

REGULAR MEETING OF THE COMMON COUNCIL (SEPTEMBER 6, 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 September 6, 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

APPROVAL OF MINUTES

Councilman Weddell moved to accept the minutes of the meeting held on July 19, 2016 with one amendment on page 6 to change the name of Jack Clingerman to Chad Clingerman. Motion seconded by Councilman Scharf and motion passed unanimously as amended.

LOCAL ACTION + GLOBAL IMPACT

Mr. Paul Steury who has been an environmental educator for the last 30 years represented the City at Sustainable Indiana 2016 in Indianapolis and gave a presentation on the summit. Mr. Steury stated sustainability is to think in the future to cause less impact upon the future. The summit was a gathering of Mayors on climate change with the key goal being to unite cities and get them to think about sustainability. He requested the City of Goshen create a Climate Action Plan.

The Council, Mayor and Mr. Steury discussed items in the presentation, what Goshen has done in recent years to lower its global impact such as LED lights and permeable surfaces whenever possible and about creating a Climate Action Plan for Goshen in the near future.

Glenn Null, Goshen, stated Goshen has a lot of bike paths and in his opinion almost too many but wishes people would use the paths rather than riding in the streets. Mr. Null pointed out the MACOG busses have their engines idling when ahead of schedule and parked. Mayor Stutsman stated the City has an idling policy and we are adding idling controls to all of the police cars. Mr. Null further stated Goshen banned the use of outdoor furnaces which are one of the most efficient furnaces you can use but Goshen banned them because of smell in his interpretation. Mr. Null added it is just an opinion that global warming is happening.

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 second and final reading and moved its passage by roll call vote. Motion seconded by Councilman Ahlersmeyer.

Councilman Orgill brought up adding a new section 6.3.1.11 (3) regarding prior to inspection the City will send a written notice to the tenant informing them of the upcoming scheduling of inspection with the landlord in the next 30 days. Mayor Stutsman expressed his dislike of this notice as it is an added expense to the City and he does not want the City getting involved with a contract the owner has with the tenant. Building Inspector Myron Grise expressed his dislike of the notice also, as the Building Department staff is spread thin. Mr. Grise stated if they arrive at the property and the tenant is not aware of the inspection and/or does not want to allow them access the inspectors leave with no questions asked and reach out to the landlord again for another appointment. Community Development Director Mark Brinson also expressed his dislike of the notice stating the landlords are essentially small business owners and it should be their responsibility to inform their tenants as part of running their business. Further he agreed they do not have the staff or resources to create another notice process. Councilman Scharf stated his concern is the landlord letting the inspector in without the tenant(s) knowledge. The Council discussed that most rental leases have a section on the landlord must give the tenant a minimum of 24 hours notice before entering the premises.

Councilman Orgill moved to add language 6.3.1.11(a)(3) 'Prior to inspecting a unit which is not part of an apartment complex of ten (10) or more units, City shall send a written notice addressed to occupant by first class mail advising the occupant that City will be scheduling an inspection of the unit through the landlord in the next thirty (30) days.' Motion seconded by Councilman Scharf.

Angie Troyer, Goshen, stated she is a tenant and she appreciates the purpose of this and she has been charged for the inspection but has never been notified of the inspection or been made aware afterward. She read through her lease and there is a clause that her landlord can enter for maintenance and for the City inspector to conduct the inspection. A reasonable compromise would be a requirement for the landlord to give a one page template to the tenant at the time of signing the lease.

Part-time Building Inspector Travis Eash asked for clarification, explained the steps in the process and reiterated that he leaves immediately if the tenant does not want to allow access or no one is home after waiting 15 minutes.

The following was discussed:

- The tenant needs the fourth amendment protection.
- A fine could be imposed when the landlord is a no-show for the appointment. Attorney Barkes argued against fining after one no-show as this is a time set by the City. After that second no-show we certainly should impose the fine set in the Ordinance.
- An additional notice will be an additional burden on staff but then the City has done everything it can to notify the tenant.
- Councilwoman Gautsche questioned if she could amend the amendment to set a sunset clause on the amendment to see if it is helpful to the tenants. Councilwoman Gautsche decided not to make the amendment.

