bought the property, all of the title work for the mobile homes was a mess. Mr. Williams stated they had to get that situated before they could demolish the mobile homes and they knew that all of the Council were probably just as anxious as they were to get it cleaned up but that was where they were at in the process. Mr. Williams stated they currently only had three families out of thirty-four families that were still living in the mobile homes that were to be rehomed and there was a solution for all three of them and they had something to go to, but by the end of that week, he was told that they should be completely moved out of the mobile home park. Mr. Williams stated he was very proud of that and they originally had given a six-month notice which would have been May 8th that the park was going to be closed, but they extended that an additional seven months to be considerate of the families involved and because it had taken some time to find the proper solutions and that was why it had taken a little longer, but they had always said from the beginning that their main priority was to take care of the families and to make sure it worked for them. Mr. Williams stated they also gave every one of the families an opportunity to come to the informational meetings so they could learn and even become homeowners with Habitat. Mr. Williams thanked the Council for their consideration of the proposal, and he would answer any questions they had.

Mr. Violi asked if any of the former residents took him up on the offer to live in the affordable housing development or not yet. Mr. Williams stated they had not yet up to that point.

Mr. Mammolenti thanked Mr. Williams for all he had done in the community and that he continued to do with spending a lot of time and effort on making sure all of the residents had been rehomed, so he really appreciated the delay in making sure that happened. Mr. Williams thanked Mr. Mammolenti.

Mrs. Voelker stated she had looked at the preliminary site plan and with McKinley specifically, it was such a busy street, and it was not very wide there and she believed Habitat planned to have a buffer there between McKinley. Mrs. Voelker asked what would be on McKinley as part of the development. Mr. Williams stated it was being recommended to them at that point that they put some multi-family developments there which could be two fourplexes but they were going to development them in phases and

that would be the very last phase, so they would be able to get a feel for what exactly that was going to be like for residents. Mr. Williams stated the buffer would be trees or something of the sort and then the way that the fourplexes would be designed would be to try to minimize the noise from McKinley for the residents of those units. Mrs. Voelker asked if there would be any kind of fencing there or if it was too early or too detailed to ask that question. Mr. Williams stated it had not been finalized, but they had discussed fencing or something decorative that would look really nice, but they had not decided what that would be at that time. Mrs. Voelker asked if he could keep an eye on that as it was such a busy street and they would have lots of families and children in that community and she did not know what the demographic of ages looked like for the mobile home park, but she imagined a lot of families would be living in the new development and she wanted to make sure that they were safe. Mr. Williams stated they shared the same concern. Mrs. Voelker thanked Mr. Williams.

Mr. Hixenbaugh stated with regard to the interaction with the city, specifically public versus private roadways, he encouraged Habitat and the Administration to be as open to the maximum number of public roadways as possible and there may be site plan requirements that thwarted that goal, but he believed from a Council standpoint, especially that time of year, that they heard a lot from residents throughout the city with regard to snow plowing and other related issues concerning private roads. Mr. Hixenbaugh stated there was a good place for private roadways and it was a legally permissible decision to make, but from their standpoint, they preferred to see roads with new developments such as the one in question, particularly with the one that would be such a benefit to the community, have the maximum number of public dedicated streets as opposed to private roadways. Mr. Hixenbaugh stated there may have needed to be some private roadways there, but if Mr. Williams and Habitat for Humanity could work with the Administration, as he suspected that would happen anyway, it would be appreciated by the Council. Mr. Hixenbaugh stated also this would not only be a benefit to the community as a whole, but he was really excited about what it would do for the school corporation as well. Mr. Hixenbaugh stated the fact that there would be a variety of houses and housing that would be part of the development, but that infusion of students into the school corporation for a school corporation that was landlocked and did not have a wealth of developable space would be very beneficial to them. Mr. Hixenbaugh thanked Mr. Williams and Habitat for their willingness to partner not only with the city but also with the school corporation to make this happen. Mr. Williams thanked Mr. Hixenbaugh.

