

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

September 7, 2010

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Tuesday September 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

2nd District Councilman – Seat vacated

Ross Deal 3rd District Councilman - Absent

Marsha McClure 4th District Councilman - Present

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 August 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. 10-15 Rezone from I-1 Light Industrial to R-1 Single Family
1304 N. Willow Street.

PETITION NO. 10-16 Rezone from C-1 General Commercial R-3 Multi-
Family – 900 Block of S. Merrifield

Mr. Gleissner, Chairman of the Historic Preservation Committee said through the efforts of one of the members they are starting a program where they honor individuals with Charter Awards. He said these are people that have been with preservation for a long time who show a strong commitment to maintaining properties and the general concept of preservation. Mr. Gleissner stated they had a special meeting for Dr. Gering for his contribution and. Mr. Gleissner turned the meeting over to Cliff Zenor.

Mr. Zenor said, Historic Preservation was not just about keeping old buildings in tact, these land marks are very important parts of the city and good connection to the historic past, but tonight they want to honor not just the buildings but the people who through devotion, care for these buildings. He said historic houses have special needs preserving the character and the architecture of the place is a lovely responsibility and honor.

Mr. Gleissner said he would be remiss if he did not recognize the members of the Historic Preservation Committee who are present, and Peggy Strantz who was an intrical part of all of this.

Mr. Zenor presented a Service Award to Paul Hayden of Indiana Landmarks, Inc. for his dedication to historic preservation in the community; for his shared knowledge, steady guidance, kind encouragement, and patient counsel for which the Mishawaka Historic Preservation Commission is happily indebted. He presented the first award to Robert and Sandy Martin who are the owners of the Merrifield-Cass house at 816 Lincolnway East for their outstanding efforts to preserve the historic landmark.

- An award was presented to Meijer, Inc for the monetary contribution they made to repair the Will's Clock at 107 Lincolnway East. Thanks to them it is now keeping correct time.
- MaCarthy Insurance Group, Inc. their outstanding efforts to preserve and bring new use to the Schelinger-Kamm House at 802 Lincolnway West.
- The last two awards were for Heritage Homes, which help preserve the historic character of and its architectural importance in the neighborhood and that went to Sarah Joswick at 321 Cedar Street and Susan Godair at 403 Cedar Street.

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

PROPOSED ORDINANCE NO. 2010-32

CIVIL CITY BUDGET FOR 2011

(Assigned to Budget and Finance Committee)

PROPOSED ORDINANCE NO. 2010-33

**AN ORDINANCE AMENDING ORDINANCE NUMBER 5233
APPROVING THE CITY OF MISHAWAKA, INDIANA
COUNTY ECONOMIC DEVELOPMENT INCOME TAX
CAPITAL IMPROVEMENT PLAN**

(Amending 2010-2011 CEDIT Capital Improvement Plan)

(Assigned to Budget and Finance Committee)

PROPOSED ORDINANCE NO. 2010-34

**AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS WITHIN
THE BUDGET ADOPTED FOR THE CALENDAR YEAR
ENDED DECEMBER 31, 2010**

(Transfer Funds – Fire Dept. - \$125,000.00)

(Assigned to Budget and Finance Committee)

PROPOSED ORDINANCE NO. 2010-35

**AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS WITHIN
THE BUDGET ADOPTED FOR THE CALENDAR YEAR
ENDED DECEMBER 31, 2010**

(Transfer Funds – Park & Recreation - \$53,000.00)
(Assigned to Budget and Finance Committee)

PROPOSED ORDINANCE NO. 2010-36

**AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS WITHIN
THE BUDGET ADOPTED FOR THE CALENDAR YEAR
ENDED DECEMBER 31, 2010**

(Transfer Funds – Motor Vehicle Highway \$125,000.00)
(Assigned to Budget and Finance Committee)

Clerk Block read **RESOLUTION NO. R2010-19** opening it for public hearing.

RESOLUTION NO. R2010-19

HONORING MAYOR JEFFREY L. REA

Mayor Rea said during his tenure he feels they have accomplished some fantastic things for the City of Mishawaka and Mishawaka stands now as an example for others to aspire to, he is disappointed he won't be there to shepherd the budget the rest of the way through but was sure with the leadership of the new Mayor, help and assistance of staff, department heads, and citizens that Mishawaka would only continue to prosper and he was proud to have been apart of it. He said the other good thing for him would be that he would still be serving the citizens of Mishawaka as he has already started his new position as President/CEO of the Chamber of Commerce and very excited about the opportunities it would present to him to help Mishawaka Council work on key economical development issues. Mayor Rea said he wanted to say thank you and that he appreciated everything.

