

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

January 5, 2026

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 January 5, 2026, at 6:00PM. The meeting was called to order by City Clerk Debbie Ladyga-Block. All were asked to stand for the Pledge of Allegiance.

Chief Deputy Clerk Raven Boston 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

Clerk Block opened the floor for nominations for President of the Council for 2026. Mr. Mammolenti nominated Mr. Gregg Hixenbaugh to serve as the Council President for 2026. Mr. Violi seconded the nomination. Hearing no other nominations, Clerk Block entertained a motion to close nominations. Mr. Banicki moved the motion and with a second from Mr. Mammolenti, a voice vote was held on the motion. The motion passed unanimously. Chief Deputy Clerk Boston polled the Council on the nomination of Gregg Hixenbaugh as Council President for 2026.

Nomination 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 nomination passed 9-0 and Mr. Hixenbaugh was elected Council President for 2026.

Mr. Hixenbaugh thanked his colleagues and stated he looked forward to continuing to work with them as well as the Administration throughout the coming year.

Mr. Hixenbaugh opened the floor for nominations for Vice President of the Council for 2026. Mr. Violi nominated Mr. Ron Banicki to serve as the Council Vice President for 2026. Mr. Mammolenti seconded the nomination. Hearing no other nominations, Mr. Hixenbaugh entertained a motion to close nominations. Mr. Violi moved the motion and with a second from Mr. Mammolenti, nominations were closed. City Clerk Debbie-Ladyga Block polled the Council on the nomination of Ron Banicki as Council Vice President for 2026.

Nomination 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 nomination passed 9-0 and Mr. Banicki was elected Council Vice President for 2026.

Mr. Banicki thanked the Council.

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.

Minutes for the Regular Meeting on December 15, 2025, were approved as received from the Clerk's Office.

Clerk Block read the following appeal by title.

Appeal No. 2025-42 Use Variance to allow a Second Floor Residential Unit in the Commercial Building occupied by Josephine Photography – 340 W. Cleveland Rd.

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

PROPOSED ORDINANCE NO. 2026-01

AN ORDINANCE AMENDING ORDINANCE 5951 FIXING THE SALARIES OF ALL SWORN POLICE EMPLOYEES OF THE CITY OF MISHAWAKA, INDIANA FOR THE YEAR BEGINNING JANUARY 1, 2026

**Amending 2026 Salary Ordinance for the Police Department
(Assigned to Budget & Finance Committee)**

PROPOSED ORDINANCE NO. 2026-02

AN ORDINANCE APPROVING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF MISHAWAKA AND THE MISHAWAKA FRATERNAL ORDER OF POLICE LODGE 91

**Collective Bargaining Agreement between the City and Mishawaka Police Department for 1 year
(Second Reading Requested)**

The chair entertained a motion to suspend their regular council rules and hold first and second reading on **PROPOSED ORDINANCE NO. 2026-02** that evening. Mr. Banicki moved the motion and with a second from Mr. Violi, a voice vote was held on the motion. The motion passed unanimously and the Council moved to second reading and public hearing on **PROPOSED ORDINANCE NO. 2026-02**.

Alex Arendt, Police Chief of the Mishawaka Police Department, spoke in favor of **PROPOSED ORDINANCE NO. 2026-02**. Chief Arendt stated they went through an agreement with the Fraternal Order of Police to come to agreement on accepting drone operator as a specialty, language on light duty, and language on how on call overtime would be handled in the detective bureau as well as how training for voluntary events would be handled and how buyout of random personal days would be handled at the end of the year so that it was reflected in the final payroll as opposed to the current language of December 31st. Chief Arendt stated those were the changes

that were discussed with the FOP and agreed upon and he asked that the Council accept the contract as submitted.

Rich Freeman, President of FOP Lodge 91, spoke in favor of **PROPOSED ORDINANCE NO. 2026-02**. President Freeman stated there were several things that had taken place at the end of the year and thanked everybody for the process as there were a lot of difficult things on the docket. President Freeman stated he appreciated the discussion that had taken place and there were many things that were going to continue to take place. President Freeman stated they had many issues with regard to training and training equipment. President Freeman stated in the last two weeks, they had some incidents and were ongoing incidents and he was not going to discuss any details regarding them, but they were both nothing short of a miracle. President Freeman stated the outcomes of both of the incidents would not have been possible without the training and the equipment that had been recently provided to the department and he thanked everyone that was part of that process. President Freeman stated moving forward, he hoped that would also be in consideration with the budgetary restraints that they may or may not have been looking towards. President Freeman thanked the Council for their consideration.

Mr. Mammolenti expressed his extreme thanks for President Freeman and all of the other officers and the Administration for the crazy couple of weeks that he had just described, and he knew it was handled perfectly, and they would be in his continued thoughts and prayers throughout the lingering process, and he knew healing would need to take place. Mr. Mammolenti once again thanked them all for all they did for the last couple of weeks and what they continued to do on a daily basis. President Freeman thanked Mr. Mammolenti for his comments.