Question was called for at 6:22PM for **PROPOSED ORDINANCE NO. 2025-33 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. 5955.**

PROPOSED ORDINANCE NO. 2025-34

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA AND PROVIDING ZONING CLASSIFICATION
THEREFORE**

**Annex & Zone to C-1 General Commercial District for Landscaping Contractor – SE
corner of State Rd 23 & Toll Rd.
Public Hearing – No Vote**

John Piraccini, Coldwell Banker 633 Windy Cove Court Mishawaka, IN 46544, spoke in favor of **PROPOSED ORDINANCE NO. 2025-34**. Mr. Piraccini stated the site was owned by Gary Wilson and it had been on the market for quite a few years and it was a difficult site there along the Toll Road and State Road 23. Mr. Piraccini stated they annexed next door to it for their All-Secure Storage a couple of years back. Mr. Piraccini stated Mr. Carroll was the developer and he was present that evening if they had any questions for him, as well as Steve Ruby with Abonmarche who would be presenting the site plan. Mr. Piraccini stated he thought they found the perfect buyer for the property, which was a landscaping company, and the property backed up against the old remediation site there in the back end. Mr. Piraccini stated they received unanimous approval from the Plan Commission, had no remonstrators there, and he believed it was a really nice fit. Mr. Piraccini stated with the access issue, it was a little tight there coming off as it was blocked off by the Toll Road, so not every business would really go there and it just fit perfectly. Mr. Piraccini stated he would answer any questions.

Steve Ruby, Abonmarche Consulting, spoke in favor of **PROPOSED ORDINANCE NO. 2025-34**. Mr. Ruby stated he was representing his client for the site location. Mr. Ruby stated as was mentioned, they were looking for the site to be rezoned and annexed into the city limits and with the site itself, even though it was a landscaping business, they did have some things that were unique to it such as some outdoor storage things that were mentioned in the use variance and items that were previously presented to the Plan Commission. Mr. Ruby stated they were looking for this as a way to present their product and what they would be selling and it had a great visual appeal as they would see through the site plan development. Mr. Ruby stated as part of the development, they would increase parking to accommodate the commercial business, and they would also add an outdoor storage building that would house some of their product and pieces that they would be presenting in the front yard where the use variance was being requested and that would allow for outside storage. Mr. Ruby stated as a whole, it was a perfect use for this type of client and what they tended to do with their product line, and they saw it as a good fit for the space. Mr. Ruby asked that they consider it in the review of the project site itself and the annexation process.

Mr. Banicki asked if there would be any big trucks coming and going out of the area. Mr. Ruby stated it was anticipated that there would be some large trucks for some delivery of materials on and off and some of that would be a specific question to the owner, but he imagined it was going to be a periodic delivery, so there would be product in maybe once a week or once every few

weeks. Mr. Banicki stated he just knew that going down State Road 23 and when you got to the Toll Road and then when you turned left to get to Hickory, that was a really tough corner, and he did not want to see any added traffic or issues there. Mr. Ruby stated it would be a bit of a challenging movement and some of the truck drivers would accommodate how those turning maneuvers took place and they would either turn out one way or the other and come in the same way. Mr. Ruby stated they would also be providing a turnaround space within the property itself, so they would not be actually making a movement back out onto the State Road 23 roadway there and they were trying to accommodate the safety that way.

Mrs. Voelker stated it looked like there was a fair amount of forest on the site and asked if they would be keeping that. Mr. Ruby stated in the rear of the property, there was a wooded lot, and it was anticipated that some of it would be removed for the storage building that they wanted to put there, but that would be closer to the house. Mr. Ruby stated obviously they wanted to keep their operations tight and compact, so they were not driving to the rear of the lot for their activities, but some of it would be removed as part of the build. Mr. Ruby stated detention basin was also placed back in the rear area, so some of that would be accommodated through that.

The public hearing for **PROPOSED ORDINANCE NO. 2025-34** was closed at 6:30PM and pursuant to Indiana law, they would take final action on the proposed ordinance at the next regularly scheduled council meeting on December 15, 2025 at 6PM in the Council Chambers.

PROPOSED ORDINANCE NO. 2025-35

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 C-10 Filling Station Commercial for Fuel Kiosk and Pumps – Part of 3016 W. Indian Ridge Blvd.

Mr. Mammolenti reported the Land Use Planning Committee recommended that this proposed ordinance be adopted. Upon a second by Mr. Banicki, the motion carried. The committee report passed unanimously.

Gabriel Loth, Carlson Consulting Engineers, spoke in favor of **PROPOSED ORDINANCE NO. 2025-35**. Mr. Loth stated he was representing Walmart that evening. Mr. Loth stated they had been in talks with the Planning staff for a little over a year up to that point and wanted to make sure that they ironed out the exact positioning and what they wanted to see to make sure the proposal was approved. Mr. Loth stated they had submitted a preliminary site plan showing what the plans were with the rezoning.

