

REGULAR MEETING OF THE COMMON COUNCIL
AUGUST 5, 2008
111 EAST JEFFERSON STREET
GOSHEN, INDIANA

The Common Council of the City of Goshen, Indiana, met in the Council Chambers for a regular session on August 5, 2008 at 7:00 P.M. Presiding Officer was Mayor Kauffman with members of the Council present as follows:

PRESENT: COUNCILMAN LANTZ, RIEGSECKER, STUMP, STUTSMAN, THOMAS
COUNCILWOMAN GAUTSCHE, ROBINSON

ABSENT: NONE

PRIVILEGE OF FLOOR

Councilman Lantz requested to have an announcement from Tim Hershberger introducing an upcoming meeting on home finance and foreclosure added to the Agenda. Councilman Lantz also read a letter of appreciation to the Goshen Police Department from Celebrate America for the very professional manner that was used during the evacuation of traffic after the fireworks display on July 6th, 2008.

Tim Hershberger, 64694 Appleridge Road, stated he is part of a Hispanic Council trying to provide educational opportunities for the community. A representative from Freddie Mac has agreed to come to Goshen to give a presentation on how to secure your home to avoid foreclosure and the hope is to have local lenders and community social program representatives in attendance at the meeting. Mr. Hershberger stated there is some confusion that the presentation will be given in Spanish rather than English since the only name on a proposed flyer being printed by Freddie Mac is that of the Hispanic Council. Mr. Hershberger requested the Council co-sponsor the event by allowing the placement of the Council's name on the flyer which may dispel some of the confusion and therefore have more participation from the community. The meeting will be August 21st from 5:30 to 8:30 at St John's School gymnasium and is being presented for anyone facing foreclosure not just Hispanics. The group is not asking for funding from the City just support of the event.

Mayor Kauffman stated home foreclosures are a threat to the community and he would be in favor of the Council supporting this effort.

After a request from Councilman Thomas, the Council unanimously agreed that this item be left on the agenda for later consideration at the end of the meeting.

APPROVAL OF MINUTES

Councilman Thomas moved to accept the Minutes of the Council meeting of July 15, 2008 as presented. Motion seconded by Council President Stump and motion carried unanimously.

ORDINANCE NUMBER 4502

Council President Stump introduced Ordinance Number 4502 entitled “AN AMENDMENT TO GOSHEN ZONING ORDINANCE 3011 ESTABLISHING A DOWNTOWN DISTRICT (OVERLAY DISTRICT).”

Council President Stump asked the Clerk-Treasurer to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilman Stutsman.

Earlene Nofziger, Chair of the Goshen Historic Preservation Committee gave a power point presentation to the Council for the committee. In the presentation, Mrs. Nofziger pointed out the following:

- In 1983 downtown Goshen was listed on the National Register for Historic places;
- The 2004-2013 Comprehensive Plan of the City of Goshen states the City will encourage ensuring that buildings meet or exceed the standards of architectural and historic context of their neighborhood;
- The Hyett-Palma study conducted for the City of Goshen states that it is a prestigious honor to be listed on the National Register and the fact that downtown Goshen has obtained this status should be stressed and more broadly capitalized upon;
- The intent of the committee is for the district to:
 - Enhance the traditional Main Street corridor;
 - Preserve the integrity of existing development;
 - Promote compatible development;
 - Preserve and promote higher density land uses;
 - Maintain architectural style;
 - Maintain a pedestrian friendly environment: and
 - Promote retail development

Councilman Thomas stated this is at least the second or maybe the third time this has come before the council and previously there had been significant objections to it. Councilman Thomas questioned if the committee is aware of any significant objections to the requirements as now presented.

Mrs. Nofziger responded that there had been some questions and some disagreement with some of the requirements but the proposed Ordinance is based on going along with the majority. Some confusion could be that originally the information was sent to the property owner not the business owner and at this time there has been 2 ½ years for any objections to be voiced.

Councilman Riegsecker questioned what exactly is meant by altered in the Ordinance and stated he spoke with property owners downtown who have concerns regarding what the definition of altered would mean. For example if they change their awning, would the regulations in the Ordinance apply? Councilman Riegsecker further stated he noticed a lot of the signatures showing support for the district are tenants rather than property owners and he spoke with four property owners earlier today who were not in favor of the district.