Mr. Hixenbaugh stated he was always proud of the service the Mishawaka provided to the City of Mishawaka. Mr. Hixenbaugh stated on a smaller level, he was also proud of the collaborative spirit President Freeman referenced with regard to how they bargained together. Mr. Hixenbaugh stated they clearly did not always agree, nor would they ever always agree, but they worked through it and it was a very professional process, and he appreciated the role not only the FOP played, but that the Administration played, and he mentioned Chief Arendt, Chief Nowacki, Mrs. Maguire, and Mr. Roggeman by name. Mr. Hixenbaugh acknowledged the tome that his colleagues on the Council spent with regard to the process and not to speak for them, but he believed they also echoed the sentiment that they appreciated the collaborative nature. Mr. Hixenbaugh stated he appreciated the leadership of Mr. Mammolenti as the chair of the Public Health and Safety Committee as well as the roles that Mr. Violi and Ms. Hahn played with regard to the negotiations. Mr. Hixenbaugh acknowledged the continued commitment that the Administration had shown to them dealing with the issues both financial and operational in nature as a combined bargaining team. Mr. Hixenbaugh stated he continued to believe that that was in the best interest of the community as well as the police department and it led to the best possible outcome that they could have. Mr. Hixenbaugh stated as President Freeman touched on, they technically had the ordinance setting the salary and compensatory pieces on first reading only that evening, but since they were talking about the issues in passing, it was a challenging bargaining and as he had said before, it was only because of decisions that had been made by people outside of the City of Mishawaka that they were facing the financial challenges that they were and they were unable to do all that they wanted to do not only at the bargaining table but in

particular at the bargaining table with continuing to make sure that they had the best paid, best trained, and best qualified officers that they could possibly put out on the street every day. Mr. Hixenbaugh believed they were doing a great job under difficult circumstances, but the challenges were not being made any easier by their friends in Indianapolis. Mr. Hixenbaugh stated he held out a little hope that out of the session, they would start to see some relief that would allow them to be able to make good decisions on the local level with regard to how they provided services to their community, but until they were given some more latitude from Indianapolis, they would continue to have to try to find ways to collaborate and partner with the FOP, the Administration, and the Council to try to identify the ways that they could continue to provide the best public safety services to the community. Mr. Hixenbaugh once again thanked everyone who was involved in the process.

Question was called for at 6:20PM for **PROPOSED ORDINANCE NO. 2026-02 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. 5967.**

PROPOSED ORDINANCE NO. 2025-46

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

Rezone from R-1 to R-2 Two-Family Residential to match existing use – 902 & 902 ½ S. Main St.

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.

Julie Circle, Kelly Williams Realty, spoke in favor of **PROPOSED ORDINANCE NO. 2025-46.** Mrs. Circle stated she was representing the property owners of 902 and 902 ½ South Main Street. Mrs. Circle stated the proposed rezoning came up through the property being under contract for sale and the property was being sold to a buyer who wanted to use it as an investment property and she was a local buyer. Mrs. Circle stated in order to do so, she needed to have a loan and in order to receive the loan, the property needed to be zoned correctly so that if the house would go down for whatever reason, be it fire, tornado, or another type of natural disaster, it would be able to be put back as a two-family home. Mrs. Circle stated she wanted to mention a few other things she noticed about the proposal and she really believed zoning the house as R-2 would raise the caliber of future buyers in the area with the ability for a buyer to purchase the home as an investment property with a lender and a larger percentage of homes, if they were treated this way, would carry home insurance. Mrs. Circle stated this was often not the case for properties that were purchased as a cash sale. Mrs. Circle stated it was a win-win for neighborhoods when higher quality buyers were brought in. Mrs. Circle stated the home had an appraisal and it was valued at \$173,900, which was a large chunk for someone to buy as a cash

buy and that was currently the only way the home could be sold. Mrs. Circle stated she also believed that this went along with the Mishawaka 2000 comprehensive plan recommending the land use of the subject property as low density residential. Mrs. Circle stated the property had been a duplex since 1952 without incidents and she had a letter from Code Enforcement showing no violations associated with the property.