Mr. Banicki stated he went to that Walmart quite a bit and it looked like the proposed station would take up a sixth of the parking lot. Mr. Banicki asked if that sounded right. Mr. Loth stated he had not looked at the exact numbers, but it appeared that way. Mr.

Banicki asked where people would park then when they went shopping and if he was more concerned with gas or more concerned with consumers shopping. Mr. Loth stated he believed they were concerned with both and with this, they would be asking for a variance soon but they wanted to make sure that the site plan was completely ironed out before they went in and asked for a reduction in parking so they could see exactly how many parking spots they would be able to put in. Mr. Loth stated the Walmart location in question shared a parking lot with the Sam's Club as well and this was something they had seen time and time again with their work all over the country was that there was ample amount of parking between both of the stores to serve each one. Mr. Banicki asked where they planned on the cars being staged to get into the parking lot so that there would not be a lot of cars lined up waiting to get gas, like Costco. Mr. Loth stated they did not really have a staging area for that, and they had ten pumps there on either side fuel service, so there were sixteen serviceable positions as well as parking around the kiosk. Mr. Loth stated their intention with that was to be able to service the amount of people that would require gas there. Mr. Banicki stated it seemed pretty tight and when he went there from time to time or drove by, there were always delivery semis and things like that parked right where the proposal would be. Mr. Banicki asked what they would do with the delivery vehicles that were waiting to leave in the morning or waiting to drop off at the store. Mr. Loth stated that was something that they would need to coordinate with the store manager about that because to his knowledge, those semis should not be in the parking positions because they should be allowed for customers and not blocked off.

Mrs. Voelker asked if people that had a Sam's Club membership would receive a discount similar to how Costco's prices are for Costco members and if Walmart followed that. Mr. Loth stated he was not sure what Walmart's exact policy on that was with Sam's Club, but his understanding was that they were two different entities legally speaking, so he did not know that answer. Mrs. Voelker stated she was asking that because people went to Costco because it was a discounted price compared to a market rate price and it got really backed up. Mrs. Voelker stated she imagined if you were a Sam's Club cardholder and you got a discount on gas, one would go there and that could cause a traffic backup that Costco experienced. Mrs. Voelker stated she remembered a number of years ago across the street, another entity wanted to put an oil change facility in the parking lot of Home Dept and they were pretty concerned about the size of that parking lot at the time as well and she also knew there was a lot of infrastructure underneath the parking lot and their Engineering Department was concerned about whether it would be feasible to put that type of business there from an engineering standpoint. Mrs. Voelker stated she was curious to know what their Engineering Department thought about a gas station going in this particular parking lot. Mrs. Voelker stated given their experience and their thoughts with the oil change facility going in, it was almost the same situation. Mr. Hixenbaugh stated Mrs. Voelker raised good points and if it was her desire to have further input from city departments, then a motion to postpone was her right to make. Mr. Hixenbaugh noted for the record that the staff report indicated that all city departments had reviewed the proposal and made comments and they had other comments, but none from Engineering and her points were still valid. Mr. Hixenbaugh suggested that they hear what other questions other council members had and depending upon how the

conversation went, it may have been appropriate to postpone the proposed ordinance to run down the answers to the questions.

Mr. Carroll asked as far as parking minimums were concerned if he knew roughly what percentage this would put them under the minimum parking when they requested the proposal. Mr. Loth stated he believed it was 5.0 per 1,000 square feet of cross listable area, but he did not have the exact number in front of him and asked if that was correct for the City of Mishawaka. Mr. Hixenbaugh stated for the record, it was 5.5 per 1,000 square feet. Mr. Loth stated he believed they would also have an expansion going into the site, so after the expansion and the fuel station, he believed they would be looking at 3.16 parking spots per 1,000 square feet. Mr. Carroll asked what percentage they were under for the minimum parking at that point in time and what it would be after the proposal percentage wise. Mr. Loth stated he would have to do the math to figure out the percentage. Mr. Hixenbaugh stated according to the staff report, currently the plan showed that 785 parking spaces existed with 679 spaces remaining after the gas station was developed and per the ordinance, a total of 855 parking spaces were required for Walmart. Mr. Hixenbaugh stated he read that as Walmart had fewer parking spaces than were called for by their ordinance and if in fact they approved the matter, then they were going to be even further below what their ordinance would call for. Mr. Hixenbaugh stated there was a process for a developer such as Walmart to be able to ask for a variance from the ordinance, but it appeared to be what the impact would be of an approval for the proposed ordinance that evening. Mr. Carroll stated if his math was correct, it would be 20% under the minimum parking requirement once the gas station went in. Mr. Loth stated that like it was currently under parked at 3.76 per 1,000 square feet.

