



Agenda for the Goshen Common Council

6:00 p.m., May 13, 2024 Regular Meeting

Council Chamber, Police & Court Building, 111 East Jefferson Street, Goshen, IN

Call to Order by Mayor Gina Leichty

Pledge of Allegiance led by Diego Quinteros, a 1st grader at Model Elementary

Roll Call:

Linda Gerber (At-Large) **Phil Lederach** (District 5)

Doug Nisley (District 2)

Megan Peel (District 4) **Donald Riegsecker** (District 1)

Matt Schrock (District 3)

Council President Brett Weddell (At-Large)

Youth Adviser Jessica Velazquez Valdes (Non-voting)

Approval of Minutes: April 22, 2024 Regular Meeting

Approval of Meeting Agenda

Privilege of the Floor

1) Presentation: Quilt Gardens project update (Janis Logsdon, Assistant Director of the Elkhart County Convention & Visitors Bureau)

2) Appointments: Goshen Downtown Economic Improvement District Board

3) Ordinance 5182: Establishing a Redhawk Academy Fund

4) Ordinance 5183: Revisions to the Dial-A-Truck Program

5) Ordinance 5184: Authorizing the Use of Golf Carts and Off-Road Vehicles on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such

6) Ordinance 5185: An Ordinance of the Common Council of the City of Goshen to Establish a Process to Address Chronic Disorderly Properties

Elected Official Reports

Adjournment



GOSHEN COMMON COUNCIL

Minutes of the APRIL 22, 2024 Regular Meeting

Convened in the Council Chambers, Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

Assisted by Mayor Gina Leichty, Santi Leos called the meeting to order at 6:00 p.m. and then led the Pledge of Allegiance. Santi is a second-grade student at Model Elementary School.

Mayor Leichty asked Clerk-Treasurer Aguirre to conduct the roll call.

Present: Linda Gerber (At-Large) Phil Lederach (District 5) Doug Nisley (District 2)
Megan Peel (District 4) Donald Riegsecker (District 1) Matt Schrock (District 3)
Council President Brett Weddell (At-Large)

Absent: Youth Adviser Jessica Velazquez Valdes (Non-voting)

Approval of Minutes:

Mayor Leichty asked the Council's wishes regarding the minutes of the March 25, 2024 Regular Meeting as prepared by Clerk-Treasurer Aguirre. Councilor Nisley moved to accept the minutes as presented by the Clerk-Treasurer. Councilor Schrock seconded the motion. **Motion passed 7-0 on a voice vote.**

Approval of Meeting Agenda:

Mayor Leichty presented the agenda. Council President Weddell moved that the order of the agenda be reversed so he and Council Nisley could attend another meeting, a primary election forum at the Goshen Theater. Councilor Nisley seconded the motion. **Motion passed 7-0 on a voice vote.**

Privilege of the Floor:

At 6:04 p.m., Mayor Leichty invited public comments for matters not on the agenda.

Glenn Null of Goshen said he appreciated City employees picking up of tree limbs brought down by spring winds. Null also commented on the danger of crossing Main Street, in crosswalks. He said motorists don't always stop. Null also said he would like there to be more enforcement to make Goshen friendlier and to encourage more shopping.

There were no further comments, so Mayor Leichty closed Privilege of the Floor at 6:05 p.m.

1) Resolution 2024-09 – Interlocal Agreement with the County of Elkhart for the Establishment of the Marion Branch Quiet Zone

Mayor Leichty called for the introduction of Resolution 2024-09, *Interlocal Agreement with the County of Elkhart for the Establishment of the Marion Branch Quiet Zone*. Council President Weddell asked the Clerk-Treasurer to read Resolution 2024-09 by title only, which was done.

Weddell/Peel made a motion to approve Resolution 2024-09.



BACKGROUND:

Resolution 2024-09 would approve the terms and conditions and authorize execution of the Interlocal Agreement with Elkhart County for the establishment of a new railroad quiet zone on the Marion Branch, from Washington Street to County Road 42.

Under the agreement, the County would approve the establishment of the new quiet zone and delegate to City the authority to take all such actions as required by federal regulations to establish the new quiet zone. This specifically would include the County Road 42 grade crossing as well as at the location of the County Road 40 crossing that are outside the city limits.