Mr. Emmons asked if the prospective buyer was local buyer. Mrs. Circle stated yes, she was. Mr. Emmons asked if it was a single person or a group. Mrs. Circle stated it was a single person who was a nurse and this would be her first investment property. Mrs. Circle stated she would like to begin buying investment properties. Mr. Emmons asked when she said the buyer was local if she was local within Mishawaka. Mrs. Circle stated she lived in Granger. Mr. Emmons asked if it was correct that she stated the property had been zoned R-1 since 1952. Mrs. Circle stated she said it had been a duplex since 1952. Mr. Emmons asked if the property had been under R-1 since 1952. Mrs. Circle stated it was under R-1 zoning longer than that. Mr. Emmons asked if there was a reason why it had never been changed. Mrs. Circle stated that had been brought up twice before through purchase agreements that they needed the change, but she did not know the person's reasons why they did not pursue that. Mr. Circle stated twenty to thirty years ago you could buy a house with cash for a lot less money than you could at that time and that was when the prior requests did come up. Mrs. Circle stated they were documented in the files, and she believed there was one in 1976 and one in 1992 when house prices for cash were running \$30,000, but the one in question was not valued at that. Mr. Emmons asked if there was no prospective buyer for the property, if it would stay zoned as R-1 and in violation. Mrs. Circle stated it was a nonconforming use. Mr. Emmons stated he understood that and that the only reason she was asking for the zoning to be changed from R-1 to R-2 was so someone could sell it and someone could buy it. Mrs. Circle stated yes. Mr. Emmons stated he knew the Planning Commission and the Planning Department gave the recommendation that the rezoning be approved and there were questions he had at the Planning Commission meeting and as she knew, it did not pass favorably, and it came to the Council without a recommendation and he personally had concerns. Mr. Emmons stated he appreciated her answers and appreciated her being there that evening. Mrs. Circle stated she appreciated that and that she also had an answer to one of the questions Mr. Emmons asked her at the Planning Commission meeting. Mrs. Circle stated that Mr. Emmons mentioned some boards lying on the sidewalk in the pictures and upon further examination, those pictures were done at the time when the handicapped ramp was put in three years ago and the boards were bolted into the ground to create a ramp so that a wheelchair could actually reach the property, so the person in the wheelchair could get into a car and they were permanent. Mrs. Circle stated the company that installed the ramp was a local charitable organization called SAWS or Servants At Work, Inc. Mr. Emmons asked how old the individual who was handicapped was. Mrs. Circle stated the woman was in her 70s. Mr. Emmons asked if the tenant upstairs was elderly. Mrs. Circle stated that tenant was a young person. Mr. Emmons thanked Mrs. Circle for her presentation and for also bringing to his attention a question he had asked her in the past.

Ms. Hahn stated Mrs. Circle had mentioned there were two tenants that already were in leases at the building and asked how long the leases were for each of the tenants. Mrs. Circle stated the tenants had been there so long that their leases had turned into month-to-month leases with the one upstairs having been a tenant for three years and the tenant downstairs had been there

fourteen years, however at Christmas she had been hospitalized and she was severely ill and they did not think that she was going to be able to continue to be a tenant at the building. Ms. Hahn stated Mrs. Circle had also mentioned that she was working on behalf of the local investor with the property in question being her first investment property and she mentioned that there was a property management company that was handling the leases. Ms. Hahn asked as the investor moved forward with the purchase if Mrs. Circle would be assisting her in finding new tenants and if so, if she knew any of the processes she would be using as far as doing background checks, credit checks, and vetting possible tenants for the property. Mrs. Circle stated she represented the seller, and the seller was the one who was paying a property management company and had been for the last three years, the time that they had owned the property and that property management company was Access Properties and they were charged with the responsibility of doing the background checks and so on. Mrs. Circle stated the buyer had a different realtor who represented her and her interests. Ms. Hahn asked if the handicapped ramp to her knowledge was going to stay permanently whether the person living on the lower level was handicapped or not as a kind of benefit. Mrs. Circle stated she believed that would be up to the buyer and if the property was not rezoned, they would no longer have a buyer and it would then be up to her seller to make that decision but generally speaking when a property had a handicap ramp, you would leave it there until it was no longer wanted. Ms. Hahn thanked Mrs. Circle.

Mrs. Voelker asked since she was representing the seller if she had no idea whether the proposed buyer would work with a property management company. Mrs. Circle stated she had already signed up and asked to continue with the same property management company and this situation they were in had unfortunately taken them a lot longer than they had anticipated with a regular sale and this sale was a little out of the ordinary.

Mr. Banicki stated when she mentioned high quality owner, he thought of owner-occupied and somebody who lived there, took care of the grass, made sure things were done on a daily basis, and had skin in the game every day. Mr. Banicki stated when they looked at different things, they may have had great renters at that time, but they did not know who would be moving in in the future. Mrs. Circle stated the property had been rented since 1952 and the person that was there currently had been living there for fourteen years successfully and it was a very well-maintained property. Mr. Banicki asked if the new owners would be taking in subsidized types of renters into the property. Mrs. Circle stated they were not at that time, and she could not speak for the buyer and what she intended to do, but she wanted to buy the property because it had good renters already in it and there was no need to change things.

Mr. Violi stated he understood that for the property to be rezoned R-2, there should have been two parking spots per tenant making a total of four, but from what he read in the report, there were only two existing ones. Mr. Violi asked what the plan was by the buyer to come into compliance. Mrs. Circle stated there were currently three parking spaces on the property with a single-family car garage and a 47-foot-long driveway, so that would count as three parking spaces. Mrs. Circle stated there was also a 14x21 concrete patio that adjoined the current driveway there and there was a 9-foot strip of grass in between the two pieces of concrete and the 14x21 patio was encased by a chain length fence. Mrs. Circle proposed that they gravel or concrete the strip in between the two and removed at least one side of the chain length fence

which would then afford five parking spaces. Mr. Violi stated it still sounded like it would be a tight area. Mrs. Circle stated it did not feel like it was tight when she was there.

Mr. Emmons stated when she mentioned the strip between the concrete and the patio being gravel, he did not think that would be up to code. Mrs. Circle stated they would do concrete, pavers, or whatever would work then.

