

MINUTES  
MUNCIE COMMON COUNCIL  
300 NORTH HIGH STREET  
MUNCIE INDIANA

**OCTOBER 3, 2011**

**REGULAR MEETING:** 7:30 P.M., 1<sup>ST</sup> FLOOR, CITY HALL AUDITORIUM.

**PLEDGE OF ALLEGIANCE:** Led by Councilperson Mary Jo Barton.

**INVOCATION:** Given by Anne Eliades from Temple Bethel.

| <b>ROLL CALL:</b>  | <b>PRESENT</b> | <b>ABSENT</b> |
|--------------------|----------------|---------------|
| Robert S. Marshall | X              |               |
| Mark Conatser      | X              |               |
| Mary Jo Barton     | X              |               |
| Brad Polk          | X              |               |
| Jerry D. Dishman   | X              |               |
| Julius J. Anderson | X              |               |
| Alison Quirk       | X              |               |
| Mike King          | X              |               |
| Linda Gregory      | X              |               |

**APPROVAL OF MINUTES:** A motion was made by Gregory and seconded by Polk to approve minutes from September 12<sup>th</sup>, 2011. A roll call vote showed 8 yeas and 1 abstain (King). MINUTES APPROVED.

**COMMITTEE REPORTS:**

Councilman Anderson states there will be a meeting of the Land and Traffic Committee on October 12<sup>th</sup>, 2011 at 6:00 p.m. here in the auditorium. He hopes to have the representative from Norfolk and Southern Railroad to be present to answer some questions so they can move forward.

Councilperson Quirk recognizes the Academy for Community Leadership and invites them to say a few words.

**ORDINANCES PREVIOUSLY INTRODUCED:**

ORD. 34-11 AN ORDINANCE TO AMEND THE CITY OF MUNCIE COMPREHENSIVE ZONING ORDINANCE FROM THE R-1 RESIDENCE ZONE TO THE BV VARIETY BUSINESS ZONE ON PREMISES LOCATED AT 2910 N. NEBO ROAD, MUNCIE, INDIANA. (APPLICANT-HURST INVESTMENTS, LLC.)

A motion was made by Gregory and seconded by Polk to Adopt.

Attorney John Brooke representing the owners has asked him to help them get this area rezoned. He states they have always had inquiring of purchase in the past but when they find out it a farm zone. They hope to get the zoning changed so they can work on some development on this property. It is within the comprehensive plan for zoning and a long-term study this has always been anticipated for commercial real estate. That is why they're asking it be changed to Variety Business. Barton asks if he knows what kind of business is going in there? Brooke states retail development has looked at it in the past. He states some of will be dependant upon when 332 will get changed and fixed with Indot. He states they are taking the hill out by 2012 or 2013. He states retail development would be consistent with what is already there. King states from looking at the map the road plans are similar with Meijer. Brooke states that is correct. He states the retention pond would have to be built in.

Jim Arnold 300 E. McCullough Blvd asks with it business variety can they give them a list of what the uses are? Gregory states anything below light industrial including residential. Arnold asks if this is rezoned business variety it was stated at the last meeting other special licensing would be required for special use and could be used for anything the same as the other business variety. He wanted to make it clear that you can use it for anything for a business variety use. It was stated that is correct. Question called. A roll call vote showed 9 yeas and 0 nays. ADOPTED.

ORD. 35-11 AN ORDINANCE OF THE CITY OF MUNCIE AMENDING SECTION 130.08 OF THE CITY OF MUNCIE CODE OF ORDINANCES.

A motion was made by Gregory and seconded by Polk to Adopt.

City Attorney Dan Gibson states this amendment is a requirement due to a change in state law that restricts a political subdivision ability of carrying a firearm. The previous ordinance restricted carrying firearms in City Hall. They can still regulate the carrying of firearms because they have City Court. Question called. A roll call vote showed 9 yeas and 0 nays. ADOPTED.

ORD. 36-11 AN ORDINANCE OF THE CITY OF MUNCIE REPLACING CHAPTER 76 OF THE CITY OF MUNCIE CODE OF ORDINANCES.

A motion was made by Gregory and seconded by King to Adopt.

City Attorney Dan Gibson states this is a complete replacement of the abandoned vehicle ordinance. The major change is creating a non-reverting fund that will allow the money collected with storage costs and fines the city will keep. It would be used strictly for the abandoned vehicle program to allow them to purchase equipment or hire additional personnel. Barton asks what his last statement? Gibson states they would be able to keep the money within the city if they create a non-reverting fund. Barton asks if he said to hire someone? Gibson states yes and the money is restricted for the abandoned vehicle program. Marshall asks the Police Chief if the Police Department handles abandoned vehicles? Police Chief Deborah Davis states it is sometimes handled by the Police Department but a lot of times it is handled by code enforcement. They have a couple of people with the Street Department that handle abandoned vehicles also. Question called. A roll call vote showed 9 yeas and 0 nays. ADOPTED.

ORD. 37-11 AN ORDINANCE OF THE CITY OF MUNCIE AMENDING SECTION 95.04 OF THE CITY OF MUNCIE CODE OF ORDINANCES.

A motion was made by Gregory and seconded by Polk to Adopt. City Attorney Dan Gibson states this deals with public parks. He states this changes where you can't discharge firearms in public parks. Dishman states if someone robs someone in the park and they can't defend themselves? Gibson states they have always regulated the discharge of firearms in the city parks but he would have to ask the Police Chief about that. Quirk states if the reason for this is to comply with the new state statute and if they fail there are penalties that could be placed on the city. Gibson states that is correct and there are some communities that have been sued because they have continued to enforce the ordinances without the amendment. Question called. A roll call vote showed 9 yeas and 0 nays. ADOPTED.

