

REGULAR MEETING OF THE COMMON COUNCIL (AUGUST 16, 2016)
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 16, 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

PRESENTATION BY MICHAEL J. HICKS, PhD

Councilman Orgill introduced Dr. Hicks as a George and Frances Ball Distinguished Professor of Economics and the Director of the Center for Business and Economic Research at Ball State University.

Dr. Hicks stated he would like to give a hybrid briefing of two studies with the most recently released 'Why Local Economic Development Power has been so disappointing'. Dr. Hicks stated he is not here to be pro TIF or against TIF; TIF is a tool like a hammer and he would like to share the information in his presentation tonight.

After the presentation, Mayor Stutsman thanked Dr. Hicks and questioned what effects the recession had on the study from 2003 to 2013 that he talked about. Dr. Hicks stated all four studies took the recession into account.

Council President McKee questioned Dr. Hicks' thoughts on Carrier leaving Indianapolis; did they not have a big enough work force? Dr. Hicks stated Carrier received every tax abatement possible and now are moving their production to Mexico. They are not moving their equipment but rather buying robotic equipment to be run by Mexican workers as it is cheaper there.

Councilman Scharf pointed out a stat of Dr. Hicks stating 20,000 workers are coming into Elkhart County everyday to work but not live and questioned how that compares with the rest of the State. Dr. Hicks stated Elkhart County is the largest in the State for workers crossing borders and added that the local governments should consider that and think about what another 20,000 households could do for their community and schools financially.

PUBLIC HEARING ON ORDINANCE 4874

Mayor Stutsman opened the Public Hearing on Ordinance 4874, Additional Appropriation Ordinance.

Glenn Null, Goshen, questioned why we need an additional person and stated that the numbers in the Ordinance do not match the back of the page with the salary listed on the job description.

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

ORDINANCE 4874

Council President McKee introduced Ordinance 4874 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 explained the additional appropriation out of the General Fund is for the new communications coordinator position and the request from the LOIT Special Distribution Fund is for a paver for the Street Department.

Councilman Ahlersmeyer confirmed from Mayor Stutsman that the salary for the new position is pro-rated for the remainder of the year.

Glenn Null stated the new person must be going to receive the top salary for the position according to the request. Mayor Stutsman stated that is incorrect and confirmed with Clerk-Treasurer Bontrager that we figured the request high not knowing exactly when the person would be starting. Mayor Stutsman added that he is conducting interviews now for the position. Mr. Null confirmed from Mayor Stutsman that the position will be paid entirely from the General Fund and questioned what the duties will be. Mayor Stutsman stated the person will communicate with the community and keep the new website up to date as he and this Council want to have as much transparency as possible. This person will also be able to translate materials and be able to communicate with more members of the community to get the information out there.

Angie Troyer, Goshen, stated her support of the position.

Jose Rosales, Goshen, voiced his support of the position.

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 4874 DULY PASSED AND ADOPTED THIS 16th DAY OF AUGUST 2016.)

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 Councilwoman Gautsche.

Mayor Stutsman stated he has heard from some Council members and some community members requesting this only be passed on one reading tonight to have more time to get the information out to the community before it is passed on final reading. He supports that request.

Councilman Orgill moved to amend section 6.3.1.5(d) by changing 70 square feet to 50 square feet. Motion seconded by Councilman Ahlersmeyer.

The Council, Mayor, Community Development Director Brinson and City Attorney Barkes discussed the model code of the State and making the section less restrictive in the square footage. Attorney Barkes stated the Legal Department can amend the language to address the issue for second reading. Councilman Orgill and Councilman Ahlersmeyer withdrew their motion and second.

Councilman Scharf stated the committee discussed trees and Attorney Barkes did not think this Ordinance is the place to cover trees but he wants to push the issue as he believes trees in hazardous condition are an actual danger to health and safety. Mayor Stutsman and Mr. Brinson discussed language on hazardous street trees is covered elsewhere and Attorney Barkes added that Councilman Scharf's discussion goes beyond street trees. Mayor Stutsman requested Councilman Scharf discuss with staff in the next two weeks to see exactly what the City has in place currently regarding trees and then if necessary make a motion to add language during second reading. Councilman Scharf agreed.

Councilwoman Gautsche moved to amend Ordinance 4860 to incorporate the proposed revisions to the current version of the Ordinance. Motion seconded by Councilman Orgill.

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

Councilman Orgill moved to amend the Ordinance by deleting 6.3.1.14(c) and adding the language back to the Ordinance as 6.3.1.11(k). Motion seconded by Councilwoman King.