Mr. Hixenbaugh thanked Mrs. Circle for her patience with them as they looked into the item further. Mr. Hixenbaugh stated from his perspective, he was inclined to support the proposed ordinance, particularly because of the historical use that had been documented since 1952. Mr. Hixenbaugh stated when it was built in 1915, it was appropriately zoned and there in fact was a zoning code in place at that time, but clearly it had been used as a duplex since 1952 at least. Mr. Hixenbaugh stated there was at least one other property that was being taxed in as a duplex in the vicinity, so he was inclined to support it, but parking was an issue for him. Mr. Hixenbaugh stated he appreciated what she shared with regard to the plan and that was reflected in the staff report as well. Mr. Hixenbaugh stated he did not recall in his time on the Council approving a rezoning without a non-conforming issue such as the lack of the parking space being dealt with under a use variance or the matter being resolved by the petitioner prior to coming to them and asking the Council for the zoning to be approved. Mr. Hixenbaugh stated he hoped that she could provide some additional details that would make him feel more comfortable in approving the matter with regard to timeline and for the record, anything that she did would need to be consistent with their general city ordinances and he was sure she would agree with that. Mrs. Circle stated absolutely. Mr. Hixenbaugh asked when she indicated that there would be some improvements made to the strip of property if she had been authorized by her clients to make that commitment. Mrs. Circle stated yes, she had been and she had also spoken with a contractor about that, and she had one waiting in the wings to do the work. Mr. Hixenbaugh asked if the contractor had provided her with any timeline with respect to when the project would be completed. Mrs. Circle stated they were open to what Mishawaka required with that but given that they did not get any more snow it could be done within three weeks to four weeks. Mrs. Circle stated it was a simple process. Mr. Hixenbaugh stated he appreciated that, and he did not know that they had a specific timeline that they required other than everybody was supposed to comply with their ordinances and have it done already. Mr. Hixenbaugh stated he did not want to engage in a circular discussion, but he struggled with the concept of approving the ordinance without there being an enforceable commitment on the part of her clients to do what it was that she was indicating to the Council that evening that they would do. Mr. Hixenbaugh stated he took what she said at face value, but unless there was an enforceable component involved, he struggled with how he would get to a yes vote from his perspective. Mrs. Circle stated she believed she knew how to heal the problem and stated because there was a lender involved, the lender was very interested in what was transpiring that evening and she would not grant the loan without Mishawaka approving it and she understood what he was saying in that they could say they would do something and not do it because there was no process that followed up on that, but the lender would and she would not grant the loan if this was not handled correctly. Mr. Hixenbaugh stated that was a fair point, but people did not elect the Council to outsource their responsibilities to a lender, people elected them and charged them with the responsibility to make sure the developments presented to them were responsible and in compliance with their city code. Mr. Hixenbaugh posed a question to Mr. Trippel.

Mr. Hixenbaugh asked Mr. Trippel if he saw any legal impediment to the ordinance being approved subject to a condition that the fourth parking space be constructed within ninety days. Mr. Trippel stated assuming the petitioner consented to that request, he would say yes and assuming they complied with the city ordinance related to the parking.

Mr. Hixenbaugh went back to the discussion with Mrs. Circle and stated between two lawyers, their suggestion was that there be some condition built into the ordinance which Indiana law allowed them to do to take what she was sharing with them and take it out of the realm of a promise to a binding commitment that if it was not kept, then the zoning would revert back to R-1 and would then become problematic and dealt with accordingly. Mr. Hixenbaugh asked if three or four weeks was her understanding of what the contractor had to say as far as a timeline was concerned. Mrs. Circle stated the contractor told her that he could have it in two days and she was not a contractor, but her experience with contractors was that sometimes they gave a little quicker estimate than they were actually going to do. Mrs. Circle stated she had the contractor ready, and it was a simple process, and he said he could work on it right away. Mr. Circle stated ninety days was likely generous, but she did believe snow could stop him. Mr. Hixenbaugh stated he appreciated that, and they had similar experiences with contractors, so they were on the same page, but he still struggled with the non-enforceability of what she was sharing with them, no disrespect intended. Mr. Hixenbaugh stated his personal preference would be for them to entertain a motion to postpone the matter until she could provide the Council with a firmer deadline on the part of her contractor with regard to when the improvements would be completed that they then could embed in their ordinance, but asked first if she had a closing scheduled for the purchase already. Mrs. Circle stated closing passed in November and the way that the contract was written, it was written to say within seven days of November 14th or within seven days of clear to close and they did not have clear to close, because they could not run the lending without the property being zoned R-2, so that left an open door and it was written that way on purpose and realtors did a lot of closing days that way in case something were to happen. Mrs. Circle stated she believed they would lose their buyer as she had waited patiently throughout the process and the property went on the market in July and they went under contract in September. Mrs. Circle stated there were a lot of folks that had put a lot of work into it and they had full inspections of the house and there were things that needed to be repaired, and they did complete full repair as they did in any real estate sale. Mrs. Circle stated she felt very strongly that to continue to have R-1 homes that were allowed to be duplexes with non-conforming use that allowed them to happen that way and then when they at some point in time needed to sell, this was going to other folks and the property value was low when you had to have a cash buyer. Mrs. Circle stated cash buyers did not pay very much, and they traditionally did not put home insurance on properties. Mrs. Circle stated to her, the best move for Mishawaka to make was to say yes that they would rezone to R-2 when somebody asked as long as everything else lined up, because the property would then get the full market value that it deserved and it got somebody to buy it, who cared about it, and who wanted to protect the investment they put into the property. Mrs. Circle stated she would go for a lender purchase any day over a cash purchase as far as value for the community was concerned. Mr. Hixenbaugh stated he appreciated her points, although he did not feel as though either he or his colleagues needed further guidance on what was in the best interest of their community and he thought that they had always looked out for the best interest of the community in every one of the matters that had come before them and in his almost twenty years of sitting in a seat on the Council, it had been his long experience that

