

**REGULAR MEETING OF THE COMMON COUNCIL (APRIL 19, 2016)**  
**111 EAST JEFFERSON STREET, GOSHEN, INDIANA**

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The Common Council of the City of Goshen, Indiana, met in the Council Chambers for a regular session on April 19, 2016 at 7:00 P.M. Presiding Officer was Mayor Stutsman with members of the Council present as follows:

PRESENT: COUNCILMAN AHLERSMEYER, MCKEE, ORGILL, SCHARF, WEDDELL  
COUNCILWOMAN GAUTSCHE, KING

ABSENT: NONE

**CHANGES TO AGENDA**

Councilwoman Gautsche moved to accept the agenda. Motion seconded by Councilman Ahlersmeyer and motion passed unanimously.

**APPROVAL OF MINUTES**

Council President McKee moved to accept the minutes of the meetings held on February 2<sup>nd</sup> and February 16<sup>th</sup>, 2016. Motion seconded by Councilman Ahlersmeyer and motion passed unanimously.

**RESOLUTION 2016-11**

Council President McKee introduced Resolution 2016-11 entitled "A RESOLUTION IN RECOGNITION OF GOSHEN COLLEGE 2015-16 WOMEN'S BASKETBALL TEAM."

Council President McKee asked the Clerk-Treasurer to read the Resolution by title only and moved its passage by roll call vote. Motion seconded by Councilwoman Gautsche.

Mayor Stutsman stated it was an honor to write this Resolution and read the Resolution in its entirety.

By 7-0 unanimous vote of the Council, Resolution 2016-11 was passed.

The Council roll call vote was as follows:

AYES: AHLERSMEYER, GAUTSCHE, KING, MCKEE, ORGILL, SCHARF, WEDDELL

NAYS: NONE

Mayor Stutsman asked the players and representatives to stand. The players came forward and the Mayor presented the players with the official copy of the Resolution and his congratulations and the audience gave the team a standing ovation.

**ORDINANCE 4856**

Council President McKee introduced Ordinance 4856 and asked the Clerk-Treasurer to read the Ordinance by title only.

City Planner Rhonda Yoder explained the petitioner has requested that Ordinance 4856 be withdrawn and a formal motion is required to accept the withdrawal request. Councilman Ahlersmeyer moved to accept the withdrawal. Motion seconded by Councilman Orgill and motion passed unanimously

**RESOLUTION 2016-12**

Council President McKee introduced Resolution 2016-12 entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOSHEN, INDIANA AUTHORIZING THE FILING OF AN APPLICATION FOR A COMMUNITY DEVELOPMENT BLOCK GRANT.”

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

CDBG Administrator Rhonda Yoder explained with this Resolution the Council is authorizing the filing of the CDBG grant application after a 30 day public comment period on the draft plan has expired.

By 7-0 unanimous vote of the Council, Resolution 2016-12 was passed.

**ORDINANCE 4860**

Council President McKee introduced Ordinance 4860 entitled “NEIGHBORHOOD PRESERVATION.”

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

Mayor Stutsman stated he has heard some comments and questions on this Ordinance and has some questions of his own so this may be an item for discussion only tonight but he will leave that to Council discretion. Councilman Orgill stated he tends to agree and liked the Mayor’s idea of creating a Council committee to review and discuss the Ordinance before it comes back to the Council as an agenda item. Councilman Weddell expressed some concerns of duplication in the Ordinance and feels it would be beneficial if it could be organized in a fashion that would be more user friendly. Councilman Scharf stated he submitted some draft changes with a number of things such as format and structure. Further some items are getting into building code items rather than neighborhood preservation which he feels should be kept separate.

Glenn Null, Goshen, stated he would like a red-lined version of this Ordinance showing the proposed changes in red. Mayor Stutsman stated that is his fault as this is the red-lined version but due to copier issues you cannot see the red notations.

