



## Minutes of the Goshen Common Council Regular Meeting of February 4, 2020

[6:59 p.m.]

Mayor Jeremy P. Stutsman called the meeting to order and led in the Pledge of Allegiance

Clerk called the roll, with the following members present:

Megan Eichorn (Dist 4)      Julia King (At-Large)      Jim McKee (Dist 1)  
Doug Nisley (Dist 2)      Gilberto Pérez, Jr. (Dist 5)      Matt Schrock (Dist 3)  
Council President Brett Weddell (At-Large)      Youth Advisor Zoe Eichorn (Non-voting)

No minutes were presented

Weddell/Eichorn moved to amend the agenda to move Ordinance 5035 to the first item.

**VOICE VOTE to approve the meeting agenda as amended: PASSED 7-0**

[7:01]

### Privilege of the Floor

King announced the Community Relations Commission community conversation series

Weddell reported that the Redevelopment approved a five year capital plan at their last meeting, and that the new additions to that plan would be coming to Council for consideration.

[7:03] **Ordinance 5035: PUD Major Change for 605 River Race Drive, Co-Housing PUD**

Weddell/Nisley moved for passage.

City Planner Rhonda Yoder introduced the ordinance with a summary from the memo included in the packet. She stated that Plan Commission recommended approval by a vote of 7-1. Three persons spoke in favor, none against at the meeting. Several emails and letters were received in support.

Crystal Welch of Abonmarche, representing Mary Lehman-Yoder, offered rationale for the reduction of one parking space and reiterated neighbor support.

McKee and King made brief comments.

**VOICE VOTE to approve Ordinance 5035 on first reading: PASSED 7-0**



Weddell/Nisley moved for passage of Ordinance 5035 on second and final reading.

**VOICE VOTE to approve on Ordinance 5035 on second and final reading: PASSED 7-0**

There was a short recess as the audio system in the chambers was reset and a new recording started.

[7:12]

**Mayor announced the Notice of Adoption of a Resolution Designating the “Benteler III Economic Revitalization Area” and opened the Public Hearing.**

Chris Stager, President of Economic Development Commission of Elkhart County (“EDC”), noted an upward trend in industrial investment in personal property. Among other comments, Stager pointed to Benteler’s annual financial report: Net profit of \$32 million last year for an \$8 billion company with 141 locations in 38 countries, which he believes shows a strategic decision by the company to reinvest.

Glenn Null, Goshen, spoke in favor of the abatement, citing Benteler employee wages and economic diversification.

James Loewen, Goshen, stated his desire for fair and transparent resource allocation. While the abatement could serve diversification, it creates no jobs. He is concerned about precedent when making an exception to the policy. Encouraged Council to postpone vote until they have more complete information.

Daniel Grimes, Goshen, was surprised that only one councilor voted against on first reading. Sets a low bar and he is concerned about the precedent because it does not meet the intent of the established policy. Opposed to tax breaks for the wealthy. Wondered what the top executives for this company were making.

Nick Keiffer, Goshen Chamber of Commerce, spoke in favor of the abatement.

**Mayor closed the public hearing.**



[7:22]

**Resolution 2020-04: Confirming the Designation of the Benteler III Economic Revitalization Area to Authorize a Tax Phase-In for Benteler Automotive Corporation**

Weddell/Nisley moved for passage.

Mark Brinson, Director of Community Development, commented on process details and noted that Council is being asked to grant a variance to the policy that prohibits abatements in TIF areas.

King stated she is appreciative of Benteler and what they bring to the community. They are a successful multi-billion dollar company and do not need a discount; they have received previous abatements, are located in a TIF district, etc.

Weddell said that any suggestion Council was going into this blindly were inaccurate. He stated that city's financial advisors have provided highly detailed information regarding TIF and phase-ins, and that he has an excellent grasp of TIF and its impacts.

Eichorn said that with an additional month to consider she has changed her mind. She pointed out that the project is already underway and is going to happen regardless of any abatement. Eichorn noted her support of robotics, technology, good connections with the schools, etc.