- The notification to the tenant is a ‘within 30 days notice’ and the Building Department is giving the landlord a ‘within 72 hour notice’ therefore the employees will have to track two schedules for each dwelling.

The Council roll call vote was as follows:

AYES: KING, ORGILL, SCHARF

NAYS: AHLERSMEYER, GAUTSCHE, MCKEE, WEDDELL

The amendment failed by a 3-4 vote of the Council.

Councilman Ahlersmeyer moved to add language 6.3.1.11(a)(4) ‘Upon completion of the initial inspection, City shall leave the occupant a written notice that the inspection was conducted.’ Motion seconded by Councilman Weddell.

Angie Troyer stated her support of the motion.

Fred Buttell stated he cannot hear half of the Council discussion and questioned what is wrong with the sound system and asked Clerk-Treasurer Bontrager if she could turn it up. She stated yes but we will start hearing feedback and suggested the Councilmembers talk into their microphones when speaking. Mr. Buttell questioned if shirt microphones might not be better.

The Council roll call vote was as follows:

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

NAYS: NONE

The amendment passed unanimously by a 7-0 vote of the Council.

Councilman Orgill moved to add language 6.3.1.5 (d) ‘Every room occupied for sleeping purposes shall contain at least seventy (70) square feet. A sleeping room must have at least fifty (50) square feet for each person who uses the room for sleeping purposes.’ Motion seconded by Councilman Scharf.

Mark Brinson explained this amendment is consistent with the model code and will require 50 square feet per person who uses the room as a bedroom. Mr. Brinson stated they used the International Code as their guide for the requirements. Building Inspector Grise suggested the Council not reduce the square feet for one person from 70 to 50. Attorney Barkes explained this does not affect existing spaces currently being used for bedrooms but would affect renovation projects.

Councilwoman Gautsche clarified this amendment reduces the amount of space required. She stated her concern with decreasing the amount would allow people to remodel homes with smaller bedrooms and more density in neighborhoods.

Glenn Null stated he has a hard time with government telling him how big his bedroom could be. Further he doesn't believe residents that know of the 70 square foot requirement that remodel will pull a permit from the City.

Jesse Stoltzfus, Goshen questioned what repercussions there would be if a family had a baby and they were already at full capacity. Mayor Stutsman explained they would have to do a renovation before they were found out of compliance. Attorney Barkes explained a violation would ultimately be decided on by the Board of Public Works.

AYES: ORGILL, SCHARF

NAYS: GAUTSCHE, KING, MCKEE, WEDDELL, AHLERSMEYER

The amendment failed by a 2-7 vote of the Council.

Councilman Scharf moved to add language 6.3.1.4(g) 'All electrical equipment, wiring and appliances shall be properly and safely installed in accordance with the provisions of any applicable Building, Plumbing or Electric Code adopted by the City of Goshen or the State of Indiana and thereafter properly maintained.' Motion seconded by Councilman Weddell.

Attorney Barkes explained this amendment is supported by the Legal Department and decreases misinterpretation of the language in the section.

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

Claudia, Goshen, stated her support of the Ordinance.

Chamber of Commerce President David Daughtery expressed the Chamber's support of the Ordinance.

The Council roll call vote was as follows:

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

NAYS: NONE

(ORDINANCE 4860 DULY PASSED AND ADOPTED THIS 6TH DAY OF SEPTEMBER 2016.)

ORDINANCE 4875

Council President McKee introduced Ordinance 4875 entitled "AN ORDINANCE TO AMEND ORDINANCE NO. 3011, KNOWN AS THE ZONING AND USE REGULATIONS ORDINANCE FOR THE CITY OF GOSHEN, INDIANA, BY REZONING THE AREA OF REAL ESTATE HEREINAFTER DESCRIBED FROM INDUSTRIAL M-1 DISTRICT TO COMMERCIAL B-3 DISTRICT."