The Goshen Redevelopment Commission has agreed to provide the funding for the implementation of one or more safety measures required for the establishment of the new quiet zone on the Marion Branch.

The agreement specifies that:

- This purpose of this agreement is to coordinate the establishment of a new railroad quiet zone on the Marion Branch from Washington Street to County Road 42 (“Marion Branch Quiet Zone”), including the construction, maintenance, and funding for necessary railroad crossing improvements at each grade crossing within the Marion Branch Quiet Zone, hereinafter referred to as “the Project.”
- The City is in the process of making application to the Federal Railroad Administration to establish a new railroad quiet zone on the Marion Branch from Washington Street to County Road 42, hereinafter referred to as the “Marion Branch Quiet Zone.”
- Since the proposed new quiet zone includes the public highway-rail grade crossings, which are under the authority and control of County, in accordance with 49 C.F.R. § 222.37(a), both the City and County must agree to the establishment of the quiet zone, and the County must delegate to the City the authority to take such actions as are required by 49 C.F.R. pt. 222 to establish the Marion Branch Quiet Zone.
- Such actions required to establish and maintain the Marion Branch Quiet Zone by City will include the implementation and maintenance of one or more safety measures at each grade crossing within the new quiet zone.
- The existing crossing at County Road 42 (DOT# 533515K) has one (1) mainline track with one (1) travel lane in each direction. The existing approach pavement and crossing surface is in good condition. The existing crossing has an active warning system consisting of post mounted flashing lights. Due to the quiet zone requirements, the City agrees to upgrade the active warning devices to include flashing red lights with gates and constant warning time. In addition to upgrading the active warning devices, 100 feet of channelization devices will be added to both approaches while the pavement markings and signage will be updated to meet MUTCD requirements within a quiet zone. The City agrees to meet the Federal Railroad Administration’s expectations for construction and completion of the improvements at the public highway-rail grade crossing at County Road 42.

SUMMARY OF APRIL 22 , 2024 COUNCIL DISCUSSION AND APPROVAL OF RESOLUTION 2024-09:

City Attorney Bodie Stegelmann said the City has been working to establish a quiet zone on the Marion Branch for a number of years. He said one of the steps to establish it was to improve crossings, including at County Road 42.

Stegelmann said an interlocal agreement between City and the County was necessary because the County Road 42 crossing is in the County’s jurisdiction. Under the agreement, the county would delegate to the City the responsibility to make improvements that would satisfy the railroad administration.

City Director of Public Works & Utilities Dustin Sailor said the agreement would also require the City to assume the responsibility of maintaining that crossing from now on. He said the County doesn’t want that responsibility.



Councilor Schrock asked if the City would only be assuming the responsibility at that County crossing. **Sailor** said it was the only one in the County, outside of the City limits, that would be maintained by the City.

Councilor Peel asked about the Madison Street crossing. **Sailor** said the Madison Street crossing is within the City of Goshen. He said the City has already paid for those improvements and the City is waiting for action at that location.

Council President Weddell said the City Redevelopment Commission supports the proposal and is providing much for the funding for the improvements. **Sailor** said that was correct.

Mayor Leichty asked if there were additional comments or questions from Councilors. There were not.

At 6:08 p.m., **Mayor Leichty** invited public comments on Resolution 2024-09. There were none.

Mayor Leichty called for a vote by the Council.

On a voice vote, Councilors unanimously approved Resolution 2024-09, Interlocal Agreement with the County of Elkhart for the Establishment of the Marion Branch Quiet Zone, by a 7-0 margin, with all Councilors present voting “yes,” at 6:08 p.m.

2) Resolution 2024-08 – Interlocal Agreement with the County of Elkhart for the Improvement of the Pumpkinvine Trail

Mayor Leichty called for the introduction of Resolution 2024-08, *Interlocal Agreement with the County of Elkhart for the Improvement of the Pumpkinvine Trail*. **Council President Weddell** asked the Clerk-Treasurer to read Resolution 2024-08 by title only, which was done.

