

**REGULAR MEETING OF THE COMMON COUNCIL
AUGUST 18, 2009
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 18, 2009 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

Don Riegsecker, 714 Reliance Road, informed the Council that he is coordinating a motorcycle ride to downtown Goshen during the September First Friday Event.

APPROVAL OF MINUTES

Council President Stump moved to accept the Minutes of the Council meetings of July 21, 2009 and August 4, 2009 as presented. Motion seconded by Councilman Riegsecker and motion carried unanimously.

**PUBLIC HEARING ON THE PROPOSED SCHEDULE OF RATES AND CHARGES
FOR SERVICES OF THE GOSHEN SEWER UTILITY**

Mayor Kauffman opened the Public Hearing and explained that no one wants to raise sewer rates right now especially in a down economy but Goshen has to eliminate the combined sewer overflows which is where raw sewage is flowing into the river. The City has to meet a deadline of spring 2011 and will have a 38 million dollar construction project which is the largest public works project in the history of Goshen.

Scott Miller of Umbaugh and Associates stated the following in terms of financing the project:

- The Sewer Utility is using a significant amount of cash on hand that has built up over time towards the project costs.
- The City has been awarded a \$5,000,000 grant as part of the stimulus package. \$5,000,000 is the largest amount any city can qualify for.
- The balance of the project will be funded by a bond issue through the State Revolving Fund (SRF) at a reduced interest rate.
- If the bond issue was closed this quarter the rate is currently at 3.12% which is a lot less than on the open market.
- A number of steps have been taken to minimize the rate impact as much as possible including:

1. The City was awarded the grant.

2. The cash on hand is being applied to the costs.
 3. The City received approval from the SRF to structure this new bond issue around the outstanding debt to minimize the debt service of the utility.
 4. Receiving a low subsidized interest rate.
 5. Scheduling the closing of the issue around the timing of the lowest quarterly interest rate of the SRF.
 6. Splitting rate increase into two phases.
- The City is now waiting on the construction bid amounts which are due to be received September 21, 2009. At that point the construction costs and the interest rates will be known. The rate structure can then be finalized and Mr. Miller will return to the Council with the exact numbers necessary in terms of rates and charges.

Mayor Kauffman closed the Public Hearing as no further person wished to speak.

ORDINANCE NUMBER 4551

Council President Stump introduced Ordinance Number 4551 entitled “AN ORDINANCE AMENDING ORDINANCE 4201 CREATING THE GOSHEN COMMUNITY RELATIONS COMMISSION AND PRESCRIBING THE POWERS AND DUTIES OF THE COMMISSION.”

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.

Eric Kanagy, 517 S. 3rd St. spoke in support of the Ordinance and stated the following in a presentation to the Council:

- Many people experience a fear because of discrimination due to sexual orientation and do not have any protection under Federal, State or Local Government.
- The Ordinance is to add four words to the civil rights Ordinance of the City which purports to ‘provide all of its citizens equal opportunity for education, employment, access to public conveniences and accommodations, and acquisition through purchase or rental of real property, including but not limited to housing , and to eliminate segregation or separation based solely on race, religion color, sex, **sexual orientation, gender identity**, disability, national origin or ancestry, since such segregation is an impediment to equal opportunity’.
- This action is supported by employment policies of at least 43 Goshen employers, many of the State’s largest employers, Executive Orders from Indiana’s current Governor and the previous two before him, Ordinances in six other cities in the State, one other Indiana County and Laws and Executive Orders in twenty nine other states in the U.S.

Michelle Marquis 1306 Berkey Ave, spoke in support of the Ordinance and stated there is no protection for people to speak of discrimination they experience due to sexual orientation and she has experienced being in fear of losing a job because of her sexual orientation.

Kathy Meyer Reimer, 618 S. 6th St. spoke in support of the Ordinance.

Tom Uebbing, 1737 Brookmede Drive, South Bend representing Citizens for Community Values of Indiana gave the Council a handout and spoke in opposition of the Ordinance.

Serita Miner, 2035 Nathan Lane spoke in opposition of the Ordinance.

Karl Shelly, 605 N. Greene Rd, presented the Council with a letter supporting the Ordinance signed by eighteen Goshen pastors and ministers and spoke in support of the Ordinance.

Glenn Null, 319 Dewey Ave, questioned who is going to enforce a discrimination violation as there is not a Federal or State statute in place for enforcement.

City Attorney Larry Barkes stated there are enforcement problems. The CRC has non-judicial opportunities to sit down with the sides and see if the issues can be mediated which is where the complaint would start. This would be a statement of the community as to what the community guidelines are and currently the City is not doing any local enforcement. If the issue could not be resolved it would be turned over to the State and since it is not consistent with the State's guidelines Attorney Barkes suspects the State would decline to take any action on enforcement.

Jeanne Liechty, 602 Gra-Roy Dr. presented the Council with a petition in support of the Ordinance with 31 signatures and spoke in support of the Ordinance.

Phillip Cripe, 1728 – D2 Manor Haus Ct, spoke in opposition of the Ordinance.

Renee Eash, 1022 William Dr. questioned if this amendment came about because of discrimination due solely because of someone's sexual orientation and has there been other ways to deal with it, and if this would affect anything to do with public and/or school restrooms.

Mayor Kauffman stated the presentation given in the beginning included the fear of losing housing or employment due to discrimination because of sexual orientation.

City Attorney Barkes stated in his understanding someone in the transgender process starts identifying with the opposite gender and there is an issue as to which restroom they would use and this would be addressed and affected by the language in the Ordinance.

Barbara Meyer Reed, 15150 Elkhart St, spoke in support of the Ordinance.

Brad Miller, 417 Arbor Court questioned if fear is a good enough motivator for the Ordinance and therefore was in opposition of the Ordinance.