Nisley said he went on the tour and was very impressed both with what Benteler does on this site and also in the community. Lauded Benteler including for how well they pay their employees.

Perez stated he also went on the tour. He has visited multiple industrial sites recently and noted the low number of people. His concern is generally less jobs in the community due to automation over the long-term, and this project does not create new jobs.

Glenn Null talked about county funding to Ivy Tech, decrease in labor needs due to technology.

Darryl Riegsecker, Goshen, addressed the concern that the project has already started. Stated that county also encounters that, but companies may remember for future projects.

Kyle Richardson, Goshen, said that big companies can exert economic pressure. It is a reality, but going forward Council should look to make benefits also available to small and local businesses.

Mayor stated his appreciation that no one spoke negatively toward Benteler, a company that has been a good community partner. He believes that advanced manufacturing and robotics will continue to be important for our area, and that while this geographic area is not economically depressed it could qualify as technologically obsolete.

Perez said that we are headed into a circumstance of job loss generally.



**ROLL CALL VOTE to approve Resolution 2020-04: PASSED 4-3**

AYES: McKee, Nisley, Schrock, Weddell

NAYS: Eichorn, King, Perez

[7:40]

**Resolution 2020-05: Project Coordination Contract with the State of Indiana for the College Avenue Auxiliary Lanes Project**

Weddell/McKee moved for passage.

Leslie Biek, Civil City Engineer, described the project: to widen College Ave. from US 33 east to the railroad tracks, add a center turn lane, and a 10-foot multi-use path on the north side of College Ave. Federal funds will provide 80% while the 20% local portion is through Redevelopment Commission.

Mayor said that the state is improving the intersection of College Ave. and US 33, and Elkhart County is replacing the bridge over the creek.

**VOICE VOTE on Resolution 2020-05: PASSED 7-0**

[7:43]

**Resolution 2020-06: An Emergency Resolution Providing for the Transfer of Funds**

Weddell/King moved for passage.

Mayor explained the use of the word "emergency" in transfers comes from statute and does not necessarily constitute a genuine emergency. He further explained this transfer is borrowing from a Public Safety Local Income Tax fuel line to keep the Central Fire Station renovation and repair (storm damage) moving forward, and to expect an additional appropriation to replenish the line at a later date.

**VOICE VOTE on Resolution 2020-05: PASSED 7-0**

[7:45]

**Ordinance 5031: Amend Park Rules and Regulations to Allow for the Possession and Consumption of Alcohol During Rental of Park Pavilions and Facilities (2nd Reading)**

Weddell/Eichorn moved for passage.



Parks and Recreation Superintendent Tanya Heyde introduced and contextualized the ordinance. This comes to the council as a recommendation of the Park Board. Heyde National Park & Recreation Agency Performance Review (2019): 2/3 of agencies allow consumption of alcohol in some portion of their facilities. She stated that this demonstrates a trend.

Park Board President Jennifer Shell mentioned her letter to the editor in support, and stated that Park Board support was unanimous. She emphasized that the proposal is for special events, not applicable to parks generally. Shell encouraged the council to try it out, even for a year or at limited facilities. She reassured that Park Board would take policy and oversight seriously.

Mayor said this is not something we are pushing for and mentioned possible amendments including limited facilities, sunset provision. He said this is very intentional and requires a third party with a caterer's license; that it would not allow people to bring in their own cooler. He stated that if there were issues it would come back to the council for changes, or administration may choose to discontinue.

Nisley asked about lease/rental agreement term, asked what the rules would be. Heyde responded that it would require updating policies and procedures. Renter would have to apply for temporary permit through Alcohol & Tobacco Commission and follow both their rules and Goshen Parks & Rec rules.

Nisley stated that last meeting it was stated that catering would be required, and asked for confirmation of that. Heyde replied that it was not required as written, but could be required. She stated that applying for a one-day license is an option. Mayor added that caterers could be employed because many of them already have such licenses.