Mr. Banicki stated he was on the Traffic Commission, and he was concerned with the traffic in that area, because that parking lot can be a mess around that time of year. Mr. Banicki stated there were three entrances with one being in the center that fed into both Sam's Club and Walmart and then one for Walmart and one for Sam's Club, but only one of them had a stoplight. Mr. Banicki asked if there had been any discussions about adding a stoplight close by. Mr. Loth asked for clarification on where he was suggesting additional stoplights should be. Mr. Banicki stated there were a lot of people who came out of that entrance and if you were going to add more traffic to it, there could be a necessity to modify the existing light that they had with it being a bottleneck and there were accidents there frequently. Mr. Banicki stated to keep traffic moving with some regularity, you almost had to have either an improved main drive entrance or a second one with a light. Mr. Loth stated he had not received his photometrics plan back from their supplier, but typically what they had seen in going off of past experiences was there were lights underneath the canopy that helped illuminate it and they liked to put additional lights surrounding the kiosk and the fuel areas to boost the lighting in the areas. Mr. Banicki stated he was more concerned with the stoplights and moving traffic going in and out. Mr. Loth stated that was not under their consideration at that time.

Mrs. Hazen stated with Walmart, some of the facilities had gas stations and some of them did not and it seemed kind of odd that they were adding the fuel station so much later.

Mrs. Hazen asked if that was a normal process for them. Mr. Loth stated yes, he believed with their firm they had about eight or nine in Indiana alone and across the country it was about 150 to 160. Mr. Loth stated this was a common thing and there were a couple that were under construction throughout Indiana that were doing similar things.

Mr. Violi asked if the fueling station would be for Walmart only and if it was something like a Murphy's that used to be their brand. Mr. Loth stated it would not be a Murphy's, and they were Walmart-branded and owned, so they were not Murphy's oils. Mr. Violi asked if this would be open to anybody, since it was through Walmart and not Sam's Club. Mr. Loth stated this Walmart-branded and owned and it would be open to all of the public. Mr. Violi asked if they would have market rate prices as opposed to discounted prices at Costco. Mr. Loth stated that would make sense to him. Mr. Violi asked if he could find that out to make sure that they were all on the same page.

Mr. Mammolenti thanked Mr. Loth for being there that evening and echoed Mr. Banicki's comments in that he also shopped at that location quite regularly and it was very difficult to exit the property, so with the increased traffic he agreed with Mr. Banicki's comments and concerns regarding traffic. Mr. Mammolenti asked if Walmart was currently under the required parking spaces. Mr. Loth stated yes. Mr. Mammolenti asked if the gas station got approved, they would be even further under the requirement. Mr. Loth stated yes. Mr. Mammolenti asked if this were to be approved and they went further under the required parking spaces, what would happen next. Mr. Loth stated they would apply for a variance and go through that process. Mr. Mammolenti asked what if that got denied. Mr. Loth stated he did not have an answer for that. Mr. Mammolenti asked if they would apply for the variance prior to constructing the gas station. Mr. Loth stated yes, of course, and he believed the next steps, pending approval that evening, were a submittal on December 9th for the Plan Commission for site plan approval and the variance for parking. Mr. Mammolenti asked for clarification if the gas station got approved that evening and if the variance was denied, then the gas station would not go in. Mr. Hixenbaugh stated he would defer to Mr. Prince, but it seemed to him that the two matters stood independently and if that matter was approved that evening, then the variance stood on its own and if the variance as not approved then the site plan would have to be adjusted to reflect the fact that the variance had not been approved. Mr. Hixenbaugh stated he did not know if the site plan could be adjusted in order to reflect the lack of the variance and would leave that to Sam's Club, Walmart, and their professionals. Mr. Hixenbaugh stated he believed they were two independent matters in his opinion, but he also thought it was appropriate for the Council to further probe the issue, because it was very important to so many of them with regard to whether they felt like this met the statutory criterion for approval of the proposed ordinance.