#### NEW ORDINANCES:

ORD. 39-11 AN ORDINANCE TO AMEND THE CITY OF MUNCIE COMPREHENSIVE ZONING ORDINANCE FROM THE R-3 RESIDENCE ZONE TO THE R-5 RESIDENCE ZONE ON PREMISES LOCATED AT 2000-2300 BLOCK OF W. MCGALLIARD ROAD, EXTENDING SOUTH TO N. BELMONT DRIVE, INCLUDING LOT 88 OF THE LAYNE CREAT SUBDIVISION, MUNCIE, INDIANA.

A motion was made by Gregory and seconded by Conatser to Introduce. Attorney Scott Shockley representing applicant requests the council to table until the November meeting. There have been a lot of questions raised by individuals regarding traffic drainage and engineering questions. They want to be able to address those concerns. A motion was made by Barton and seconded by Conatser to Table. A roll call vote showed 9 yeas and 0 nays. TABLED.

ORD. 40-11 AN ORDINANCE OF THE CITY OF MUNCIE AMENDING TRAFFIC CONTROL SIGNAGE OF CARDINAL DRIVE AND HAWTHORNE DRIVE.

A motion was made by Gregory and seconded by Dishman to Introduce. Engineering Consultant for the City Stan Hiatt states the purpose of the change is this is a three-legged intersection. It is an island on one leg. He states there is a large tree that is decorated for Christmas and is real pretty. He states it does block the view and there are yield signs which require a 10 mile an hour roll in speed so people can observe oncoming traffic and this isn't the case. He is requesting that the yield signs be replaced with stop signs. He states all three are sight restricted. It would make it safe for the driver if this were to be changed. Anderson asks if Hiatt if is wants to put up stop signs? Hiatt states yes. Anderson states that is fair especially when it comes to safety. Marshall asks Hiatt if this was requested by the neighborhood? Hiatt states the attention was drawn to the fact there are a lot of cut through with the closing down of Morrison Rd. and Jackson because of round about construction. There have been excessive amount through the subdivision and it is a problem. He doesn't know who asked him to go out there but he went out and observed. Marshall asks if this is a temporary fix? Hiatt states this is a permanent fix unless the tree is cut down. Question called. A vote by acclamation showed 9 yeas and 0 nays. INTRODUCED.

## **OTHER BUSINESS:**

Marshall states he attended the opening of the new 911 Center and it is really nice. He commends the county for the job they have done.

Amy Ryder 3004 N. Winston Drive states the ordinance for rezoning they are in opposition in has been tabled. She states rezoning that would create multiple infrastructure problems in the surrounding neighborhoods. She states there are flooding issues when there is a major storm. She states removing vegetation and replacing it with concrete would aggravate the problem. The added stress and weight of an addition 500 plus vehicles as well as service vehicles needed to maintain the proposed complex would break down the streets. The increased traffic congestion would cause back ups. She presents pictures to the council of the traffic that is backed up when there is a football game. The safety and well being of residents of the area, neighbors and Ball State would be compromised if an apartment complex were built on the property in question. There are a lot of children in their neighborhood that like to play outside and ride their bikes. She states there are students in middle school and Ball State that walk to school. The increase of traffic flow would create hazards for those students that walk. Crime rate in the area could increase because a robber would know when the students go on vacation and that would be their area at risk also. Planning Professor at Ball State Eric Kelly states the area is far too dense for the space intended. There is a question whether the area meets the requirement of the R-5 district. Development would be out of place and would tower over surrounding areas and interfere with the character of the community. She states there isn't a lack of student housing in Muncie. Existing housing is not operating at full capacity. Dormitories are being renovated. There is no need to rezone and add 216-apartment complex. She did research online about Campus Crest. Campus Crest is facing lawsuits from former employees because they were asked to falsify occupancy reports. One employee refused and was terminated within two weeks. In North Carolina one key provision was they were to protect an existing an 80-foot buffer of mature forest. They didn't follow the guideline and cut down the trees. She has found reports they didn't pay their contractors and were sued and then the contractors were paid. She asks the residents of the Community that are opposed to the rezoning to stand.

President of the Anthony-North side Neighborhood Association Misty King 2704 N. Winston Drive supports Ryder's speech.

Joann Pierce 2812 N. Richmond Drive doesn't want this in their neighborhood and hopes the council would pay attention to this. They have been fighting this for years.

Susan Archer 2908 N. Richmond is opposed to this.

Mary Hagopian 2101 W. Concord Road use to work at the University and knows what happens when there are a lot of students around. She states the argument was they would walk to school but she doesn't think so. It is very difficult to get onto Oakwood from Sherman Drive. She opposes the ordinance.

Jim Arnold 300 E. McCullough Blvd states those units are actually 584 bedrooms and there will be only one student to a bedroom. He isn't buying that. He has seen the plan and there is almost no green space there. He states if this is rezoned they can fit anything under the umbrella of the R-5 rezoning. They can come back with another plan for the neighborhood. They could come back with something more intrusive to the neighborhood.

A motion was made by King and seconded by Barton to Adjourn. A vote by acclamation showed 9 yeas and 0 nays. ADJOURNED.

---

Robert S. Marshall, President of the  
Muncie Common Council

---

Phyllis Reagon, Muncie City Clerk  
of the Muncie Common Council