Kimber Beachy, 520 E. Washington St. spoke in support of the Ordinance.

Dorothy Yoder Nyce, 1603 S. 15th St, spoke in support of the Ordinance.

Glen Stutsman, 64937 Apple Lane, an employer of a significant manufacturing company in Goshen, spoke in opposition of the Ordinance.

Kevin Marks, 207 N. 2nd St. spoke neither in support nor opposition of the Ordinance but stated Indiana is an 'at will' State.

Virginia Marks, 207 N. 2nd St. spoke neither in support nor opposition of the Ordinance but stated everyone has the right to not be discriminated against.

Brad Weirich, 409 S. Riverside Blvd, spoke in support of the Ordinance.

David Seymore, 1122 Allen St, South Bend, spoke in support of the Ordinance.

Doug Moore, 60362 Pembroke Ln, spoke in opposition of the Ordinance.

Nick Miller Kauffman, 305 Gra-Roy Dr, spoke in support of the Ordinance.

Jim Schrock, 917 S. Indiana Ave, spoke in opposition of the Ordinance.

Paul Conrad, 704 E. Kercher Rd, spoke in support of the Ordinance.

Ned Kauffman, 1205 Berkey Ave, spoke in support of the Ordinance.

Wilma Harder, 119 Canal St, spoke in support of the Ordinance.

After discussion with the Council regarding Indiana being an 'at will' State, Attorney Larry Barkes stated with the enforcement issue aside by passing the Ordinance the Council would be establishing a protective class and if someone was discriminated against they would have an opportunity to make a presentation although they would still have to prove they were fired due to their sexual orientation or gender identity.

Karen Fairfield, 413 S. 6th St. spoke in support of the Ordinance.

Robert Grimshaw, 14394 U.S. 6, Syracuse, spoke in opposition of the Ordinance.

Joel Barrett, 343 D Lane, Elkhart, spoke in support of the Ordinance.

Sam Hostetler, 608 Bayberry Dr, spoke in support of the Ordinance.

Mike Murto, 1216 Wilson Ave, spoke in support of the Ordinance.

Stuart Hite, 57303 Darnet Lane, spoke in opposition of the Ordinance.

April Miller, 1508 S. 8th St, spoke in support of the Ordinance.

Maija Stutsman, 212 W. Jackson St. spoke neither in support nor opposition of the Ordinance but questioned why separation of church and state has not been brought up and, the Council's decision should follow the constitution.

Jessica Higgy, 615 S. 3rd St. spoke neither in support nor opposition of the Ordinance but read the City of Goshen's mission statement from the City's website.

Dave Pottinger, 107 Gra-Roy Dr, spoke in support of the Ordinance.

Charlotte Barnett, 1110 S. 8th St. spoke in support of the Ordinance.

Bob Schrameyer, 901 Player Dr. spoke in opposition of the Ordinance.

Cheryl Johnson, 2318 Redspire, spoke in opposition of the Ordinance.

Cathy Cripe, 307 Parmley Dr. spoke in support of the Ordinance.

Jerry Sullivan, 53287 Monterray Dr, Bristol spoke in opposition of the Ordinance.

Randy Johnson, 2318 Redspire Dr, spoke in opposition of the Ordinance.

Mauveen Coyne, 1623 Springbrook Dr, spoke in support of the Ordinance.

Steve Hite, 1005 S. Hartpence, Syracuse, spoke in opposition of the Ordinance.

Michelle Mill, 1257 West Ave, spoke in support of the Ordinance.

Barbara Kindel, 16866 U.S. 20, spoke in support of the Ordinance.

Ruth Ann Gardner, 906 Mervin, spoke in support of the Ordinance.

Maria Byler, 703 Emerson St, spoke in support of the Ordinance.

Alex Dugger, 912 S. 7th St, spoke in support of the Ordinance.

Beth Dumka, 66148 Prairie View Dr, spoke in opposition of the Ordinance.

The Council discussed the following:

- The amendment is about supporting people in the community that are being discriminated against. It is about basic rights regarding discrimination and Goshen would be making a statement that everyone is equal.
- No special privileges or rights are given by amending the Ordinance.
- Would be problematic to vote on religious belief. It is about the separation of Church and State and voting on what should be legal or illegal.
- The Council does not agree with discrimination but some members feel there are too many unknowns, such as gender identity issues including males going into female restrooms and who will enforce the Ordinance, if a complaint is sent to the State they will likely decline a decision.

- The State of Indiana needs to be on board with the wording added to the Ordinance.
- Not sure why the amendment is necessary as an Indiana employer can dismiss an employee for any reason.
- Should be a Federal or State Government issue.
- The Goshen Chamber of Commerce debated the issue and while the public policy committee voted in favor of the Ordinance, the Chamber chose not to take a stand.

By a 4-3 vote of the Council the motion passed.

The Council roll call vote was as follows:

AYES: GAUTSCHE: LANTZ: STUTSMAN: THOMAS

NAYS: RIEGSECKER: ROBINSON: STUMP

As there was not unanimous consent to hear the Ordinance on two readings this evening, the Ordinance was held over to the September 1, 2009 meeting of the Council.

(ORDINANCE 4551 DULY PASSED ON FIRST READING ONLY THIS 18TH DAY OF AUGUST 2009.)

RESOLUTION NUMBER 2009-36

Council President Stump introduced Resolution Number 2009-36 entitled "AN EMERGENCY RESOLUTION PROVIDING FOR THE TRANSFER OF FUNDS."

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.

By 7-0 unanimous vote of the Council, Resolution Number 2009-36 was passed.

Councilman Thomas moved to adjourn. Motion seconded by Councilman Lantz and the meeting adjourned at 9:45 P.M.