Weddell/Nisley made a motion to approve Resolution 2024-08.

BACKGROUND:

Resolution 2024-08 would approve the terms and conditions of the Interlocal Agreement with Elkhart County for the Improvement of the Pumpkinvine Nature Trail.

The agreement would coordinate the improvement and pavement of the Pumpkinvine Trail from State Road 4 (Lincoln Avenue) north to County Road 28 in Elkhart County. The project consists of the planning, funding, designing, engineering, bidding, constructing, inspecting, and overseeing of the project.

Under the interlocal agreement:

- The County will serve as the “Design Consultant” on the Project and provide the engineering and design work necessary for bidding and inspection of the project.
- The engineering and design standards for the Project must be approved by the County and City.
- The County will serve as the Lead Agency for the Project and will be responsible for the overall administration of the Project including but not necessarily limited to the following:
 - Bidding and awarding the Project in compliance with governmental requirements applicable to City and County, for the bidding of public works projects.
 - Obtaining any governmental permits or approvals required to construct the Project.
 - Administering any contract or contracts awarded to a successful bidder or bidders on the Project.



- Providing engineering review and construction inspection services for the Project to the extent that such are not the responsibility of the successful bidder or bidders.
- Maintaining the documents, contracts, notices, and other records connected with the Project.
- Providing the City with a financial summary of all funds needed for the Project, all funds received for the Project, and all funds expended on the Project, to include specifically the responsibility of City to fund the amounts needed for the Project.
- While the County will serve as the Lead Agency, the City and County acknowledge that such is tied largely to the County providing the Design Consultant services contemplated under “Lead Agency” above.
- The City will be significantly involved with the Project and its participation will include the following:
 - The City shall review and approve the Project engineering and design, though such engineering and design shall be provided by County as part of the Lead Agency role set forth above.
 - The City shall fund all direct and indirect construction costs associated with the Project, with the acknowledged desire and intent of County and City to seek cost-sharing participation by third parties, which shall serve to diminish the costs of City for such direct or indirect construction costs. Direct and indirect construction costs associated with the Project shall include trail drainage and repairs needed preparatory to paving, change orders, and compaction and materials testing.
 - The City shall appropriate and have available for use by County, all funds required of the City for its share of the direct and indirect construction costs, it being acknowledged that the transfer of such funds to County must occur essentially simultaneous with the Notice to Proceed with the Project, or even in advance thereof, as The County is not in a position to advance the funds for the construction costs associated with the Project.
- Since time is of the essence:
 - The City and County agree to cooperate so that the engineering and design and preliminary bidding process can be completed in time to receive bids for the Project by the end of May 2024.
 - The City may terminate this Agreement by providing written notice of termination to the County no later than 60 days after receipt of the bids. In the event the City fails to provide the necessary funding for the Project to the County within 60 days after the receipt of bids, the County may terminate this Agreement.
 - The parties contemplate that construction shall commence and be completed during 2024; however, should unexpected difficulties or delays occur, the Project may extend the completion date with written notice.
 - The City and County agree to communicate with each other in establishing a construction schedule that will allow the Project to be completed in a timely fashion consistent with subparagraphs (a) and (b) above.
 - This Agreement shall be in effect through Dec. 31, 2024 and shall thereafter automatically renew on a year-to-year calendar basis if the Project has not been completed, unless either party shall give written notice of termination to the other party at least 90 days prior to the end of the initial term of this Agreement or any renewal year of this Agreement. The entire Pumpkinvine Nature Trail Project area covered by this Agreement is owned and maintained by the City and shall continue to be owned and maintained by the City at the conclusion of the Project.
- It is further understood that the portion of the Project within the City shall be owned by the City and shall be maintained by the City. The remainder of the Project shall be owned by the County and shall be maintained by the County.
- The agreement requires approval by the Goshen Common Council, the City of Goshen Board of Public Works and Safety, the Elkhart County Commissioners and the Elkhart County Council.

SUMMARY OF APRIL 22 , 2024 COUNCIL DISCUSSION AND APPROVAL OF RESOLUTION 2024-08:

Mayor Leichty invited **City Attorney Bodie Stegelmann** to provide an overview of Resolutions 2024-08.