Nisley explained that he had spent time researching and discussing with the excise authority. He found that nothing requires catering. Someone can apply for a one-day permit, have it approved, then go buy large quantities of beer and wine at the liquor store to serve. There exists a one-day server permit that costs \$5 and requires no training. Separation of the service area from children would be required, but even a theater rope would qualify. Mr. Nisley discussed catering regulations further, including that caterers would have to purchase from distributors and that is difficult to arrange for a single event.

Nisley raised concerns about liability to the City. He mentioned several other permitting options. Mentioned bad things happening at events in the area related to alcohol.

Weddell stated his belief that last meeting he asked about catering being required and was specifically told it was. With the one-day license being available he feels that the catering discussion has been a bit misleading.

Mayor said it was not misleading, and said only options were given. He also stated that the city has liability exposure in many respects and is set up for that.

King asked about distinction between server and caterer. She pointed out that paperwork for servers includes written commitment not to serve intoxicated persons.



Mayor suggested a motion to require a professional caterer or bartender.

Nisley expressed concern about government competing with private industry.

Eichorn countered that affordability for programs like dance classes, etc. is also important. Mayor presented similar points about park programming.

Weddell asked whether staff reached out to specific families such as Fidlers who donated money for facility construction. Heyde said they had not. Mayor expressed opinion that everyone helped pay for parks.

Nisley noted that open pavilions would require enclosure.

#### [8:09] Public Comment

Glenn Null spoke against the ordinance. He stated he does not like the city taking business from established event centers. Parks should be for families. Smoking is banned. The issue comes down to liability.

Mark Huser said he felt like screaming during the discussion. He thinks Goshen parks are great and do not need this change. He works with children and is concerned about drug and alcohol abuse, disturbances that police deal with, etc. He cannot believe it is even being considered.

Mayor Stutsman claimed this is not at all about the city making money, but is in response to community member requests.

Mike French spoke in opposition. This is his first council meeting. He pointed to the smoking ban and wondered why alcohol would be allowed when smoking is not.

Bob Moore spoke in opposition. He has seen alcohol destroy communities. We won't be able to take kids to the parks, and there will be out-of-control behavior. Domestic issues and traffic offenses are often alcohol-related. Our community may fall apart.

Mayor Stutsman asked Police Chief Jose' Miller to speak to the ordinance. Chief Miller said many calls they have are related to alcohol, but they will respond regardless of whether it is in the parks for elsewhere. Mayor asked whether he thought it was a good idea. Miller stated that he thought alcohol enforcement would be made more difficult.

Weddell stated he has encountered just a couple of people in favor of this in his numerous conversations around the community recently. He then stated he has yet to come across anyone who is in favor of this as he has been asking. Further, that the response in opposition has been quite strong. He does not care personally.



Eichorn said that her experience with community sentiment was perhaps half-and-half, with some of those opposed being open to potential amendments or trials. She said Chief Miller's comment about enforcement struck a nerve and raised questions with her.

Mayor stated he agreed with Chief Miller's comment, yet he thought it would be obvious when and where it would be allowed. He does not want alcohol out in the open.

Councilors and Mayor offered some further comments, including King expressing that alcohol use is not all unhealthy or evil; McKee stating his opposition especially in light of 20 years of experience serving alcohol; Perez as former substance counselor commented on use, misuse, health disparities; Schrock expressing overwhelmingly negative public comment.

King stated she would only consider with a sunset provision.

Youth Advisor Eichorn expressed a level of comfort with a trial; she does not see significant difference between this and youth exposure to alcohol at restaurants or other locations.

Nisley said he asked about control inside of the building, including people passing alcohol to minors. He has amendments, including professional security requirement and \$1 million liability policy for renters.

Mayor requested that councilors introduce formal motions if they intended to do so.

**King moved to add an expiration of March 1, 2021 unless the council takes further action. Second by Perez.**

Mayor asked City Attorney Bodie Stegelmann about when this ordinance would go into effect. Stegelmann responded that he expected less than a year, after policies and procedures had been developed.