Assistant City Planner, Rhonda Yoder, stated the Ordinance does not cover signs, awnings or sidewalks. Councilman Riegsecker stated he would like to see that written in the Ordinance.

The Council discussed how many of the signatures of supporters are property owners and it was determined that nine names on the list own property downtown and there is a total of seventy property owners in the district. Eric Kanagey, 517 S. 3rd St, stated he collected the signatures with the intent to retrieve signatures from people that are economically involved in the downtown.

Council President Stump stated the Ordinance is affecting a lot of people in the district and he would feel better knowing that at least 75% of the affected property owners support the Ordinance.

Councilman Lantz stated there have been numerous opportunities for the property owners to voice their opinions and objections in the last 2 ½ years.

Council Stutsman who owns property downtown stated the Ordinance protects the property owners and he does not understand why any of the property owners would choose to not support the Ordinance.

Eric Kanagey 517 S. 3rd St. stated as a business owner in the downtown he needs this type of Ordinance to make sure the downtown is an area attractive to high tech high wage workers from larger urban areas.

Goshen Chamber of Commerce President, David Daugherty stated the Chamber has on at least four occasions hand delivered to every door front downtown, information about the Ordinance, information about meetings, and answered questions. The Chamber has spent a lot of time to make sure everyone downtown knew about the meetings and knew they needed to comment if they did not agree with any section of the Ordinance. Mr. Daugherty complimented the committee on how hard they have worked on this project and have tried to get individual comments and make revisions to the Ordinance. Mr. Daugherty urged the Council to pass the Ordinance to protect the downtown so that replacement of buildings will match the historic nature of the area.

Ervin Beck 1402 Pembroke Circle, 1st chairman of this committee, stated he knows how hard the committee has worked and made concessions after receiving input. The Ordinance states replacing buildings must be compatible with the current type of historic structures which leaves plenty of room for a good architect to have creative design following these guidelines. Early in the process the committee visited Crown Point, Indiana and they have a much more comprehensive and restrictive Ordinance than the one presented tonight. Officials of Crown Point are delighted that it has protected their downtown area and Mr. Beck feels the Ordinance will be well accepted, will work well and it will be a boom to the community.

David Schrock-Shenk, 305 Reservoir Place, owner 206 S. Sixth St, stated he does not find anything in the Ordinance that he would not do anyway when remodeling his building. Mr. Schrock-Shenk urged the Council to pass the Ordinance.

Jan Gleysteen, 1609 S. 13th Street, stated he does not agree with any excuse to not be aware of the Ordinance and its stated regulations. He would like to see the Ordinance a little more restrictive but does request the Council pass the Ordinance.

Dave Pottinger, 107 Gra-Roy, stated he realizes that sometimes the people running their businesses downtown are more concerned about how the buildings look than the building owners. Mr. Pottinger stated the façade program has been very successful and the program would be enhanced dramatically with the passage of the Ordinance. Mr. Pottinger urged the Council to be in support of this Ordinance.

Larry Gautsche, LaCasa President, stated he wished the overlay district covered one block more to the east to protect LaCasa's building in that block. Mr. Gautsche would like to add his name to the list of people supporting the Ordinance and urged the Council to support the Ordinance as it provides protection of property values for the building owners.

Glen Null 319 Dewey Ave. questioned if existing damaged buildings, that have a permit in place but have not been repaired 100%, would have to conform to this Ordinance. Mr. Null stated he would like to see a percentage plugged into the Ordinance referring to how much of the building is destroyed before it would require replacement.

Assistant City Planner Rhonda Yoder stated that the building Mr. Null is referring to is internal rebuilding and would not be affected by the Ordinance unless they were to change the façade of the building.

City Attorney Larry Barks stated because windows were destroyed the Ordinance would apply to certain renovations of the building.

Mayor Kauffman stated he does not agree with a percentage being added to the Ordinance as if the back half of a building is destroyed it could be 75% of the building but as long as the façade was intact the Ordinance would not apply and further; variances can be applied for and granted.

Councilwoman Gautsche stated the fact that no one is present at the meeting to speak in opposition to the Ordinance is very telling and this seems like a small step to protect the downtown and the investments and progress that has been made. The success of the downtown is due to public and private investments and she encourages the Council to pass the Ordinance.