unless they took the opportunity when legal non-conforming uses came for them for rezoning to have any additional areas of non-compliance addressed was a once in a lifetime opportunity once it was rezoned and if people did not comply then they did not have an enforcement mechanism. Mr. Hixenbaugh stated that was his concern and again, he was inclined to support it but would not be doing it on faith and as much as he respected what she shared with them, that was not within his understanding of his obligation as an elected official to act in that capacity. Mrs. Circle stated she wished they would have brought the parking space issue up at the last hearing and there was only one comment from the panel and that person said that they could not think it could be used as a parking space. Mr. Hixenbaugh stated he agreed with her and if they were in a perfect world, it would have been taken care of, but it had not been, so he would feel bad about her losing her buyer but he did not feel bad about asking to have their ordinances complied with as part of the approval of the request. Mr. Hixenbaugh stated with all due respect to her and her clients, speaking only for himself and his colleagues may not agree, his preference was to postpone it until their next regularly scheduled council meeting which would be January 26th and he was sorry if that was going to cause any problems, but from his perspective, they were already way past their November 14th deadline and the problem had not been addressed. Mr. Hixenbaugh stated that was his perspective but the good news from her perspective was that he could not make the motion and somebody else would have to make it. Mr. Hixenbaugh stated he would support it if one of his colleagues were to make that motion to postpone the matter until their next regularly scheduled council meeting. Mr. Hixenbaugh stated he appreciated her patience with him and the information she shared and he took at face value the commitments she made that evening, but they just were not in a face value business. Mrs. Circle stated since the last council meeting in December, it had snowed that entire time and asked if there was any way they could have done this in between then and now and she freely admitted she did not attempt to try to do it before the meeting that evening and she did not realize the significance of that but she could not have done it. Mr. Hixenbaugh stated that was where he thought it would be helpful for her to have a conversation with her contractor so that if ninety days was a reasonable period, that would be a condition they could build into the approval and the same would be the case with 45 days and so on. Mr. Hixenbaugh stated if it was going to be six months, he suspected that would be problematic but a reasonable time period that they could build in as a condition of approval that would allow them to have some enforceability with regard to the follow through on the point he thought would be important and potentially beneficial to her and her client, but again there was not a motion on the floor and there may not be one but that was his own thought on the subject. Mrs. Circle thanked Mr. Hixenbaugh.

Mr. Mammolenti asked for clarification if this was a cash purchase or a lender. Mrs. Circle stated it was a lender. Mr. Mammolenti asked if she felt confident that she could make the commitment to have it completed in ninety days. Mrs. Circle stated she did feel like she could make the commitment within ninety days, and she honestly felt like she could make the commitment within thirty days as long as there was no snow during that time. Mr. Mammolenti asked if she agreed to the ninety days and to have the contingency in place completed within ninety days. Mrs. Circle stated yes, she would agree to that. Mr. Mammolenti asked President Hixenbaugh what would happen if they embedded that contingency in the ordinance and then it was not held up. Mr. Hixenbaugh stated he had a thought but asked Mr. Trippel what the impact would be if they in fact approved the subject to a condition related to the improvements on the parking spot with a 90-day deadline and what would be the legal effect of non-compliance with that deadline.

Mr. Trippel stated the zoning would revert back to R-1 contingent upon the condition. Mr. Mammolenti asked Mrs. Circle when the expected new closing date was. Mrs. Circle stated that was to be determined after the conclusion of the council meeting that evening and they hoped to close that week, but what she saw happening was that week because of the snow melting and they could get in there, do the parking space, and the lender with the documentation they were talking about with a condition built into the approval would say once they saw the parking space there and they fulfilled what the city wanted then she would be able to move forward. Mr. Mammolenti stated he believed, with that being said, that gave the city a protection that it could go back and made him feel a little better that evening.

Mr. Carroll asked for clarification if the parking issue was the only non-compliance issue that they had other than the general non-conforming use. Mr. Hixenbaugh stated that was the only one he was aware of. Mr. Carroll thanked Mr. Hixenbaugh.