Councilwoman Gautsche questioned section 6.3.1.1 (b) as it refers to foundations supported by footers and foundations of homes built before 1910 do not have footers so the walls are anchored

only to the foundation. Community Development Director Mark Brinson stated we can discuss the language later but the problem they are focusing on is foundations that are caving in. Building Inspector Myron Grise stated the International Maintenance Code was used as a guide and its true this needs to be worded differently but we still need to address and resolve this as it is a safety hazard with some houses in Goshen. Councilwoman Gautsche questioned section 6.3-1-2 (j) as it states ‘A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided’ and she believes ‘unless adequate combustion air is provided’ should be removed as gas-burning heaters should never be in a bedroom or bathroom. Mr. Grise agreed that wording needs to be removed as it is actually illegal to have one in a bedroom or bathroom.

Mayor Stutsman stated staff is looking for volunteers from the Council to work with them on making changes and improvements to the Ordinance. Councilman Orgill, Scharf and Councilwoman King all expressed interest in volunteering.

Councilman Ahlersmeyer moved to table the Ordinance. Motion seconded by Councilwoman King and motion passed unanimously.

(ORDINANCE 4860 TABLED)

#### **ORDINANCE 4861**

Council President McKee introduced Ordinance 4861 entitled “ESTABLISH THE ANNUAL TAX RATE FOR THE CITY OF GOSHEN CUMULATIVE CAPITAL DEVELOPMENT FUND.”

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

City Attorney Larry Barkes explained these funds are established annually and there is a maximum amount you can request. The City historically requests the maximum amount and that amount will get reduced by the State during the budget process.

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

#### **ORDINANCE 4862**

Council President McKee introduced Ordinance 4862 entitled “ESTABLISH THE ANNUAL TAX RATE FOR THE CITY OF GOSHEN CUMULATIVE BUILDING OR REMODELING, FIREFIGHTING, AND POLICE RADIO EQUIPMENT FUND.”

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

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

**ORDINANCE 4863**

Council President McKee introduced Ordinance 4863 entitled “ESTABLISH THE ANNUAL TAX RATE FOR THE CITY OF GOSHEN CUMULATIVE BUILDING AND SINKING FUND FOR MUNICIPAL SEWERS.”

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

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

**PUBLIC HEARING ON ORDINANCE 4864**

Mayor Stutsman opened the Public Hearing.

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

**ORDINANCE 4864**

Council President McKee introduced Ordinance 4864 entitled “ADDITIONAL APPROPRIATION ORDINANCE.”

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

Mayor Stutsman stated the incorrect amount for the Economic Development Improvement Tax Fund has been placed in the Ordinance and requested a motion to amend the Ordinance to reflect an additional appropriation amount of \$11,471 to the EDIT Fund. Motion made by Councilman Orgill with a second by Councilwoman Gautsche and motion passed unanimously to amend the Ordinance.

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

Mayor Stutsman 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 McKee 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 Ahlersmeyer.

The Council roll call vote was as follows:

AYES: AHLERSMEYER, GAUTSCHE, KING, MCKEE, ORGILL, SCHARF, WEDDELL

NAYS: NONE

(ORDINANCE 4864 DULY PASSED AND ADOPTED THIS 16<sup>TH</sup> DAY OF 2016.)

### **RESOLUTION 2016-13**

Council President McKee introduced Resolution 2016-13 entitled “MAJOR MOVES CONSTRUCTION FUND LOAN TO REDEEM REDEVELOPMENT TAX INCREMENT REVENUE BONDS OF 2008.”

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

City Attorney Larry Barkes explained the Redevelopment Commission is requesting the Council authorize a 2 million dollar loan from the Major Moves Construction Fund. The Commission received previous authorization of this loan from a prior Council for the purpose of funding certain projects in the South East TIF District. The Commission is now changing the request as they did not have to borrow the funds for the South East TIF District and it appears they will not have to in the future. The Commission is now asking that the funds be used in the US 33/River Race TIF District to redeem a bond issue which will take about \$2.5 million. The Commission is currently paying 8.15% interest on the bond. Mayor Stutsman added this will equate to a \$1.7 million dollar savings in interest for the Commission.

Glenn Null, Goshen, questioned at what interest rate this loan will be paid back to the Major Moves Fund and he would prefer this be written so as upward interest rate changes happen the City is not losing money on this loan. Mayor Stutsman answered the loan is to be paid back at 1% and in full to the Major Moves Fund by 2023.