**ROLL CALL VOTE to amend Ordinance 5031 by adding an expiration date of March 1, 2021: PASSED 4-3**

AYES: Eichorn, King, Perez, Weddell

NAYS: McKee, Nisley, Schrock

**Eichorn moved to specify that only beer and wine would be allowed. Second by King.**

Nisley noted that the one-day license only applies to beer and wine.

**ROLL CALL VOTE to amend Ordinance 5031 to allow only beer and wine: PASSED 4-3**

AYES: Eichorn, King, Perez, Weddell

NAYS: McKee, Nisley, Schrock



**Nisley moved to require professional security at any event. Second by Weddell.**

Eichorn asked about typical cost. Chief Miller stated that the rate for secondary employment for Fraternal Order of Police is approximately \$30-\$35/hr.

Kyle Richardson pointed out that “security” is vague and suggested more specificity.

There was discussion about numbers of security personnel and guests.

**ROLL CALL VOTE to amend Ordinance 5031 to require professional security at any event: PASSED 6-1**

AYES: Eichorn, King, Nisley, Perez, Schrock, Weddell

NAYS: McKee

**Nisley moved to require a \$1M liability insurance policy for the date of the event. Second by Schrock.**

Heyde suggested that a certificate of liability be used. Stegelmann suggested use of “coverage” instead of “policy” because it could come in various forms.

A friendly change was accepted by Nisley and Schrock.

King questioned the \$1M level. Mayor, Nisley and Glenn Null commented that it may sound high but is not uncommon.

**ROLL CALL VOTE to amend Ordinance 5031 to require \$1M of insurance coverage for the date of any event: PASSED 6-1**

AYES: Eichorn, King, Nisley, Perez, Schrock, Weddell

NAYS: McKee

**Weddell moved to require a licensed caterer and bartender. Second by Eichorn.**

There was discussion about the details and distinctions.

Darryl Riegsecker suggested only licensed caterer, not bartender, and provided reasons.

Weddell clarified his intention to avoid a \$5 one-day license being allowed.

Further discussion of details, including whether the motion was “and” or “or.”

**ROLL CALL VOTE to amend Ordinance 5031 to require a licensed bartender and caterer: FAILED 1-6**





AYES: Weddell

NAYS: Eichorn, King, McKee, Nisley, Perez, Schrock

**Eichorn moved to require a licensed caterer or bartender. Second by King.**

**ROLL CALL VOTE to amend Ordinance 5031 to require a licensed bartender or caterer.  
PASSED 4-3**

AYES: Eichorn, King, Perez, Schrock

NAYS: McKee, Nisley, Weddell

**ROLL CALL VOTE to approve Ordinance 5031 AS AMENDED on second and final  
reading: FAILED 3-4**

AYES: Eichorn, King, Perez

NAYS: McKee, Nisley, Schrock, Weddell

[9:04]

**Ordinance 5032: Rainy Day Fund (1st Reading)**

No councilor formally moved or seconded passage at this point. *Clerk's note: seemingly inadvertent oversight. Prior to the vote Mayor stated that we have a motion and a second to pass on first reading; no councilor objected.*

Mayor explained that in following up on previous discussion about adding to Rainy Day Fund, it was discovered that this change is required to add funds during the year and outside of the annual budget. This is not an appropriation or funds transfer; that will be later.

McKee stated that he had wanted to increase Rainy Day closer to levels of about a decade ago, when it was approximately \$3.7M.

Mayor commented on balancing cash reserves with spending responsibly and using Rainy Day fund. He supports this but would not support more than \$3M in Rainy Day.

Weddell thanked Mayor's office and city staff for getting us to the point to be able to do this, as well as McKee for his persistence.

**VOICE VOTE to approve Ordinance 5032 on first reading: PASSED 7-0**



Unanimous consent was granted for a second reading

Weddell/Nisley moved to approve Ordinance 5032 on second and final reading

**VOICE VOTE to approve Ordinance 5032 on second and final reading: PASSED 7-0**

[9:08]

**Ordinance 5033: Threshold for Common Council Approval for the Sale of Real Property (1st Reading)**

Weddell/King moved for passage

Bodie Stegelmann, City Attorney, introduced the ordinance. Initiated by former City Attorney Larry Barkes. \$50,000 threshold been in place for approximately 25 years. Statute allows for much higher thresholds.