President Emmons said on behalf of the Council and the City Clerk's Office he wanted to extend to Mayor Rea their appreciation for the long hours, work, and dedication that he has provided for the citizens of Mishawaka. He said he wished him and his wife the best and he knew Mayor Rea loved Mishawaka and would continue working for the good of the City.

Mr. Compton thanked Jeff for all he has done for the city and said he was looking forward to working with him in his capacity with on the Chamber of Commerce.

Mrs. McClure said she was impressed with Jeff when her mentored her daughter in high school, he was a big influence on her. She said she also knew how he worked all of the grade school children in Mishawaka and how much he cares. She said it has been great knowing him all these years.

Mr. Roggeman said he was elected to the Council the same time Jeff took office as Mayor and it has been a real pleasure to see him grow in the job as well as shrink his body during his term in office. He said that showed leadership quality and it set a good example and showed good leadership by becoming physically fit.

Mr. Hixenbaugh said to Mayor Rea he joins his colleagues in honoring his service to the community. He said in regards to their recent conversation they discussed that in this day and age where one hears on a daily basis of ranker and partisanship in government, where he, the Mayor, and other members of the Council have shared in the ability in most instances if not all to put aside those partisan, non productive considerations. Mr. Hixenbaugh said there certainly have been issues where they disagreed, there were far many more they have agreed upon, and one of the things he has respected about him was in those instances where they have disagreed they have always been able to move past that and not loose site of the best interest of the community, maintaining a working relationship going forward. He said it is important for the record to reflect the fact and for the public to understand that here in Mishawaka government really does work, regardless of the party they are able to move forward very efficiently, and he was very proud of the joint service they have given to the citizens and community and congratulate him on the role he played during his term in making that a reality.

Mr. Banicki concurred with Mr. Hixenbaugh and wanted to wish Mayor Rea and his family the best and may God Bless them.

Mr. Gleissner thanked the Mayor for times he spent with him and his school children when they took their field trips to Beutter Park, answering questions about the city's history, he really appreciated him being there.

President Emmons thanked the Mayor again for his contributions to the city, and they look forward to working with him in his new role.

Question was called for at 7:28 p.m. on **RESOLUTION NO. 2010-19** with the vote being 7 to 0 in favor.

Clerk Block read **PROPOSED ORDINANCE NO. 2010-28** opening it for public hearing.

PROPOSED ORDINANCE NO. 2010-28

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA (Rezone from C-1 General Commercial to R-1 Single Family Residential District 501 West 6th 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. Banicki, the motion carried.

Mr. Prince, City Planner said this was a former commercial building that has been recently demolished and what they are looking to do was to put a first time home buyer house on that property.

Mr. Emmons stated he was concerned about the top soil brought in for the property it looked like it was a mixture of gravel and he was familiar with another property that was done that way and it is still not right because of the lack of top soil and poor seeding. Mr. Prince said this property was different because, they bid the demolition of the structure and they take an alternate for adding top soil and seeding. He said, in this case because of immediately going to construction they did not have them put the top soil and seeding down due to the fact it would have been disturbed right of way. Mr. Emmons asked if that would be done this fall. Mr. Prince said yes it would be put in with the construction of the house this fall, but the top soil and seeding won't be done until next spring.

Question was called for at 7:32 p.m. on **PROPOSED ORDINANCE NO. 2010-28** with the vote being 7 to 0 in favor thus it becomes **ORDINANCE NO. 5270**.

Clerk Block read **PROPOSED ORDINANCE NO. 2010-29** opening it for public hearing.

PROPOSED ORDINANCE NO. 2010-29

**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
(Amend the PUD – Deer Run PUD for the Preserve II=Multi Family Apartment Buildings Deer Run Drive and Fir Road)**

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.