Mr. Banicki stated he would feel much better if the purchaser were present that evening and able to commit to some of the things as opposed to the seller. Mr. Banicki stated he wanted to talk to the person that was going to be there and be responsible for some of the things after the fact. Mr. Banicki stated according to the weather forecast, within the next seven days they were going to have more snow. Mrs. Circle stated her understanding was that a petition could only be filed by the owner of the property and that was why she was there representing the seller. Mr. Banicki stated when they were looking at future commitments, sometimes the purchaser if they were going to have to follow through on that within ninety days, they should be present. Mrs. Circle stated the seller would have to do it before the sale could go through because the lender would not approve it otherwise. Mr. Banicki stated he was afraid to approve the ordinance and then all of a sudden, they had a new purchaser, and the new purchaser was not as nice of a landlord and then the Council approved something that was out of their control.

Mr. Carroll asked when they were talking about placing a contingency provision in the ordinance and then a closing occurred no sooner than two weeks, did a delay allow for all of the necessary actions to take place and then Mr. Banicki could talk to the purchaser, they could see evidence themselves of the completed driveway. Mr. Carroll stated he did not see a benefit of making a clause in the ordinance and it seemed all the same to him.

Mr. Hixenbaugh asked Mr. Prince to approach the podium to briefly add in his opinion on the matter and if he had any concerns.

Ken Prince, Director of Planning and Community Development, spoke before the Council. Mr. Hixenbaugh asked with regard to the two options he referenced, embedding a condition of approval into the ordinance that evening being the first option or postponing the matter until their next regularly scheduled council meeting to see if the situation could be resolved by the parking space being added, if he had any thoughts upon which of the two was preferential or perhaps another option. Mr. Prince stated he never wanted to argue with attorneys, particularly with the Council, but his understanding in reviewing zoning was that the only way a condition could be added was through voluntary commitment, so wording it that way he felt very comfortable with voluntary commitment and that could be done that evening without question. Mr. Prince stated with regard to the non-conforming situation, the property could be legally operated as a duplex in

perpetuity, and they had many properties that did not meet the parking requirement. Mr. Prince stated the issue in this case was only the financing and it was non-conforming in multiple respects like the setback, for example, was right on the property line and encroached. Mr. Prince stated they were not asking them to tear down the house or to move it, but parking was sensitive for neighbors and although they did not hear anything on this property in the neighborhood, which was part of the reason why the recommendation for approval, it did have three functional parking spaces. Mr. Prince stated if the tenant continued to be disabled and not have a parking space, it would make sense if once the conversion took place that they would continue to use it as a patio and in the future when they would need a parking spot, they would use it as a parking spot, so that conversion made perfect sense to him in that respect. Mr. Prince stated the Council did have the authority to act on the matter without any parking requirement and noted that if it did burn beyond 75% or tornado damage occurred, then they would have to meet the parking requirement. Mr. Prince stated it had to meet the ordinance in every respect, and it would be very difficult on the property, so to him it was kind of ridiculous the bank was requesting it because you would not physically be able to get it onto the property. Mr. Prince stated from a financing standpoint, previously they did it through non-conforming and they were comfortable with that and now it was just the 75% damage that the bank was trying to address which he understood from a perspective you wanted to protect yourself, but he was just not sure how valid it was. Mr. Hixenbaugh stated he agreed with him with regard to the non-conforming status, but he still maintained that when they had the opportunities to try to deal with the situation that was right in front of them, it behooved them to get it under compliance, but his points were well taken. Mr. Hixenbaugh stated there were a number of similar situations throughout the city and this was just the one that was in front of them and on the agenda that evening. Mr. Prince stated he understood.

Mr. Mammolenti asked if Mr. Prince could reiterate the fact that he said if it did not pass that evening that it could operate as a duplex in perpetuity. Mr. Prince stated yes, that was correct.

Mr. Hixenbaugh stated he had one follow-up he believed Mr. Prince mentioned and that the caveat was that there were some limited situations that caused a property that enjoyed legal non-conforming status to lose that status. Mr. Prince stated that was correct that when it was damaged beyond 75% of the value, it would lose its non-conforming status.

Mr. Mammolenti stated with the contingency in place with the fact that it was a local buyer and the contingency in place would provide the city with protection, he felt comfortable and confident with moving forward but he was also willing to respect the wishes of any of his colleagues who would like to make a motion to postpone it.

Question was called for at 6:58PM for **PROPOSED ORDINANCE NO. 2025-46 Motion passed by unanimous roll call vote (summary: Yes = 8 No = 1).**

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

No: Mr. Hixenbaugh. The proposed ordinance passed 8-1, thus it became **ORDINANCE NO. 5968.**

PROPOSED ORDINANCE NO. 2025-47

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 Automobile Oriented to R-1 Single Family Residential District to match existing use – 2106 N. Byrkit

Mrs. Hazen 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.

Joseph Franks, 2106 North Byrkit, spoke in favor of **PROPOSED ORDINANCE NO. 2025-47**. Mr. Franks stated the initial issue he ran into was the lender saw the appraisal report that said the property could not be rebuilt without being rezoned and he wanted to ensure that in case of an accident that the property could be covered by insurance to get rebuilt and if he ever wanted to do something like a fence or anything down the road that he would be within proper zoning procedures.

Mr. Carroll asked if he had been informed if anything on his property did not conform that needed to be changed. Mr. Franks stated no.