City Attorney Stegelmann said **Resolution 2024-08** was an agreement between the City and Elkhart County for improving and paving the Pumpkinvine Trail from Lincoln Avenue to County Road 28. He said he provided a “redline” copy of the agreement showing changes since the draft agreement was provided to Councilors last week. He noted the changes in the agreement and provided the revised final version of the agreement (**EXHIBIT #1**).

Stegelmann said the agreement calls for the County to take the lead in making the improvements and issuing the bids for the project. The City would be responsible for paying for the improvements. He noted that fundraising was in progress, but if the bids came back too high, the City could still cancel this agreement if funds were not secured.

Mayor Leichty said the City is seeking funding from a number of sources, including a foundation and private donors to make the project a reality. She said the County was willing to include this project in its yearly transportation bid package, so the City could have some cost savings.

Council President Weddell said he has enjoyed using the Pumpkinvine Trail for many years and hopes to continue enjoying it for many more years. He said he looked forward to this potential change, noting that this project would pave the only remaining unpaved section of the trail. He thanked those who started the trail 30 years ago.

Council President Weddell made a motion to amend **Resolution 2024-08** by substituting the interlocal agreement included in the Council meeting packet with this version distributed by **City Attorney Bodie Stegelmann** at tonight’s meeting. **Councilor Peel** seconded the motion.

Mayor Leichty asked Councilors if they had any questions or comments about the motion to amend **Resolution 2024-08**. There were none.

At 6:12 p.m., Mayor Leichty invited public comments on the motion to amend **Resolution 2024-08**.

Glenn Null of Goshen said he has been attending Council meetings long before many present Councilors even considered running for the Council. So, he said he remembers the statement being made by the proponents of the Pumpkinvine Trail that no tax dollars would be spent on the project. He said the project has been discussed many times, but he would expect that statement to be honored.

Null said he will continue to object to the use of public funds for the Pumpkinvine Trail because a not-for-profit group started the project, property was acquired for the trail in a “questionable” way and the promise was made that no tax dollars would be spent on it. He said he wanted to remind the Council what was said in the past.

Mayor Leichty and **Council President Weddell** thanked **Null** for his comments.

Mayor Leichty said she wanted to note for the Council’s consideration that parks and trails are one of the most positive accelerants for increasing property values. So, as the Council considers improvements in parks and trails, she said Councilors should also consider that these are investments that also increase property values.

Mayor Leichty again asked Councilors if they had any questions or comments about the motion to amend **Resolution 2024-08**. There were none.



On a voice vote, Councilors unanimously approved amending Resolution 2024-08, *Interlocal Agreement with the County of Elkhart for the Improvement of the Pumpkinvine Trail*, as proposed by Councilors Weddell and Peel, by a 7-0 margin, with all Councilors present voting “yes,” at 6:14 p.m.

At 6:14 p.m., Mayor Leichty invited comments from Councilors or members of the public on Resolution 2024-08. There were none.

On a voice vote, Councilors unanimously approved Resolution 2024-08, *Interlocal Agreement with the County of Elkhart for the Improvement of the Pumpkinvine Trail*, by a 7-0 margin, with all Councilors present voting “yes,” at 6:14 p.m.

3) Resolution 2024-07 – A Resolution of the Common Council of the City of Goshen, Indiana, Authorizing the Filing of an Application for a Community Development Block Grant

Mayor Leichty called for the introduction of Resolution 2024-07, *A Resolution of the Common Council of the City of Goshen, Indiana, Authorizing the Filing of an Application for a Community Development Block Grant*. Council President Weddell asked the Clerk-Treasurer to read Resolution 2024-07 by title only, which was done.

Weddell/Nisley made a motion to approve Resolution 2024-07.

BACKGROUND:

Resolution 2024-07 would authorize the filing of the Community Development Block Grant (CDBG) application (annual plan) for Program Year 2024.

In an April 15, 2024 memorandum to Council members, City Community Development Specialist Theresa Cummings wrote that the 2024 HUD allocation to Goshen has not yet been released and is estimated at \$270,000. Cummings reported that during the public comment period, no opposing comments were received, and no substantial changes were made to the draft plan that was discussed at the Council Meeting on March 25, 2024, other than minor edits. The plan is available at <http://goshenindiana.org/cdbg>.

