

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

June 7, 2010

Mr. Gleissner said he wanted to remind all present that 66 years ago on June 6th was D-Day when the United States landed on the shores of Normandy, France. He asked everyone to keep this in mind while saying the Pledge of Allegiance.

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday June 7, 2010 at 7:00 p.m. The meeting was called to order by President Emmons, and all were asked to stand for the Pledge of Allegiance.

Clerk Block's roll call showed the following:

Dale "Woody" Emmons 1st District Councilman – (President) Present

Dave Wood 2nd District Councilman – Present

Ross Deal 3rd District Councilman - Absent

Marsha McClure 4th District Councilman - Absent

Michael Compton 5th District Councilman - Present

Ronald Banicki 6th District Councilman – Present

John Gleissner, Councilman At Large – (Vice President) Present

Gregg Hixenbaugh, Councilman At Large – Present

John J. Roggeman, Councilman at Large – Present

A quorum was obtained.

Others present; Deborah S. Block, City Clerk; Mary Ellen Hazen Chief Deputy I and Linda Dotson, Chief Deputy II, and Council Attorney Mike Trippel.

The minutes from the May 17, 2010 meeting were approved as received from the Clerk's Office.

Clerk Block presented the following appeals and petitions to the Council, who referred them to the Plan Commission for their recommendation.

PETITION NO. 2010

Rezone from R-1 Single Family to C-1 General

Commercial 406 E. McKinley Ave.

(Children's entertainment facility and retail Use)

A public hearing on V2010-01 as required by state statute on behalf of David Talos and Douglas McDonald, Gail McDonald Vacation of Public Right of Way-Alley East of 514 W. Marion Street.

David Talos, 514 West Marion Street said he was requesting the vacation of this alley way and wanted to put up a fence.

Mr. Compton asked if he would be splitting this alley equally with his neighbor and Mr. Talos said yes it would be split.

President Emmons closed the public hearing on V2010-01 at 7:05 p.m.

The following proposed ordinances were given first reading, assigned to committee, and set for public hearing at the next regular meeting.

PROPOSED ORDINANCE NO. 2010-17

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2010
(Additional Funds – Rainy Day Fund \$319,000.00)

PROPOSED ORDINANCE NO. 2010-18

AN ORDINANCE AMENDING TITLE VIII CHAPTER 58 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA COMMONLY REFERRED TO AS THE TRAFFIC CODE
(Traffic Code – All Way Stop Intersection’s Milburn Boulevard Neighborhood)

PROPOSED ORDINANCE NO. 2010-19

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2010
(Additional Funds – Rainy Day (Public Safety) \$1,042,115.71)

Clerk Block read **RESOLUTION NO. P. O. 2010-16** opening it for public hearing.

RESOLUTION NO. 2010-16

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A GUARANTEED ENERGY SAVINGS CONTRACT IN ACCORDANCE WITH INDIANA CODE 36-1-12, 5
(Approving a Guaranteed Energy Savings Contract)

Mr. Prince stated this resolution was prepared for consideration to authorize the City to enter into a Guaranteed Energy Savings Contract with Energy Systems Group (ESG), of Indianapolis. He said this resolution would also need to be executed by the Utility Board due to the wording of the statute that requires the Utility Board to authorize the expenditures concerning the “installation of conservation measures to a water or wastewater structure or system”. Mr. Prince went on to say the Utility Board would consider a similar resolution following adoption by the Council, that resolution would require/authorize the Utility Board to be the entity to execute the legal contract with ESG.

Mr. Prince explained the project includes improvements to 19 separate buildings/facilities, with the base cost excluding financing of \$1,585,252., there would be a savings of \$128,000 per year. He said the two largest expenditures were for the Police Station (\$481,505) and City Hall (\$467,494),

these two buildings have HVAC and control improvements, and represent approximately 60% of the overall project costs. Mr. Prince stated they have provided an itemized list of proposed improvements and their respective cost, which are on record in the clerk's office. He said the simple return on investment (excluding the financing costs) was 12.38 years. Mr. Prince went on to say as proposed, the project would be paid for by a variety of funding sources over the next five years, including a \$219,000 grant (EECDBG) that was received as part of the federal stimulus, if the funding of the project was approved by the Council the funding would be as approved by the Mishawaka Bond Bank. He said it was anticipated that this entity, created by the Council with the funds received from the Methyl tert-butyl ether (MTBE) lawsuit settlement, will be able to fund the proposed project at interest rates that are substantially lower than the open market which is currently over 4%.

Mr. Prince stated the low quote for the electrical/lighting retrofits was submitted by Midwest Illuminations which was a company based out of Clarkston, Michigan. Based on ESG's experience, there are two regional firms that specialize in this type of work that have been historically low on these projects. He said ESG, in their experience has not had local electrical firms able to match the prices of the firm that specializes in this work. Mr. Prince stated due to a request from a Council member he seek out two local companies to bid on this job, one refused to submit a bid and the other was Koontz-Wagner who was \$50,000 higher. He said as a result of that he asked Energy Systems Group to go back to Koontz-Wagner to see if additional costs could be cut on the bid, as a result Koontz-Wagner was able to drop their price \$25,000, but they are still \$25,000 higher than Midwest Illumination. Mr. Prince said although it is understood that there is a preference to use local labor where possible, as stewards of public funds, he at this time was asking the Council to approve the resolution reflecting the current low quote by Midwest Illumination. He went on to explain since the Indiana Code allows Energy Systems Group to work with firms to get the best price he has asked them to keep that portion of the contract open regarding who would be awarded the electrical/lighting retrofits but holding the current low quote price submitted by Midwest Illumination.