Councilman Weddell questioned Clerk-Treasurer Bontrager as to if these funds are comingled with other funds where we do not earn a lot of interest. Tina Bontrager confirmed the funds are comingled and explained the City does not receive a lot of interest currently on its cash balances but we also avoid huge fees as a tradeoff for bundling our accounts and balances. Further some of the loans with the City currently have a percentage rate of 1% above the average rate for the previous year that way the loan interest does increase or decrease with the earnings interest.

Mayor Stutsman stated when the Commission is seeing that big of a savings he would like to see the interest rates adjust accordingly in the future to help build up these funds.

By 7-0 unanimous vote of the Council, Resolution 2016-13 was passed.

### **DEMONSTRATION OF WEBSITE**

Mayor Stutsman explained this was an oversight on his part and he meant to remove it from the Agenda as Becky Hershberger had a conflict tonight. It will be given at a later date but it has been found that it is going to take a lot of staff time to keep it up so we are going to have to decide how far we want to take the site.

### **PRIVILEGE OF FLOOR**

Andrea Milne, Goshen, stated she wants to put a reminder out there that as a community we have said multiple times that we value and prioritize walking/biking connectivity but yet we are seeing 9<sup>th</sup> Street closed off to bikers and walkers and 5<sup>th</sup> Street closed off to bikers and walkers. Now there is a conservation of Jefferson Street possibly being closed and she just found out the

Northwest bike trail direction is now being changed. As our representatives she is asking the Council to push forward on those connectivities for us bikers and walkers. Mayor Stutsman stated he can say that being on the Council for the last eight years the City has worked hard to make the City walkable and will continue to do so and hopefully working out the bumps we run into also with ongoing and future projects.

Glenn Null stated he attended the Council retreat and found it interesting and thinks a lot more citizens should attend. Further a friend of his came to visit in Goshen and it was a reminder that the City buildings need better signs such as City Hall, Utilities Office and the Annex building. The signs also should state what departments the building holds. Mayor Stutsman stated it is currently being worked on and he has viewed the proposed signage so hopefully they will be up in the next month or two.

Dean Jessup, Goshen, stated he would like to discuss the City's taking over the ERA Goshen Pond Dredging Proposal and now it is going to be a City proposal as the City has taken over all of the responsibility. He would like to say that he is greatly opposed to dumping City funds, City effort and City time to a project that was initiated by a nonprofit private 501C3. First question, are you going to accept a laundry list of 501C3 projects from anybody around so he is opposed to that effort. There is a lot of fog on what this involves and he will emphatically say it right now that he is probably the only person in Goshen or maybe even Elkhart County that is opposed to this project. He does live on the Goshen pond and he bought the property for that view of the Goshen pond. He feels the stormwater tax is obviously an extremely overtaxed fund to all of sudden have in the neighborhood of \$1.2 to \$1.3 million instantly available to go to this single project and not affect any other projects that may be on the books. Why is the City of Goshen involved in this? He stated Mr. Sailor put out a letter explaining sediment as a problem and understandably that is an issue but the statements are scientifically not correct. Such as stating it will increase recreational opportunity; is that one recreational opportunity or what recreation are we trying to evolve and increase? The statement of increasing aquatic habitat, he is a trained biologist and that is extremely incorrect. By doing a single purpose, single depth area does not increase aquatic habitat but decreases the diversity of aquatic habitat. So dredging there is going to change what is there now in a negative fashion. He has heard statements of all of the permitting has been done but IDEM has not received a re-permit it was received and withdrawn back in September of 2013, US Army Corp of Engineers has not received a permit and those have to be done as anytime dredging is done in a waterway the permitting has to be done. The very exciting news within the City limits is the Bald Eagle nest that has successfully been built and hatched this last week on the island. This opens a new can of worms on permitting as the US Fish and Wildlife service has extreme permit requirements with activity within 650 feet of an active Bald Eagle nest. His last issue which is what brought him here tonight is the use of suggestive funding and that is the Indiana Department of Natural Resources Lake and River Enhancement Fund. Last year the ERA submitted a \$100,000 request that was denied. This year it was a request for \$100,000 a year for 3 years which was denied again. If the DNR has denied this twice wouldn't you look at this and ask if this project is actually viable? The Council needs to understand all of the issues with this dredging activity and do some scientific studies. Utilities Administrative Engineer Dustin Sailor stated the permits are being prepared by the dredger so the ERA is paying for the preparation. Mr. Jessup confirmed that the permits will be issued under the City of Goshen.