Cummings wrote that upon authorization of the resolution, the application for funding can be filed when the U.S. Department of Housing and Urban Development releases allocation amounts.

SUMMARY OF APRIL 22, 2024 COUNCIL DISCUSSION AND APPROVAL OF RESOLUTION 2024-07:

Mayor Leichty said she understood that two Councilors would be recusing themselves from voting on Resolution 2024-07.

Council President Weddell said he and Councilor Peel would be recusing themselves, at the recommendation of the City Legal Department, because both are associated with LaCasa.

(Council President Weddell is on the Board of LaCasa and Councilor Peel is employed by LaCasa.)

Council President Weddell said he and Councilor Peel would now leave the Council chamber and would not participate in the discussion of Resolution 2024-07. He added that Councilor Peel would serve as Acting Council President because he also would be leaving the meeting at this point.



City Community Development Specialist Theresa provided the background of Resolutions 2024-07. She said passage of the resolution would enable the city to file its Community Development Block Grant (CDBG) application (annual plan) for Program Year 2024.

Cummings said the plan was presented to the Council at its meeting on March 25, 2024 and no substantial changes have been made since then other than routine edits. She added that during the 30-day public comment period, no opposing public comments were received.

Cummings added that once the U.S. Department of Housing and Urban Development releases the final allocation amounts, the application for funding can be filed before the May filing deadline.

Mayor Leichty invited questions or comments from the Council. There were none.

At 6:17 p.m., **Mayor Leichty** invited public comments in Resolution 2024-07. There were none.

On a voice vote, Councilors unanimously approved Resolution 2024-07, A Resolution of the Common Council of the City of Goshen, Indiana, Authorizing the Filing of an Application for a Community Development Block Grant, by a 5-0 margin, with all Councilors present voting "yes," at 6:17 p.m.

Councilor Nisley said he also would be leaving the Council meeting now. And **Councilor Peel** returned to the meeting.

4) Presentation: City of Goshen Financial Report (Deputy Clerk-Treasurer Jeffery Weaver)

Mayor Leichty invited Deputy Clerk-Treasurer **Jeffery Weaver** to provide the monthly City Financial Report, which is intended to help Councilors better oversee the City's budget and finances.

BACKGROUND:

As part of the agenda meeting packet, **Deputy Clerk-Treasurer Weaver** provided Councilors with a memo, dated April 22, 2024, which included six pages of data on the City's year-to-date cash balances, receipts and expenditures for general fund departments, special revenue funds, restricted funds and redevelopment restricted funds.

Weaver wrote that the Clerk-Treasurer's Office produces these reports upon month-end closing and makes them available to the Common Council and City management for review.

Weaver cautioned that the attached reports were unaudited and may include immaterial variances to payroll accruals or month-end closing adjustments. He wrote that the attached reports also supplement, but do not replace, other financial reports prepared by the Clerk-Treasurer's Office such as departmental financial reports or the Annual Financial Report published in Indiana's Gateway database.

Cash balances summary: The cash balance at the beginning of the year for Council-budgeted funds was \$87,716,180 and at the end of March was \$82,266,379

Receipts summary: Receipts for Council-budgeted funds totaled \$7,263,511 so far in the budget year, which reflects 12.7% of the budgeted receipts.



Expenditures summary: Expenditures in Council-budgeted funds totaled \$12,713,312 so far in the budget year. This amount included encumbrances, which are payments made in the current year but were approved as part of the prior-year budget. The original budget of \$75,559,462 and encumbrances of \$3,401,471 result in an effective budget of \$78,960,933. The City has spent 16.1% of this budget so far this year.

DEPUTY CLERK-TREASURER WEAVER'S REPORT TO THE COMMON COUNCIL:

Mayor Leichthy invited comments from **Deputy Clerk-Treasurer Weaver**, whose report was included in the Council's agenda packet.