Mr. Banicki asked if these buildings to be worked on would be held long term. Mr. Prince said yes.

Mr. Roggeman asked if Midwest Illumination would bring their workers or hire local. Mr. Prince said they would be bringing their own.

Mr. Compton said Midwest Illumination state they would pay the Indiana prevailing wage but they were low bidder and from Michigan, he does not see how they could possibly do that. He said they would be spending their wages in Michigan, and we need the money to stay in Indiana and Indiana people need the work as well. Mr. Compton said he does understand the money issue for the city but would be voting no on this Resolution.

Mr. Prince said a good example of experience arises with the Demolition of Uniroyal, the low bidder came from Texas at 7 million with the low bidder from a local unit came in at 11 million but it was important to go with the most experienced company who specialized in this type of demolition and they happen to also be low bidder.

Mr. Hixenbaugh asked if it was possible to change the contractor. Mr. Prince said there was no, one local who could come close to this bid. Mr. Hixenbaugh stated he was tempted to vote with Mr. Compton but because of the savings in the long term he would go ahead and support this project. He said if there was any way to use local labor he would recommend it.

Mr. Emmons asked if there was any way to hire some local and not bring all in from out of town. Mr. Prince said mixing forces would not work

Question was called for at 7:23 on **RESOLUTION NO. 2010-16** with the vote being 7 to 1 with Mr. Compton voting NO.

Clerk Block read **PROPOSED ORDINANCE NO. 2010-15** opening it for public hearing.

PROPOSED ORDINANCE NO. 2010-15

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
(Rezone from I-1 Light Industrial to R-1 Single Family – 514 W. Marion Street)

Mr. Banicki reported the Land Use Planning Committee recommended this proposed ordinance should be adopted and moved for acceptance of same, upon a second by Mr. Gleissner, the motion carried.

David Talos, 514 West Marion Street, said he needed to have his property rezoned from Light Industrial to Residential in order for the bank to give him a loan.

Question was called for at 7:27 p.m. on **PROPOSED ORDINANCE NO. 2010-15** with the vote being 8 to 0 in favor, thus it becomes **ORDINANCE NO. 5258**.

Clerk Block read **PROPOSED ORDINANCE NO. 2010-16** opening it for public hearing.

PROPOSED ORDINANCE NO. 2010-16

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’
(Vacation of Public Right of Way – Alley East of 514 W. Marion Street)

Mrs. McClure reported the Land Use Planning Committee recommended this proposed ordinance should be adopted and moved for acceptance of same, upon a second by Mr. Gleissner, the motion carried.

David Talos 514 W. Marion Street said he would like to put a fence up on his property.

Mr. Wood asked if his fence would affect the traffic Mr. Talos said he would be splitting the alley with his neighbor and the fence would not interfere with any traffic.

Question was called for at 7:30 p.m. on **PROPOSED ORDINANCE NO. 2010-16** with the vote being 8 to 0 in favor.

PRIVILEGE OF THE FLOOR

Robert Peterson 435 East 13th Street said he has lived at this address for over 20 years and was there before the apartment house was built. He remembers during the neighborhood meeting prior to building the apartments there was not suppose to be any on street parking. Mr. Peterson said that has not held true, people are parking all over the neighborhoods surrounding the apartments.

Mr. Emmons stated this was brought up and assigned to a study several months back. Mr. Prince said the Engineering Department looked into this; neighbors most affected by the problem were not in agreement of how to handle the situation. He said it was discussed putting a parking lot in Hillis Hans Park but neighbors said that would eat up the Park.

Mr. Peterson stated the Police are visible in the area and put stickers on cars but the violators just scrape the stickers off.

Mr. Emmons suggested having a meeting with the neighbor's and owners of the apartments. Mr. Prince said he would be happy to meet with Mr. Peterson after the meeting.

Mr. Gleissner said in College towns they issue resident permits for parking and one is required for parking on the street. Mr. Prince said that would take staffing and a lot of man power and then there could be the issue that grandma comes to visit from out of town and does not have a parking permit. Mr. Prince said fixing one problem sometimes causes another problem.

Kathleen Petitjean 419 Lincolnway West spoke in regards to the noise on Lincolnway and asked the Police Department to look into enforcing the noise ordinance, especially during the summer months when people have their windows open or are sitting outside.

Mr. Gleissner said he knows what her concerns are with the loud radios, motorcycles', and cars. He said Elkhart is vey strict on their ordiances.

There being no further business to come before the Council, President Emmons adjourned the meeting at 7:49 p.m.

Deborah S. Block /s/

Deborah S. Block, City Clerk

Dale "Woody" Emmons /s/

Dale "Woody" Emmons, President Presiding Officer