Question was called for at 7:02PM for **PROPOSED ORDINANCE NO. 2025-47 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. 5969**.

PROPOSED ORDINANCE NO. 2025-48

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 I-1 Light Industrial to expand business – 1825 E. 12th St.

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.

Chris Godlewski, Abonmarche, spoke in favor of **PROPOSED ORDINANCE NO. 2025-48**. Mr. Godlewski stated he represented the client, D.A. Dodd. Mr. Godlewski stated this was a

rezoning from C-1 to I-1 to better fit the use that had been there for a while and it was an expanding business. Mr. Godlewski stated on the 7.5 acres, there were 3 parcels and the middle parcel was the one that would be expanded and a new building would be built on it. Mr. Godlewski stated some of the adjoining properties were zoned industrial to the northwest and north and it was a developing, commercial, and industrial area just west of Capital. Mr. Godlewski stated he knew initially the staff report was positive and received a positive recommendation from the Plan Commission. Mr. Godlewski was happy to answer any questions.

Question was called for at 7:05PM for **PROPOSED ORDINANCE NO. 2025-48 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. 5970.**

PROPOSED ORDINANCE NO. 2025-49

AN ORDINANCE TO ESTABLISH 120 NORTH RACE STREET AS A LOCAL HISTORIC LANDMARK WITHIN THE CITY OF MISHAWAKA, INDIANA (Postponement requested)

Mr. Mammolenti made a motion to honor the request of postponement until the next regularly scheduled council meeting. The motion was moved by Mr. Banicki and with a second from Mr. Violi, a voice vote was held on the motion. The motion passed unanimously and the matter was postponed.

PRIVILEGE OF THE FLOOR

Felicia Seals, 6705 Lutz Drive South Bend, Indiana, spoke under **PRIVILEGE OF THE FLOOR.** Mrs. Seals stated she was the Executive Director of the Mishawaka Business Association, and she wanted to invite the public and the Council to their annual meeting this Friday January 9th at 8:30AM at the Battell Center. Mrs. Seals stated all were welcome.

UNFINISHED BUSINESS

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 (Amendment requested)

The chair entertained a motion to delete **PROPOSED ORDINANCE NO. 2025-44** in its entirety and substitute in an amended ordinance that had been distributed to the Council. Mr. Banicki moved the motion and with a second from Mr. Violi, a voice vote was held on the motion. The motion passed unanimously and the amendment was made.

Mr. Mammolenti reported the Public Health & Safety Committee recommended that this proposed ordinance be adopted. Upon a second by Mr. Banicki, the motion carried. The committee report passed unanimously.

Mayor Dave Wood spoke in favor of **PROPOSED ORDINANCE NO. 2025-44**. Mayor Wood stated the system they had for decades and decades had worked perfectly well in his opinion and that was thanks to the commitment and dedication of the Mishawaka Board and Safet who dealt with decisions on hiring, discipline, and promotion. Mayor Wood stated they knew that the dedicated officials were very efficient at what they did and they were committed to doing the right thing and they had a great track record of serving Mishawaka's public and making important decisions for the police department at a high level. Mayor Wood stated they knew that the Mishawaka FOP had taken a vote, and their vote was to essentially have the Mishawaka public be more involved in their decision-making process and they fully supported that at the Administration. Mayor Wood stated they fully supported the decision made by the FOP and they were committed to making sure that the new board, if the vote did come to pass, had all of the tools that it would need from the Administration to do its job. Mayor Wood stated they would offer up their facilities for this, and he noted that this would be an autonomous board not run by the Council, the FOP, or the Administration and they would make their own decisions, provide their own minutes, and provide their own leadership. Mayor Wood stated this would be a public board and it required five public appointees. Mayor Wood stated he already had commitments for two as far as the Administration had a commitment to provide two of the positions. Mayor Wood stated the board would hold public meetings, much like the common council meetings with the assistance of the IT Department to ensure they were fully compliant with public law with web meetings that were televised to the public. Mayor Wood stated they were also committed to making sure that they were following to the best that they could the efficiency they always had in hiring and the board would ultimately be the official board to hire their officers. Mayor Wood stated they had always taken pride in making sure that happened efficiently as they picked only the best and they had great officers who did an outstanding job. Mayor Wood stated when it came to promotion, they had been working over the course of the past year to develop a more merit-based system in partnership with the FOP and so this would supersede that as far as a new merit board was concerned and as far as discipline was concerned, they had been very committed to make sure that was done in a transparent manner but they would make sure they were extra transparent when it came to dealing with a public board on disciplinary matters. Mayor Wood stated they did have a couple of concerns being the amount of time that it may take to make decisions, and they had seen other communities where certain decisions had stalled out pending quorums and people's times to meet because once again, these were mostly volunteers and members in the community. Mayor Wood stated their Board of Public Works met weekly and you could set your clock by it, so that was why they wanted to be as efficient as they could be in the new phase of the process and encouraged the new board to carry that same level of commitment and seriousness in performing their public duties if it came to pass. Mayor Wood stated they would do their part to make sure it was a success and always thought inviting the

Mishawaka public in on their governing of the Princess City was a good thing, so they stood to support this.