Mrs. Voelker asked given the discussion about the light and they all knew that getting in and out of the parking area was tight, if he knew what the anticipated increase in traffic would be going in and out of the parking lot. Mr. Loth stated he did not have those numbers for her. Mrs. Voelker asked if that was something he would be able to find out. Mr. Loth stated he believed if the city required it, that was something they would want to provide for the Council and they would get that information. Mrs. Voelker asked if that

was something they had done at other gas stations because she was curious to know what the increased traffic would be there. Mr. Loth stated they had done them in the past even though it was not standard due diligence for them to get those numbers while still in the conceptual phase, so he did not have those numbers that evening.

Mr. Hixenbaugh thanked Mr. Loth for his patience with them as he worked through the issues and answered the questions. Mr. Hixenbaugh stated he remained open to vote in favor of the proposed ordinance, but he did have some concerns that hopefully he could help him work through. Mr. Hixenbaugh stated with regard to the parking, he believed that to be interrelated with the discussion he and Mr. Banicki had with regard to the semis and he appreciated his answer that the policing of the parking lot was going to be much more within the power of the manager of that facility than it was as a representative like himself. Mr. Hixenbaugh stated if he understood Mr. Loth's answer correctly, to say that it was going to have that issues and would have to be coordinated with the management without any kind of commitment on the part of the petitioner to address that issue, he found that problematic because, as the record had already reflected, Walmart at that time had fewer parking spaces than what their ordinance called for. Mr. Hixenbaugh stated if this was approved, they would fall even further below the ordinance requirement and although they would have ample parking for the gas station use, they would be losing quite a bit as far as the overall parking lot was concerned. Mr. Hixenbaugh stated the staff report showed pictures of the semis in the parking lot before them that evening and he did not know anybody who had ever driven in the parking lot there who had not seen semis there, so he could not take it on just blind faith that if they approved the proposed ordinance that there would not to be some commitment on the part of Walmart to deal with the semis. Mr. Hixenbaugh stated he would not be voting in favor of it when they were already below the number of parking spaces and then have semis sitting out there further posing a problem for people who were trying to ingress and egress from the property, so some type of more binding commitment on behalf of their client was going to be necessary for him to at least be able to vote in favor of the matter. Mr. Hixenbaugh asked if there was anything he could share with them that would help him and his colleagues feel better about Walmart's commitment if the proposed ordinance were to be approved to police the parking lot. Mr. Hixenbaugh added that he chose that phrase consciously to make sure that there was not going to be a traffic problem for the customers who were coming in and out of the parking lot whether they were using the gas station or not. Mr. Loth stated he believed it was reasonable and as Mr. Hixenbaugh stated at the beginning, the policing of the parking lot was something that he could not speak on that evening and that was something he would have to go and ask to get a commitment from Walmart. Mr. Hixenbaugh stated that was reasonable. Mr. Hixenbaugh stated in order to allow him to have the time to be able to do some of the follow-up on the points that had been raised by his colleagues. Mr. Hixenbaugh stated Mrs. Voelker brought up traffic and traffic counts, and they were now having a discussion with regard to how Walmart was going to be a good corporate citizen and made sure that there was not a problem with regard to traffic in and out of that parking lot if they approved it. Mr. Hixenbaugh asked what type of developmental timeline problems would be raised if they postpone the matter until their next council meeting on December 15th in order to provide him with an opportunity to consult with his client and come back to them with some new

information. Mr. Loth stated from a developmental standpoint, he guessed they would be delayed with a site plan approval and parking variance until the next available filing deadline for that and they certainly wanted the rezoning approval before they continued down the path of the variance and site plan approval, because they could not put that there if the site was not zoned correctly. Mr. Loth stated those were the main concerns he saw and they would get their questions answered as soon as possible. Mr. Hixenbaugh stated he appreciated that and again, he would be more comfortable with having the questions answered, because he legitimately thought that there was a need for more gas and filling station access to be available and opportunities to be available in that area, so he thought this met a need but it just felt to him that there were some issues that needed to be ironed out. Mr. Hixenbaugh stated he wanted to acknowledge that it was not the Council's role to approve the site plan, but he believed that the statute that they had to look at allowed them to have some discretion and some right to have their questions answered before they casted a vote that indicated that this would be a responsible development. Mr. Hixenbaugh stated he thought the issues went to whether or not it was a responsible development and he found Sam's Club and Walmart to be responsible corporate citizens and they did good business and they valued them in Mishawaka, but he thought that before he would be willing to vote in favor of it, he would like to hear the answers to some of the questions and have some more information fleshed out. Mr. Hixenbaugh stated if Mrs. Voelker was so inclined to ask to postpone the matter until their next council meeting, he would be inclined to support that. Mr. Hixenbaugh asked if there was anything else Mr. Loth wanted to share with them before they moved forward. Mr. Loth stated if that were to happen, they would love to have their questions explained thoroughly so he could get the questions over to Walmart who he represented to make sure they were getting clear answers on exactly what the Council wanted to see so there would not be a need for another postponement. Mr. Hixenbaugh stated that was absolutely fair. Mr. Banicki requested Mr. Prince to come to the podium next. Mr. Hixenbaugh thanked Mr. Loth for his patience.