Daryl Knip, Vice President of Operations for Abonmarche Consultants, L.L.C, 750 Lincolnway East, South Bend said Chris Austin from Crestline Communities was the contingent purchaser and developer of this property. He said they were asking for approval to amend the Deer Run Planned Unit Development to allow for Preserve II Multi Family Zoning from the original PUD of Commercial and Light Industrial this would be the second phase of the apartment project recently constructed on Fir Road.

Mr. Emmons asked about the sanitary sewer. Mr. Knip stated there was a letter expressing concern from the neighbors, there is a lift station next to this property that forces sewage through the neighbor's property through an easement into a gravity sewer and they were worried about the capacity of that system. Mr. Knip went on to explain the Lift Station was originally designed with some allowances that provided for all the undeveloped areas into that lift station. He said their next task would be to analyze the capacity of the Lift Station and the Sewer. Mr. Emmons asked if there was a committee to study this. Mr. Knip said if they would be approved for the rezoning that would be their next step. Mr. Emmons said if it was not adequate then what. Mr. Knip stated they would either not proceed or they would find another route for the sewer work.

Mr. Compton said this does concern him going from a commercial zoning where the waste may not be as much as a multi-family unit apartment complex. Mr. Trippel, Council Attorney said a final site plan must be approved and the building permit pulled none of that would happen unless they can show they have appropriate capacity. He said this is just the first step.

Question was called for at 7:38 p.m. on **PROPOSED ORDINANCE NO. 2010-29**, with the vote being 7 to 0, thus it becomes **ORDINANCE NO. 5271**.

Clerk Block read **PROPOSED ORDINANCE NO. 2010-30** opening for public hearing.

PROPOSED ORDINANCE NO. 2010-30

**AN ORDINANCE FIXING THE SALARIES OF
CERTAIN ELECTED OFFICIALS OF THE CITY OF MISHAWAKA
FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2011
(Elected Officials Salary Ordinance for 2011)**

Mr. Compton reported the Budget and Finance Committee recommended this proposed ordinance should be adopted and moved for acceptance of same, upon a second by Mr. Hixenbaugh, the motion carried.

Yvonne Milligan, City Controller said this was the Elected Officials Salary Ordinance for 2011 and the increase on this ordinance along with all other employees, except Police, Fire, and Utility is at a percentage of 2.5, which came to \$4,800 for all eleven elected officials, not including benefits such as PERF.

Mr. Compton asked just for clarification because of the rumors around of large increases, that this is a 2.5 % increase across the board including the Mayor. Ms. Milligan said that was correct.

Mr. Hixenbaugh asked Ms. Milligan to refresh his memory as to how long it has been since there has been a salary increase. Ms. Milligan said there was an increase for 2009 with no increase for 2010, and a couple of years back there was no increase. Mr. Hixenbaugh said then there has been two years with no increase, she said that was correct.

Question was called for at 7:44 p.m. on **PROPOSED ORDINANCE NO. 2010-30** with the vote being 7 to 0, in favor, thus it becomes **ORDINANCE NO. 5272**.

Clerk Block read **PROPOSED ORDINANCE NO. 2010-31** opening it for public hearing.

PROPOSED ORDINANCE NO. 2010-31

**AN ORDINANCE FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF
MISHAWAKA EXCEPT THE MISHAWAKA PARK DEPARTMENT, ELECTED
OFFICIALS AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA,
INDIANA, FOR THE YEAR BEGINNING JANUARY 1, 2011.
(City Employees Salary Ordinance for 2011)**

Mr. Roggeman reported the Budget and Finance Committee recommended this proposed ordinance should be adopted and moved for acceptance of same, upon a second by Mr. Banicki, the motion carried.

Yvonne Milligan, City Controller said this salary ordinance is for all employees except Park Department, Utilities, and Elected Officials there are no new conditions in this salary ordinance, or exceptions over and above the 2.5 percent, the Police and Fire were put in at the 2010 rate until completion of their negotiations. She said 2.5 percent for the entire city would amount to about 405 thousand dollars. Ms. Milligan stated this year the estimated increase in the levy would be about 640 thousand dollars so it was a little less than what the total increase would be for the levy. She said they added 2 fire fighters to the total budget and a little more than the 2.5 percent increase it went to more than that, in that 405 thousand dollars was included increases for the Park Department even though those wages are passed by the Park Board, although no benefits are included in that 405 thousand it was strictly wages. Ms. Milligan said PERF did increase from 6 $\frac{3}{4}$ percent to 7 $\frac{1}{2}$ percent for 2011 the cost would be close to 100 thousand dollars.