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 Planner Rhonda Yoder explained this is rezoning two tracts of land to facilitate the development of a proposed hotel on the site. This request was sent to the City Council with a favorable recommendation by a vote of 7-0 of the Plan Commission. The approval is based upon the rezoning is consistent with the existing zoning and land use and will allow for the development of the proposed hotel use.

Terry Lang of Lang, Feeney and Associates, Inc explained Scott and Sara Baker are proposing a state of the art, new Best Western under the name of Glo Hotel. Best Western has 12 proposed sites across the nation and Goshen will have the first ground breaking of the Glo Hotels. The Bakers are looking to promote the Park Department, bike paths and the beautiful view of Fidler Pond.

Councilwoman King questioned if lighting was discussed at the Plan Commission. Sara Baker stated they will be using 100% LED lighting and it will be very directional lighting. The property will have a lounge and they will be serving some of the Goshen Brewing Company's IPA and the Ignition Garage will be bringing live music to the patio on the weekends. The bike rental system they are looking at is a system where anyone can swipe a credit card and rent a bike. They want to work with the City and local small businesses to have a local flavor at the boutique hotel. She would like to see a connection to the Pumpkin Vine Trail and Fidler Pond.

Chamber of Commerce President David Daughtery expressed the Chamber's support of the project.

Jesse Stolfus stated concerns of noise at the park from the patio and pool areas. He also suggested doing anything possible to make this an asset to the park ecologically.

Rhonda Yoder explained this is only for the rezoning. The site plan which will include landscaping will come back to the Council.

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 4875 DULY PASSED AND ADOPTED THIS 6TH DAY OF SEPTEMBER 2016.)

PUBLIC HEARING ON ORDINANCE 4876

Mayor Stutsman opened the Public Hearing on Ordinance 4876, An Additional Appropriation Ordinance.

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

ORDINANCE 4876

Council President McKee introduced Ordinance 4876 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 Weddell.

Mayor Stutsman explained the \$2,000,000 appropriation is a loan to the Riverrace TIF to pay off a bond that the City will save \$1.7 million over the course of 6 or 7 years with the early payoff.

Mayor Stutsman explained the property acquisition appropriations were properties that were previously approved by Mayor Kauffman for purchase but the funds were not expensed until 2016.

Councilman Orgill questioned what would happen if the \$986,349 appropriation to the Southeast TIF fund was not approved. Mayor Stutsman and Attorney Barkes agreed that if we did not appropriate these funds we basically would have to return the developer's money and the project would be halted. Councilman Scharf stated that most likely stopping this appropriation would dishonor a project agreement between the Redevelopment Commission and the developer but he does think the Council needs to look at major subsidies to particular developers and not others. Councilman Weddell explained the developer will only get these funds back if the lots are developed; if the lots sit empty they do not get reimbursed.

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 Weddell.

The Council roll call vote was as follows:

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

NAYS: NONE

(ORDINANCE 4876 DULY PASSED AND ADOPTED THIS 6TH DAY OF SEPTEMBER 2016.)

RESOLUTION 2016-32

Council President McKee introduced Resolution 2016-32 entitled "AN EMERGENCY RESOLUTION PROVIDING FOR THE TRANSFER OF FUNDS."

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.

By 7-0 unanimous vote of the Council, Resolution 2016-32 was passed.

PRIVILEGE OF FLOOR

Mayor Stutsman stated the City is having difficulty getting landlords to pull permits when they are doing construction over and above the \$1,000 threshold. He doesn't want to lower the threshold as that would punish everyone but is open to any ideas the Council may have.

Council President McKee moved to adjourn. Motion seconded by Councilwoman Gautsche and the meeting adjourned at 9:30 P.M.

APPROVED: _____
Mayor, Jeremy Stutsman
Goshen, Indiana

ATTEST: _____
Tina M. Bontrager
City Clerk-Treasurer