Mr. Hixenbaugh stated he appreciated Mayor Wood's comments, and he agreed with what he said to say. Mr. Hixenbaugh stated from his perspective, if in fact they passed the ordinance, it was not an indication of any conclusion being drawn on his part or he believed on any other member of the Council's part and if there was anything inherently wrong with their system that they had in place at that time, both with regard to hiring, promotions, and the operation of their police department. Mr. Hixenbaugh stated as he mentioned earlier, he was very proud of their police department and the service they provided to the public, but he did respect the voice of the FOP and he thought it was important to note for the record that this was the initiation of the process and if in fact the Council approved the ordinance that evening, that would set the stage for the FOP to have a cast a more formalized vote that would require the approval of a majority of their sworn officers for the next step to take place. Mr. Hixenbaugh stated as Mayor Wood indicated, this was not a process that was new to Indiana or unique to Mishawaka and there had long been merit boards that had been in place throughout the state, specifically there was one in Elkhart as well as one within the St. Joseph County Police Department. Mr. Hixenbaugh stated he thought this would provide that opportunity for there to be the continuation of an appropriate process, but also to have a different element of collaboration since there would two appointees on the five member board by the Mayor, two appointees by the FOP, and an appointment by the Council so that all of the entities that had traditionally worked together with regard to the operation of their police department would continue to work together just in the form of the appointees to the merit commission. Mr. Hixenbaugh stated finally, he would say that they had a local precedent there as last year, they passed a similar ordinance for the fire department and that ordinance when it was taken to a vote of the body did not generate a 50% plus one approval, so that outcome was allowable under the statute and they had their own historical precedents there. Mr. Hixenbaugh stated from his perspective, the ordinance said that if the Council approved it, if the FOP approved it, and if in fact the merit commission came to fruition, the Council would need to revisit the matter in the calendar year 2029, so they would have an opportunity to revisit it and decide at that point in time whether it continued to make sense for Mishawaka, but he thought long before 2029 if in fact all the appropriate approvals came to pass, he thought they would be able to identify whether or not this truly met the personal needs of Mishawaka and to the extent that it did not, he stood committed to revisiting it even before 2029. Mr. Hixenbaugh stated he was in favor of this, and they would be voting accordingly that evening.

Question was called for at 7:18PM for **PROPOSED ORDINANCE NO. 2025-44 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. 5971.**

NEW BUSINESS

Mr. Hixenbaugh stated a list had been distributed by the Clerk's Office to the Council with regard to various council committees and their appointments to various boards, including their Council Attorney. The chair entertained a motion to approve their council committee assignments and various appointments pursuant to the list that had been distributed by the Clerk's Office. The motion was moved by Mr. Banicki and with a second from Mrs. Voelker, a voice vote was held on the motion. The motion passed unanimously and the appointments were accepted.

Mr. Hixenbaugh stated the Council also needed to acknowledge and accept Conflict-of-Interest forms on behalf of various council members and asked Clerk Block to read into the record the names of council members who had submitted Conflict of Interest forms.

Woody Emmons
Matt Carroll
Lou Ann Hazen
Tony Violi
Gregg Hixenbaugh
Matt Mammolenti

The chair entertained a motion to accept the Conflict-of-Interest forms for the council members who were identified by Clerk Block. The motion was moved by Mr. Banicki and with a second from Mr. Mammolenti, a voice vote was held on the motion. The motion passed unanimously and the Conflict-of-Interest forms were accepted.

Mr. Hixenbaugh stated the Council also needed to consider various changes in their regular meeting date schedule for 2026 due to various holidays and other conflicts. Mr. Hixenbaugh asked Clerk Block to read into the record the specific dates that were being proposed.

January 19 to January 26
April 6 to April 13
September 7 to September 14
November 2 to November 9

The chair entertained a motion to change their regular meeting dates pursuant to the list that they received and was read by Clerk Block. The motion was moved by Mr. Banicki and with a second from Mr. Mammolenti, a voice vote was held on the motion. The motion passed unanimously and the regular meeting date schedule was changed.

Mr. Emmons informed the public that the 1st District monthly meeting on Thursday January 15th would be held at St. Bavo's Church at 7PM and their speaker for that meeting would be the Mishawaka City Postmaster and she would be there to update everyone on different procedures that were being incorporated into the postal system. Mr. Emmons stated she was a very informative person and very dynamic and it should be an interesting meeting. Mr. Emmons stated all were welcome and as usual, West End would be providing donuts and refreshments.

Mr. Carroll announced the 2nd District monthly meeting would be on Thursday January 8th at 7PM at the Blair Hills Pool Complex and the speaker was to be determined.

Mr. Mammolenti announced the Twin Branch Neighborhood Watch would be meeting January 21st at 7PM at Fire Station number 4 and their guest speaker would be a representative from Crime Stoppers to explain and describe some of the things that they did on a daily basis and how they protected and helped the public. Mr. Mammolenti stated he would have more details to announce at their next regularly scheduled council meeting.

ADJOURNMENT 7:24PM

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.