Ken Prince, Director of Planning and Community Development, spoke before the Council regarding **PROPOSED ORDINANCE NO. 2025-35**. Mr. Prince stated before he weighed in on the matter, he would respond to any questions from the Council.

Mr. Banicki stated looking at the parking lot configuration and the way cars got in and out, there was one stoplight and it was pretty tight. Mr. Banicki asked if there was anything in the plans on the city's side or the developer's side that would help to improve that at that time. Mr. Prince stated no and what he would like the Council and everyone watching or listening to understand that they designed the plan very specifically so that it was easy to get in and they did not care how long it took to get out and that was just the reality. Mr. Prince stated they needed the roads to function and how they did that, looking at the University Park Mall, Target and Costco, they were very easy to get in and much harder to get out because ultimately, they needed that traffic to flow and that was specifically designed and set up that way. Mr. Prince stated regarding the traffic and when they talked about the number of parking spaces, he wanted to go on record as it was very common as the University Park Mall had less than four per thousand square feet and when you looked at Heritage Square, it also had less than four per thousand square feet.

Mr. Prince stated they routinely did that on very large centers and when you looked at the efficiency, they wanted them to accommodate their own needs, and it was not like a grid where you were downtown, and you were parking on streets. Mr. Prince stated if you went into Walmart or Sam's Club and you were not able to find a parking spot, then you just were not going there, so they would be hurting their own business by providing less parking spaces than what they needed. Mr. Prince stated in cases where parking was a demand, they had other options available to them so they could rip out their entire parking lot and do a perk system and then fill the ponds in front to make more area available which would be extremely cost-prohibitive. Mr. Prince stated to answer Mrs. Voelker's question in terms of what the difference was between the Home Depot and the station being proposed, Engineering's concern in that location was that Home Depot was designed with an infiltration system in that area, so by putting an oil change facility in that location, you would be removing the infiltration system as part of it. Mr. Prince stated in this case, it was an impervious area in Walmart's parking area that was designed to go to the retention ponds and they were not physically altering the retention ponds, so they did not have to do any additional storm water requirements in order to fit the gas station in there, because it had all been designed as impervious anyway that was going to that pond. Mr. Prince stated if anything, they were actually getting a benefit for ripping some of it up and putting green space in that area. Mr. Prince stated to Mr. Hixenbaugh's point, there were site plan issues that had to be worked on and that Engineering, regarding their weigh-in on the project, every department that typically reviewed site plans were responsible for submitting a sheet on comments and Engineering did submit a sheet and identified that they had no comments and that it was approved as submitted for the rezoning approval, so they inherently did not have any concerns but obviously when the site plan was filed, they may in fact would have comments or questions regarding that. Mr. Prince stated regarding the access to get out he appreciated that there was not queueing, for example if you looked at the University Park Mall or Costco or Target, when they queued up their light, they had a much longer throat and that was part of the confusion with the matter in question. Mr. Prince stated they could ask them to look at a longer throat in terms of the exit traffic, and he thought the issue there was that then they would be looking at a greater parking reduction by providing that throat to try to orient people going through it. Mr. Prince stated he did not shop there often, so he was curious to know if it was an inconvenience or a fundamental safety problem in terms of getting in and out. Mr. Prince stated if it was not a safety problem, he would leave it to them to figure it out. Mr. Prince stated if it was a safety problem that needed to be addressed, that would be a different issue, but he relied on the Council for their feedback on if they should ask them that question to have them address it.