Councilman Scharf stated he questioned some of the language in the Interlocal Agreement with Elkhart County and the Dam Pond EID when it was in front of the Council regarding if there was a real connection with the sediment having created listed negative consequences. At that time he recalls Attorney Barkes stating we are on a time limit with applying for grant funding and the issue will come back to the Council. Attorney Barkes stated the Interlocal Agreement is coming back to the Council in a couple of months to change a provision. Other than that the only way to amend the agreement is if all parties are in agreement of the amendment so it really depends on what you propose and if there are any objections. Councilman Scharf stated it does seem like the decision making authority at this point is an operating advisory commission which is a three person board with one person appointed by each the City, EID and the County and they are supposed to advise and guide the process in collaboration with Mr. Sailor but it is a little unclear how some of these significant decisions are going to be made. Attorney Barkes stated the City's involvement in this is very limited to some funding and Dustin's assistance.

Councilman Weddell questioned Mr. Sailor as to if he knew how much time he has into the project for the not-for-profit at this point. Mr. Sailor responded that he has not kept any type of time records but would guess approximately 2 weeks of City time and approximately 3 weeks of his personal time.

Councilman Scharf suggested the Councilmembers review the map of the 3 priority areas available at this point to be funded.

Rob Roeder, Goshen, congratulated all of the Councilmembers and Mayor on their election victories and completing their retreat. Mr. Roeder stated he is very concerned with the LGBTQ movement and how the community has been involved in that controversy and he would like to address that and the diversity issue. Mr. Roeder stated he was upset with Mayor Kauffman's executive decision and he would like to encourage Mayor Stutsman to use his executive powers to clarify Ordinances and not to make legislation. Previously during the LGBTQ discussions he went to different neighborhoods and passed out a flyer by Eric Miller, Advance America, and one of the things they are fighting against is the notion that a man can use women's restroom. He only brings this up again because recently the Seattle Mayor used an executive action for this purpose and he really fears for that happening in Goshen. To have to stand for a certain position could bring an onslaught of reaction of public and that is not what we want. He also does not want to see an individual or business having to fear standing up for his or her religious conviction. Goshen already has signs in certain business saying we welcome all and he doesn't want to see where we have businesses where this business is that persuasion and that business has another feeling. He wants our community to be a welcoming community but he also wants people to be able to say their religious convictions without being looked down or frowned upon. There are tough times ahead due to our global condition and it concerns him that government should try to legislate morality as we can look at slavery or prohibition and see that it is not necessarily a good thing. Mayor Stutsman responded that the executive order Mayor Kauffman made did not create any new legislation or laws it pretty much was like a CEO stating I am not going to discriminate amongst City staff. Mayor Stutsman happily upheld that executive order. Mayor Stutsman stated there is not a popular side to this and he feels in the community we all work hard to get along with each other and he and Mr. Roeder have some common goals but completely different ways of getting there. He voted in favor of the Ordinance twice when he

was on the Council and he has stated publicly he will not present an Ordinance to the Council but he would sign it if they passed one. Also he will welcome anyone to this community and will not discriminate. Councilwoman King stated she respects Mr. Roeder's right to express himself but she also respects her LGBT friends' and neighbors' right to live as they see fit as well.

Councilman Scharf stated there is a Redevelopment Commission meeting this coming Monday at 6:00 p.m. to discuss the NW Bike Trail.

Mayor Stutsman stated there will be a groundbreaking ceremony on May 12<sup>th</sup> at 9:15 a.m. for the US 33 project. The location is unknown at this time but will keep everyone informed.

Councilwoman Gautsche stated there is a meeting on the closing of Jefferson Street on April 26<sup>th</sup>, 2016 some information has been handed out to residents by Engineering and there will be more information on the website and Facebook.

Councilman Ahlersmeyer moved to adjourn. Motion seconded by Councilman Orgill and the meeting adjourned at 8:25 P.M.

APPROVED: \_\_\_\_\_  
Mayor, Jeremy Stutsman  
Goshen, Indiana

ATTEST: \_\_\_\_\_  
Tina M. Bontrager  
City Clerk-Treasurer