Mayor Kauffman stated he sees parallels between this Ordinance and the Neighborhood Preservation Ordinance and when it was passed the City did not have a petition that indicated the majority of residents were in favor; however the majority of the audience at the Council meetings supported the Ordinance. Mayor Kauffman stated he hopes the Council will support the Ordinance that has been significantly revised and toned down from its original version.

Assistant City Planner Rhonda Yoder stated the intent of the committee was not to regulate awnings and signs and the committee was under the assumption this was spelled out in the Ordinance but the five members in attendance tonight would not have any opposition to adding these items to the Ordinance.

Councilman Thomas motioned to cease debate. Motion seconded by Councilman Lantz.

By a 5-2 (NAYS – RIEGSECKER, STUMP) vote of the Council, the motion to cease debate passed.

The Council roll call vote was as follows:

AYES: GAUTSCHE: LANTZ: ROBINSON: STUTSMAN: THOMAS

NAYS: RIEGSECKER: STUMP

After not having unanimous consent to hear the Ordinance on second reading, Councilman Thomas moved to postpone the Ordinance until the first meeting in September. Motion seconded by Council President Stump and motion passed unanimously.

(ORDINANCE 4502 DULY PASSED ON FIRST READING ONLY THIS 5TH DAY OF AUGUST 2008.)

ORDINANCE NUMBER 4493

“FIXING THE 2009 ANNUAL COMPENSATION FOR ALL ELECTED OFFICIALS OF THE CITY OF GOSHEN.”

Mayor Kauffman stated Council President Stump has expressed some interest in delaying this Ordinance. Originally there had been discussion about the City maintaining the health insurance and then not being able to give raises and lately the discussions have been to give small raises to employees but most of it will have to be given towards the employee’s contribution for health insurance. If the City does give small raises to the employees and requires everyone to contribute more towards their health insurance and elected officials do not get a raise but contribute more than it will be a bigger hit to elected officials.

Councilman Thomas stated he agrees if the City gives small raises to employees with more health insurance expenses and it is basically a wash, it would make sense to also give the small raise to the Mayor, Clerk-Treasurer and Judge. Once again he will appeal for the Council to hold the line on City Council salaries. Councilman Thomas moved to table the Ordinance to a later date. Motion seconded by Councilman Riegsecker and motion passed unanimously.

PUBLIC HEARING ON ORDINANCE NUMBER 4503

Mayor Kauffman opened the Public Hearing on Ordinance Number 4503 entitled “Annexation of Real Estate into the City of Goshen, Indiana Identified as the Hepler Annexation Area.”

Mayor Kauffman stated the Ordinance is for the annexation of one residential lot on CR 40 and will allow a connection between the current City limits and the land owned by the airport.

Mayor Kauffman closed the public hearing as no person wished to speak.

ORDINANCE NUMBER 4503

Council President Stump introduced Ordinance Number 4503 entitled “ANNEXATION OF REAL ESTATE INTO THE CITY OF GOSHEN, INDIANA IDENTIFIED AS THE HEPLER ANNEXATION AREA.”

Council President Stump asked the Clerk-Treasurer to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilman Thomas.

City Attorney Larry Barkes stated the Ordinance is for the annexation of one residential parcel directly across from a roadway that would provide an entrance into some areas of the airport property. The annexation also makes the airport property contiguous to the City and will have very little impact on the overall drain of City services.

By a 7-0 unanimous vote of the Council the motion passed.

(ORDINANCE NUMBER 4503 DULY PASSED ON FIRST READING THIS 5TH DAY OF AUGUST 2008.)

RESOLUTION NUMBER 2008-31

Council President Stump introduced Resolution Number 2008-31 entitled “A RESOLUTION FOR THE ADOPTION OF THE FISCAL PLAN FOR THE HEPLER ANNEXATION AREA.”

Council President Stump asked the Clerk-Treasurer to read the Ordinance by title only and moved its passage. Motion seconded by Councilman Thomas.

Legal Compliance Administrator Shannon Marks explained the fiscal plan was originally written based on the assumption that it was privately owned real estate, since then the City has acquired the property.