Mr. Carroll stated his main concern was what Mr. Prince addressed and asked if he did not see the addition of a gas station regardless of parking minimums as something that would cause a safety issue in any of the areas. Mr. Prince stated not from a vehicular standpoint, and it would be no worse than the parking lot that was there at that time. Mr. Carroll stated the other concern that he addressed was that the way he phrased the numbers were so many per thousand and if the proposal were to be passed, they would be 20% under what the minimal requirement was and that would not be abnormal for something like that and asked if he heard him right on that. Mr. Prince stated that was

correct and what they did not understand was why the parking was less than what was originally approved and going back to the site plan, that was a question and when they went through the numbers and when they went through the numbers, they arrived at different numbers and it could be how things were striped in the back where they were relying on parking that they could not identify, but he could not explain why there was less parking out there than what was required by the ordinance.

Mr. Violi asked if it was because they combined Sam's Club and Walmart square footage and then used both parking lots to come up with that and that was why it was approved knowing that it was less and if it worked if you did both parking lots at both buildings. Mr. Prince stated he did not believe so, but they could verify that.

Mr. Hixenbaugh thanked Mr. Prince for his clarification and asked if there were any thoughts he wanted to share with regard to the repetitive presence of semis being parked in the rear of the parking lot and how that would, if at all, be impacted by a filling station now being introduced to the site. Mr. Prince stated they were going to need to find a spot for the semis but he was not clear if the semis were Walmart deliveries and he thought it was a fair question to ask if they were Walmart or if there were other people that were using that. Mr. Prince stated when you looked at Meijer, for example, in the southside, they had a number of semis that were using the Meijer parking lot as a staging area and a resting area for that and then Meijer posted signs that said they were not allowed to park there for that use and it was for the parking lot. Mr. Prince stated if they could ascertain if it was Walmart, he believed Mr. Loth was correct in saying that the store manager rightfully should take care of that regarding how the semis were properly staged on site. Mr. Prince stated if they were off site, they would probably need to do the same thing as Meijer and have signs posted so that people were not using the area. Mr. Prince stated he sympathized with the truck drivers as they needed areas to rest, but at the same time they needed the parking lot to serve the public at large. Mr. Hixenbaugh stated he would summarize it as the experience they had was that other major retail outlets had taken steps to be able to address the issues when they had their own issues with semis in their parking lot, so it was not impossible for a business such as Walmart to be able to remediate and address the semis there, especially in an area where they spent significant dollars to try to make it an attractive area and an attraction for people to come to. Mr. Hixenbaugh asked Mr. Prince if he would agree with him that that was inconsistent with some of the investments they made and the standards that they had with regard to businesses not only in the northern part of Mishawaka, but throughout Mishawaka. Mr. Prince stated yes, that was correct. Mr. Hixenbaugh thanked Mr. Prince.

Mr. Carroll stated when looking at the site, it was currently about 8.2% under the reduction from what it currently was, which would be about a 13.5% reduction making a total of roughly 20% below what the ordinance had said. Mr. Violi stated it should be 21%.

Mr. Emmons stated in talking about the trucks parking out there in the parking lot, he was out there the other day and the trucks were not for Walmart or Sam's Club and they were there because they were resting and they were waiting for another load, so they were just

parking in the parking lots. Mr. Emmons stated he was on site there the other day and he struggled to find a parking space, because it was packed and maybe that had to do with the time of the year it was, but when you started eliminating parking spaces and allowed semis to park in there, you were discouraging people from going shopping there and they did not want to discourage people from coming into their area and shopping in their facilities. Mr. Emmons stated he had a concern about approving the proposal and eliminating that many parking spaces.

Mrs. Voelker stated she appreciated Mr. Prince clearing up her concern about the engineering and how the two different parking lots were used, so she wanted to withdraw her concern there and about the ingress and egress, so she would not be asking for a postponement that evening.

Mr. Mammolenti thanked Mr. Prince for coming to the podium and giving clarification on some of his concerns and he brought up some very compelling and interesting points regarding the number of spaces and it did make sense since it was not taking away spots like it was downtown for their public and local citizens and it was up to Walmart to determine if that would influence their business. Mr. Mammolenti stated with the other information that he provided he was willing to act on the proposal that evening as on the agenda.