Mr. Hixenbaugh said with regards to the public safety salaries that were reflected in this ordinance they were asked to approve, it is not unprecedented in recent history for them to take these actions and then at the completion of negotiations to come back and reflect the result of those negotiations with a subsequent ordinance in order to avoid any confusion in the record.

Mr. Hixenbaugh stated in his opinion he feels there is a need for the community to take a look at the salary that has been established in this community for the Mayor, not for the benefit of the individual who occupies that office but from the standpoint of the 600 or so employees that are impacted by salaries that were set in the previous two ordinances. He said it is an artificial cap on the earning and wages on each employee when the Mayor's salary is set at what he believes to be an artificially low figure when compared to communities as close as South Bend, not to mention the entire state, even when adjusting for differences in population. Mr. Hixenbaugh went on to say it was clearly the case whether it is from the stand point of being on the Council or any other elected office he has yet to meet anyone who has thrown their hat in the ring or ran for office who did it to enrich themselves. He said it is much more a compelling argument, to him, that what they have done was create a salary structure in Mishawaka where at least three of the department managers earn more than the Mayor. Mr. Hixenbaugh explained he did not begrudge them what they earn but he feels everyone would agree that it was somewhat out of whack if not bad business to have that type of structure in place. He said it may be the community decides that they collectively, as representatives of the community, decide that it was appropriate, but he feels it should be looked at not from a standpoint of politics but from the standpoint of good business, and what makes sense for what is in effect a 35 to 40 million dollar corporation. Mr. Hixenbaugh said so again he would challenge everyone to look at this and not personalize it in the form of the Mayor whom ever is in that office, but think about the employees and what was a fair wage paid them for the great work that they provide for the citizens each and every day.

Question was called for at 7:52 p.m. on **PROPOSED ORDINANCE NO. 2010-31** with the vote being 7 to 0 in favor thus it becomes **ORDINANCE NO. 5273**.

PRIVILEGE OF THE FLOOR

George Lane, Citizens for Accountability Government, also Chairman of the National Flag Celebration, 545 Division Street said he had two things he wanted to address:

- He had a certificate he wanted to present to the Mishawaka City Clerk’s Office, he said he has been in the office many times and has been treated with dignity, and they have helped him on numerous occasions. Citizens should be able to feel like they can come into any office at any time and get answers and help.
- POW/MIA weeks starts Sunday September 13, 2010 through September 18, 2010 and he wanted to thank the Park Board and the city who are allowing them to have a small parade. They would be having a Red Skelton impersonator performing at Mishawaka High School on Saturday September 18th. He said he wanted to thank Councilman Hixenbaugh and Councilman, now Mayor Dave Wood for all of their help with this.

Mrs. McClure thanked everyone for all they did for her and her family during the passing of her mother.

NEW BUSINESS

Mr. Emmons said he would like to congratulate the new Mayor, Dave Wood who was a former Councilman in the 2nd District who officially left his Council seat and became Mayor of Mishawaka at 10:00 a.m. September 7, 2010.

Mr. Emmons announced his Neighborhood Watch Meeting at St. Bavo School Thursday September 16th at 7:00 p.m., Mayor Dave Wood would be his guest speaker.

Mayor Dave Wood said he was still trying to adjust to his new roll as Mayor but having served on the Council for so long he knows what the Council deals with and they have his commitment to him working with them. He said he has grown to respect each and everyone of them over the years and some he took the Council seat with at the same time where others like Mr. Gleissner took the seat way before him. He said he would like to repeat what he said at his swearing in for his Mayor position that “you don’t have to look no farther then Mishawaka to see good government in action.” Mayor Wood said they all serve as a model that others, whether it be state or federal, can look to just for the cooperation they have here.

Mr. Emmons stated that since Dave Wood has step from his seat as 2nd District Councilman to Mayor his seat on the Council is open. He said the Republican Precinct Committee people will meet within 30 days to elect someone to that seat.

There being no further business to come before the Council, President Emmons adjourned the meeting at 7:25 p.m.

Deborah S. Block _____/s/

Dale “Woody” Emmons _____/s/

Deborah S. Block, City Clerk

Dale “Woody” Emmons, President Presiding Officer