By a 7-0 unanimous vote of the Council the motion passed.

RESOLUTION NUMBER 2008-32

Council President Stump introduced Resolution Number 2008-32 entitled “A RESOLUTION OF THE GOSHEN COMMON COUNCIL AUTHORIZING THE EXTENSION OF CITY SEWER UTILITIES AND WATER UTILITIES, AND APPROVING THE ANNEXATION AGREEMENT WITH M.A. INVESTMENTS DOING BUSINESS AS WATERFORD PARK.”

Council President Stump asked the Clerk-Treasurer to read the Resolution by title only and moved its passage. Motion seconded by Councilwoman Robinson.

Attorney Gordon Lord, 130 N. Main Street, stated this is for an approximately 26 acre parcel near CR 27 and CR 38. The property is currently zoned M1 with a PUD at the county level but the owner of the property has agreed to go through the whole zoning process of the City. When the property is annexed it will be eligible for water and sewer services which are currently across the street.

Councilman Thomas questioned the following sections of the annexation agreement:

- Page 7 (2,A,(v)) - City Attorney Larry Barkes explained this particular parcel is potentially affected by water wells and these measures will protect all citizens in the area;
- Page 8 (2,A,(vi)) – City Attorney Larry Barkes explained the discussion was if the developer attracts high end users and brings diversity to the type of employment base in Goshen, the City may be willing to do more for them than it would for another industry not providing employment diversity. This section provides an opportunity for the developer to request reimbursement when the actual occupier of the land is known. The developer can make the request even without the language in the Resolution but this gives them some acknowledgment from the City;
- Page 8 (2,B) – City Attorney Barkes stated this language states that the developer is not obligated to request the reimbursement: and
- Page 8 (2, C) – Attorney Gordon Lord stated this language relates to the fact that if the developer does not go above and beyond with the parcel within 10 years, the cost reimbursement will terminate.

Councilwoman Gautsche asked for an explanation of the sidewalk section on page 6 of the agreement. City Attorney Barkes stated the developer is required to construct sidewalks in at the point and time that other sidewalks reach their property. Most likely this property will roll into the CR 27 widening project and will have sidewalks installed at that time.

Glenn Null, 319 Dewey Ave, stated he is concerned about the cost of running water and sewer utilities out to the property. Attorney Barkes stated water and sewer utilities are currently very close to the site and the agreement does call for the developer to pay the standard costs of the connections and/or extensions.

Mr. Null stated the land is very close to a school to have industrial development. Attorney Barkes stated the parcel is currently zoned M-1. Councilman Thomas questioned why the school would build in an industrial area.

By a 7-0 unanimous vote of the Council the motion passed.

ORDINANCE NUMBER 4501

Council President Stump introduced Ordinance Number 4501 entitled “ANNEXATION OF REAL ESTATE INTO THE CITY OF GOSHEN, INDIANA IDENTIFIED AS THE COUNTY ROAD 27-REGENT STREET ANNEXATION AREA.”

Council President Stump asked the Clerk-Treasurer to read the Ordinance by title only for its second reading and moved its passage. Motion seconded by Councilman Riegsecker.

Councilman Thomas questioned why tract 6 of the parcel is zoned as R-1. Attorney Barkes stated that in the Ordinance the City is matching existing zoning with no attempt to change the zoning at this time.

Glenn Null, 319 Dewey Ave, stated he has concerns with annexing the land in as the County had it zoned and with annexing it in without being developed. This has been explained to him in the past that it is because a TIF district will be established in the area. Mr. Null also stated he was at

the Council meeting where residents of a sub-division complained about the noise of a manufacturing company and agrees the speakers at some of the businesses reach ½ a mile. Further he has concerns with M-1 zoning being against a school.

David Daughtery, Goshen Chamber of Commerce President, stated the Chamber has been working for some time to identify and encourage a new industrial park in Goshen. It is critical to have land available for industrial development and diversification of the industrial base. Mr. Daughtery encouraged the Council to pass the Ordinance as it would be in the best interest of the community.

Councilman Thomas stated the City has to have a manufacturing sector to allow for the ability to grow. It is unfortunate the County allowed a sub-division next to the manufacturing but Councilman Thomas believes this is reasonable planned growth.