Mr. Hixenbaugh asked Mr. Loth to come back to the podium once more. Mr. Hixenbaugh thanked Mr. Loth for his patience and stated he wanted to go back to the semi issue. Mr. Hixenbaugh asked if there was any way that he could firm up his earlier answer and make more commitment on behalf of his client to interact with the management of the store to ask them to take the reasonable measures that Mr. Prince highlighted and other businesses in Mishawaka had taken to avoid their parking lot becoming a truck rest stop. Mr. Loth asked if Mr. Hixenbaugh was referring to the signage around that stated no truck parking. Mr. Hixenbaugh stated that was what he was referring to. Mr. Loth stated he believed those were measures that could solidify that the signs could be added as part of the fuel project to ensure that did not happen. Mr. Hixenbaugh stated for clarification that on behalf of Mr. Loth's client, he was committing to the Council that Walmart would take reasonable steps to place signage on the property and take other actions to curtail the long-term parking of semis on their parking lot and asked if that was correct. Mr. Loth stated he could commit to signage, and he did not know if he was at liberty to commit to much else. Mr. Loth stated he could coordinate with the store manager, and he was just not in the position where he could commit to things on behalf of Walmart, but he believed, like Mr. Hixenbaugh was saying before, there were other developments that had similar signage and they could definitely add them in as part of the development, but he could not commit to a lot else, because ultimately the store manager had more authority than he did. Mr. Hixenbaugh stated he agreed and like he had said earlier, he acknowledged that. Mr. Hixenbaugh stated he was willing to take a little bit of a leap of faith based upon that representation and he did not visit Walmart very frequently, but it sounded like his colleagues did and if there was not signage that was put up or a reasonable effort by Walmart to address it, his opinion would be that Walmart had not lived up to the commitment he made on their behalf that evening and he would work with

their Council Attorney to take any actions allowable by the Council under Indiana law to revisit the issue. Mr. Hixenbaugh stated it had gone beyond semis in a parking lot at that point in time and it was now about entities being good corporate citizens and doing what they should like other corporate citizens did to avoid these types of circumstances. Mr. Hixenbaugh stated nobody benefited from the semis being out in the parking lot if they were not serving Walmart's need and he hoped they could agree on that. Mr. Hixenbaugh stated he was willing to take the leap of faith, but his strong sense of it was that the Council and their administration would keep a good eye on what had happened there and if they felt as though Walmart was not acting responsibly, then they would review whatever actions they could take to try to address that, but based upon Mr. Loth's further clarification, he would be inclined to vote in favor of the proposal that evening. Mr. Hixenbaugh thanked Mr. Loth once again for his patience that evening and working through the issues with them.

Mr. Carroll asked Mr. Hixenbaugh if they could get firm commitments if they voted in favor of the proposed ordinance between this matter and the variance because they would not be able to build it without the variance. Mr. Hixenbaugh stated since it was a developmental variance that was acted upon by a separate body and not the Council, it was beyond their scope to be able to impose that condition and they had the ability to be able to impose reasonable conditions upon the actions that they took to be able to make it subject to the action of another body that also had discretion to vote in favor or against based upon the law and he would be hesitant to think that would be in their best interest to do so. Mr. Carroll thanked Mr. Hixenbaugh.

Mr. Loth asked if given the scenario, if they would consider a conditional approval based on the verbal commitments, he may be able to get from Walmart within the next week or so if that was the way they wanted to go for a more firm and solid answer from himself and from Walmart. Mr. Hixenbaugh stated he appreciated his suggestion, but the more they tried to make the verbal commitment binding, the more he was going to cause him to be inclined to ask for a written commitment and to really embed that in the approval, so that would slightly make him feel better and at that point in time, he was willing to give Mr. Loth the benefit of the doubt that he was going to follow up with his client based upon what he had shared with the Council that evening and what they had shared with him. Mr. Hixenbaugh stated long after Mr. Loth returned to the state of Tennessee, there would be people specifically on the Council who were going to visit Walmart to make sure that they were doing what the Council believed they should in order to be a good corporate citizen. Mr. Hixenbaugh stated he did not know what would happen at that point in time, but if he wanted to provide them with some follow-up information then they would all certainly entertain that, but at that point in time a conditional approval did not appear to advance the process in his opinion, but he appreciated the suggestion, nonetheless. Mr. Hixenbaugh thanked Mr. Loth.

Question was called for at 7:14PM for **PROPOSED ORDINANCE NO. 2025-35 Motion passed by unanimous 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 proposed ordinance passed 7-2, thus it became **ORDINANCE NO. 5956.**

NEW BUSINESS

Mr. Carroll announced they would be having a December meeting for the 2nd District Neighborhood Group, and it would be brief with the discussion primarily regarding snow plowing he assumed. Mr. Carroll stated that would be at 7PM on the second Thursday of December and every month moving forward.

ADJOURNMENT 7:16PM

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.