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

The Council discussed the City's required notice to the owner and the lack of requirement to notify the tenants. Mayor Stutsman stated he does not want to get involved in landlord/tenant

contracts as most of them require notice from the landlord to the tenant before entering the home and the extra expenses related to mailings and staff time would be costly.

Councilman Weddell confirmed from Attorney Barkes that section 6.3.1.5(f) does not allow bedrooms in a basement without window access.

Councilman Scharf stated some communities have run into legal trouble when an inspector has found something illegal in the home, reported to the police and then it is found to be improper in Court as to how it was discovered. As a result some communities have placed inspection protocols in their Ordinance to address this issue. Attorney Barkes stated we are crossing a line there as it is up to an Indiana court to find anything admissible or inadmissible and he would hate to tie the hands of an inspector to report or not report something.

Councilwoman King confirmed from Attorney Barkes that section 6.3.1.11(g) follows State Statue allowing 15 days for repair when a building is found to be unsafe and that there is emergency provision language in the State Statue allowing for less time in extreme cases.

Glenn Null questioned 6.3.1.1(n) as to if this is covered under the rain (stormwater) tax? Attorney Barkes stated that is the primary purpose of the stormwater fees but this would cover other issues such as standing water for mosquito breeding. Mr. Null questioned how in the same section (o) in reference to sidewalks this would be enforced and if there is a timeframe. Attorney Barkes explained the inspection is performed and the violation is found. Next the owner is notified and is given a minimum of 30 days to make the repairs. This violation then goes through a process with the inspector and if necessary a hearing is held by the Board of Works and the steps usually take about 6 months to complete. Mr. Null then referenced 6.3.1.3(d) stating he does not understand this one regarding every room has to have at least one egress which would be the door but certainly not the size and height of the window required such as in the bathroom of his home. Attorney Barkes explained there are two things addressed here and one is an egress from certain levels of the home for a safe and open space to ground level the second relates to bedrooms. Mr. Null stated his home built in 1918 would not comply. Mr. Null stated a final concern with section 6.3.1.5(d) questioning if a 5x10 room is a standard used by a realtor for listing a home as if you call something a bedroom and after purchase they find out later it is not they could sue you.

Sheriff Brad Rogers, Goshen, stated he has to abide by the 4th amendment to the Constitution and so should these Inspection Officers working for a government entity. The concern here is there is no probable cause or reasonable suspicion that is prompting these inspections. Section 6.3.1.11(k) (as amended tonight) does state 'The Inspection Officer shall enter the premises only if permitted to do so' and therefore implies consent but the rest of that section states the Inspection Officer 'shall' and 'will have authorization' so these seem to conflict and should be resolved. Attorney Barkes stated if the officer is denied entry the City goes through the process to obtain an Inspection Warrant and complies with State Statue. Mayor Stutsman added that he spoke with the Inspectors of the City and if the landlord sets up the appointment, they arrive and the tenant denies access they leave and contact the landlord for another appointment. Not at any point do they push the access.

Angie Troyer, Goshen, stated she rents and as a tenant she is charged for the City inspection. She has never been notified by a landlord of the upcoming inspection but she has taken advantage of the program as it relates to having something brought into compliance.

Councilman Scharf stated the City is in conversation and open to input and suggestions regarding procedures and general practices about what should be left for the tenant such as the findings of the inspection and any literature that applies such as literature on lead paint for example.

By a 7-0 unanimous vote of the Council the Ordinance passed on first reading.

PRIVILEGE OF FLOOR

Glenn Null stated he doesn't have a problem with the removal of dangerous trees but he does have a problem with about every 10 years NIPSCO comes through and butchers the street trees. He believes the City should do away with trees between the street and the sidewalks.

Councilwoman Gautsche brought up Council Rules of Procedures and believes they have not been looked at for a long time and may need updating or changing. She is suggesting a committee of three people review the current procedures and she thought the Council President could be one of the three. Also Councilwoman King has already done some work on this. Mayor Stutsman suggested Councilwoman Gautsche be the third member as she is the senior Councilmember. Councilwoman Gautsche agreed and further stated the Mayor should be in the committee meetings on this also.

Council President McKee questioned if the State has Council rules to follow. Attorney Barks stated to a certain extent the State has certain procedures they have to follow but it has a lot of gaps which is what he believes the Council is looking to address.

Councilman Orgill moved to adjourn. Motion seconded by Councilman Ahlersmeyer and the meeting adjourned at 8:35 P.M.

APPROVED: _____
Mayor, Jeremy Stutsman
Goshen, Indiana

ATTEST: _____
Tina M. Bontrager
City Clerk-Treasurer