Councilwoman Gautsche stated this is a perfect case in point where more collaboration between the County and City is needed and maybe could have been prevented with long range planning.

The Council roll call vote was as follows:

AYES: GAUTSCHE: LANTZ: RIEGSECKER: ROBINSON: STUMP: STUTSMAN:
THOMAS

NAYS: NONE

(ORDINANCE 4501 DULY PASSED AND ADOPTED THIS 5TH DAY OF AUGUST 2007.)

RESOLUTION NUMBER 2008-33

Council President Stump introduced Resolution Number 2008-33 entitled “A RESOLUTION OF THE GOSHEN COMMON COUNCIL OPPOSING THE ISSUANCE OF AN ALCOHOLIC BEVERAGE PERMIT TO ANDRES AVILA, DBA LA BAMBA DISCOTHEQUE AT 427 WEST PIKE STREET, SUITE 4, GOSHEN, INDIANA 46526.”

Council President Stump asked the Clerk-Treasurer to read the Resolution by title only and moved its passage. Motion seconded by Councilwoman Robinson.

Council President Stump stated he has received calls from the neighbors who are totally against the issuance of the permit because of issues in the past with the club. The Resolution is not binding with the commission but it lets them know how the Council feels about the permit.

Andres Avila, Owner of LaBamba, stated the following:

- For seven years the club was opened for teens only;
- Four years ago he had a liquor license but cancelled it;
- He has taken extra measures and installed cameras, metal detectors and has hired two private security officers;

- He has lost businesses to clubs that are serving alcohol and allowing teens to be permitted into the club.

Police Chief Gary Penland and Assistant Chief Mike McCloughen explained their intent is to be at the ABC hearing to present a case as to why the Police Department does not want the establishment to get a permit. From January 2005 thru December, 2007 there was 70 documented calls to the nightclub. Two officers were working at the club or the numbers of calls could have been much higher. Mr. Avila would sometimes be the caller reporting the activity to rectify the problem and be part of the solution but the Police Department is dealing with young people in criminal gangs. There have been 2 homicides, shootings, fights in the parking lot and criminal activity after leaving the club. It is a dangerous spot for the officers due to the clientele. Chief Penland is leaning towards not allowing officers to work in a place that serves alcohol but is it better to try to stop a problem before it starts.

By a 7-0 unanimous vote of the Council the motion passed.

The Council roll call vote was as follows:

AYES: GAUTSCHE: LANTZ: RIEGSECKER: ROBINSON: STUMP: STUTSMAN:
THOMAS

NAYS: NONE

RESOLUTION NUMBER 2008-34

Council President Stump introduced Resolution Number 2008-34 entitled “A RESOLUTION OF THE COMMON COUNCIL SUPPORTING THE REVOCATION OR NON-RENEWAL OF AN ALCOHOLIC BEVERAGE PERMIT ISSUED TO KESHIA GONZALES, DBA 7 SECONDS AT 222 SOUTH THIRD STREET, GOSHEN, INDIANA 46526”

Council President Stump asked the Clerk-Treasurer to read the Resolution by title only and moved its passage by roll call vote. Motion seconded by Councilman Thomas.

Tyrone Hunt, father of Keshia Gonzales, was present at the meeting, stated his daughter could not be at the meeting and questioned if the decision could be postponed as his daughter is seeking counsel to represent her. Councilman Thomas explained what the Council is considering tonight is not the decision on the revocation or non-renewal of the license; it just expresses the Council’s opinion to the Alcohol and Tobacco Commission.

Assistant Chief Mike McCloughen stated that since the raid on June 28 the Police Department has been called to the nightclub every weekend except this last one.

Mr. Hunt stated since the raid security at the club have patrolled the parking lot to make sure the customers are safe.

By 7-0 unanimous vote of the Council, Resolution Number 2008-34 was passed.

The Council roll call vote was as follows:

AYES: GAUTSCHE: LANTZ: RIEGSECKER: ROBINSON: STUMP: STUTSMAN:
THOMAS

NAYS: NONE

RESOLUTION NUMBER 2008-35

Council President Stump introduced Resolution Number 2008-35 entitled “A RESOLUTION OF THE GOSHEN COMMON COUNCIL AUTHORIZING THE EXTENSION OF CITY SEWER UTILITIES AND WATER UTILITIES TO THE REAL ESTATE AT 65482 COUNTY ROAD 27, GOSHEN, INDIANA, AND APPROVING THE AGREEMENT WITH KEYSTONE RV COMPANY .”