Mayor said this is largely to account for inflation and make processes more efficient. He pointed out that there would still be advertisements, public hearings, and that council can make changes in the future if there are issues.

McKee asked for specific examples.

King said that transparency would be reduced, future councilors may not be aware of this if it is not presented to them, and that she trusts this mayor but this decision is about mayors in general. Nonetheless she is not necessarily opposed to his dollar amount.

Weddell reiterated the point about inflation.

Mayor joked, to laughter, that they would be glad to have a licensed bartender review anything.

Perez commented on balance of authority and process.

**VOICE VOTE to approve Ordinance 5033 on first reading: PASSED 7-0**

Councilor King withheld consent for second reading.

[9:17]

**Ordinance 5034: An ordinance concerning the construction of improvements to the sewage works of the City of Goshen, the issuance of revenue bonds to provide for the cost thereof, the collection, segregation and distribution of the revenues of said works, the safeguarding of the**



interests of the owners of said revenue bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith (1st Reading)

Weddell/McKee moved for passage on first reading.

Dustin Sailor, Director of Public Works, presented a slide show and summary of the wastewater plant, sewer and lift station upgrades that are to be funded with this bond. Sailor's presentation included the following: Planning started about 2 ½ years ago. Current treatment plant was constructed in 1934 with upgrades in the 60's, 70's, and last in 1992. Included in the planned project are: four raw sewage pumps, grit system, aerodynamic separator, new flight boards to remove solids, two variable speed blowers to replace the existing four fixed speed blowers (est. 25% energy savings on largest energy user at plant). Also planned are: new railings for tanks, lagoon removal. Sludge will be dewatered and hauled to landfill. Utilities staff engineer Bryce Gast performed cost analysis and estimates \$100k/yr in savings to dewater and haul solids. Two new boilers will make better use of methane. Control systems for 25 lift stations will be upgraded so all are digital. Etc.

Sailor stated that planned lift station replacements include Burdick and Maplecrest. Planned upgrade for Lincoln Ave lift station.

Sailor explained the Rock Run Creek Sewer portion of the bond-funded project: there is an imbalance of water in/out of system. During floods this sewer gets inundated. Project includes approximately 2300 feet of pipe to run generally under Allan Kauffman Park, which will be larger than the current.

Sailor requested two readings of the ordinance in the same night.

Mayor thanked parties for their planning and assistance. Stated that nearly \$2M has already been spent in preparation and design. Asked Council for two readings on the ordinance so that potential bond interest rate increase or increased costs could be avoided.

Eric Walsh, partner with BakerTilly municipal advisors, gave some additional financial background. Stated that in 2018 the rates increases supporting this bond were implemented. Bids are expected Feb. 24<sup>th</sup>. Need to close by end of March to lock in 2% rate currently locked in with the state. The cap is 4% if locked rate is not secured.

Walsh explained that the ordinance has a cap over \$26M, but current estimates are less than \$21M. There is some cushion.

Weddell asked for reminder about regular interval increases to avoid large increases like the 40% that was done to fund this bond. Mayor/Walsh/Sailor confirmed the City is in year 3 of 5 of 3% automatic annual increases implemented by Council. McKee reiterated that we are trying to do increases gradually.

**VOICE VOTE to approve Ordinance 5034 on first reading: PASSED 7-0**



Council granted unanimous consent to proceed to second reading.

Weddell/Eichorn moved for passage of Ordinance 5035 on second and final reading.

**VOICE VOTE to approve Ordinance 5034 on second and final reading: PASSED 7-0**

Nisley/King moved to adjourn

**VOICE VOTE 7-0 to adjourn.**

[9:29 p.m.] *Meeting Adjourned*

APPROVED: \_\_\_\_\_

Jeremy P. Stutsman, Mayor of Goshen

ATTEST: \_\_\_\_\_

Adam C. Scharf, Goshen City Clerk-Treasurer