Council President Stump asked the Clerk-Treasurer to read the Resolution by title only and moved its passage. Motion seconded by Councilman Stutsman.

Attorney Barkes stated this Resolution and the next two are to acquire right-of-way on CR 27 for the widening project and utilities project.

Discussion was held that this is running down the east side of CR 27, the City needs to acquire right-of-way from four properties and the City has right-of-way 40 feet from the center line of the road.

By 7-0 unanimous vote of the Council, Resolution Number 2008-35 was passed.

RESOLUTION NUMBER 2008-36

Council President Stump introduced Resolution Number 2008-36 entitled “A RESOLUTION OF THE GOSHEN COMMON COUNCIL AUTHORIZING THE EXTENSION OF CITY SEWER UTILITIES TO THE REAL ESTATE AT 65706 COUNTY ROAD 27, GOSHEN, INDIANA, AND APPROVING THE AGREEMENT WITH DEVON JAY BONTRAGER AND ESTHER JEAN BONTRAGER.”

Council President Stump asked the Clerk-Treasurer to read the Resolution by title only and moved its passage. Motion seconded by Councilman Thomas.

By 7-0 unanimous vote of the Council, Resolution Number 2008-36 was passed.

RESOLUTION NUMBER 2008-37

Council President Stump introduced Resolution Number 2008-37 entitled “A RESOLUTION OF THE GOSHEN COMMON COUNCIL AUTHORIZING THE EXTENSION OF CITY SEWER UTILITIES AND WATER UTILITIES TO THE REAL ESTATE AT 65514 COUNTY ROAD 27, GOSHEN, INDIANA, AND APPROVING THE AGREEMENT WITH IVAN R. ANDERSON.”

Council President Stump asked the Clerk-Treasurer to read the Resolution by title only and moved its passage. Motion seconded by Councilman Thomas.

By 7-0 unanimous vote of the Council, Resolution Number 2008-37 was passed.

PUBLIC HEARING ON ORDINANCE NUMBER 4504

Mayor Kauffman opened the Public Hearing on Ordinance Number 4504 entitled “Additional Appropriation Ordinance.”

Mayor Kauffman explained the Ordinance includes appropriating \$38,842 in funds not used for the original purpose from the EDIT fund and \$65,000 to the gasoline line in the MVH fund.

Mayor Kauffman closed the public hearing as no person wished to speak.

ORDINANCE NUMBER 4504

Council President Stump introduced Ordinance Number 4504 entitled “ADDITIONAL APPROPRIATION ORDINANCE.”

Council President Stump asked the Clerk-Treasurer to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilman Riegsecker.

By a 7-0 unanimous vote of the Council the motion passed.

Mayor Kauffman asked for unanimous Council consent to consider the Ordinance for passage during one meeting. As there were no objections, the Mayor declared that the Ordinance would be heard on second reading.

Council President Stump asked the Clerk-Treasurer to read the Ordinance by title only for second and final reading and moved its passage by roll call vote. Motion seconded by Councilman Riegsecker.

The Council roll call vote was as follows:

AYES: GAUTSCHE: LANTZ: RIEGSECKER: ROBINSON: STUMP: STUTSMAN:
THOMAS

NAYS: NONE

(ORDINANCE 4504 DULY PASSED AND ADOPTED THIS DAY 5TH DAY AUGUST OF 2008.)

Council Discussion

After discussion with Mr. Hershberger, Attorney Barkes advised the Council to be clear on the endorsement so that it is limited to the educational portions of the seminar.

Councilman Thomas moved to allow the Council to endorse the education seminar on August 21st offered by the Hispanic Council Mr. Hershberger is a part of. Motion seconded by Councilman Lantz and motion passed unanimously.

Councilman Thomas moved to adjourn. Motion seconded by Councilman Riegsecker and the meeting adjourned at 10:00 P.M.

APPROVED: _____
Mayor, Allan Kauffman
Goshen, Indiana

ATTEST: _____
Tina M. Bontrager
City Clerk-Treasurer