Weaver outlined his written report, which he said was a summary of select financial information for the first quarter of the year. He summarized the City's financial performance so far this year in budgeted funds, noting that receipts totaled about \$7.2 million and \$12.7 million in expenditures. This apparent imbalance, **Weaver** said, was expected because the City gets the bulk of its receipts in June and December.

Weaver said there was a request for comparative data, so in the future he is hoping to provide documentation comparing receipts and expenditures to prior years.

Weaver invited questions.

Councilor Riegsecker said he appreciated everything **Weaver** was doing on the financial reports and appreciated the Mayor having the financial report as part of the Council meeting each month.

There were no other comments or questions on the financial report.

5) Presentation: Elkhart County Vibrancy Survey (Bil Murray of the Vibrant Communities Steering Committee & Community Task Force)

Mayor invited a presentation from **Bil Murray of Elkhart, a member of the of the Vibrant Communities Steering Committee & Community Task Force, on the 2023-2024 Vibrant Communities Survey.**

Murray said he wanted to present good and positive information about Goshen and to share the results of the Vibrant Communities Survey conducted last year. He provided a summary using a 46-slide PowerPoint presentation, titled "Vibrant Communities" (**EXHIBIT #2**).

In partnership with **Dr. David Blouin and students from the Department of Sociology and Anthropology at Indiana University South Bend**, **Murray** said the survey was launched in June 2023. There were 5,000 random mailings and the survey was available on the Vibrant Communities website for anyone who wanted to respond.

Murray said there were about 390 responses countywide. Because of a low turnout among underrepresented minority groups, **Murray** said the survey was reopened between January and March 2024, boosting the total survey responses to 496. He said the representation of minorities was still low, but higher than before.

Murray said he would be distributing two handouts to Councilors with survey results from Goshen. The first document, which was seven pages, featured the survey responses from Goshen residents to a wide range of questions (**EXHIBIT #3**). The second document, which was 17 pages, featured demographic information on the Goshen respondents and responses to open-ended questions (**EXHIBIT #4**).

Murray said there were 132 responses from Goshen, which was second only to Elkhart, which had 250 responses.

Murray said that Vibrant Communities' first survey, in 2019, was based on "Soul of the Community" research by the Gallup Organization, which was funded by the Knight Foundation.



Murray said Gallup’s nationwide research sought to determine how attached people felt to their communities, and not just if they “liked” their communities but whether they felt an emotional attachment to where they lived. He said the three most common factors that determine community attachment are: aesthetics or the look of a community (natural and man-made); social offerings (things to do); and openness (tolerance and inclusivity) for people of different backgrounds, persuasions and interests.

Vibrant Communities’ leaders found those factors to be helpful, but **Murray** said they didn’t believe they provided a broad enough indication of Elkhart County’s vibrancy.

So, **Murray** said the 2023 Vibrant Communities survey assessed aesthetics, opportunities, resilience; neighborhood satisfaction and overall community satisfaction and positivity about the future.

Countywide, **Murray** said the results were “pretty consistent.” He said the variances or differences in the results were found either in specific categories or items. For example, he said throughout Elkhart County, parks and trails are valued highly and Goshen had the highest ranking in this category.

Murray provided this breakdown of the 132 survey respondents in Goshen:

- 77% female
- 77% Caucasian; 11% Hispanic
- 64% 20+ years in Elkhart County
- 73% Married
- 86% own their home
- 65% have no children at home

Murray said countywide there were similar results, with a greater response from older people.

Murray said five areas were surveyed:

1. Attachment
2. Opportunity
3. Resilience
4. Neighborhood Satisfaction
5. Community Satisfaction–Attachment

Murray said Goshen’s combined **attachment** score, which was determined by respondents’ perceptions of openness, social offerings and aesthetics, was 3.73 on a 5-point scale.

Respondents were surveyed on **opportunity**, which was defined as “the capacity to live a good life” and included both the quality and quantity of what a community offers. This measurement includes entrepreneurship, education and professional development, access to health resources and housing, employment and financial stability.

In this category, **Murray** said Goshen respondents gave a combined score of 3.73 on a 5-point scale. Countywide, he said the scores were consistent except for education and professional development, which ranked higher in Goshen (at 3.46 on a 5-point scale) than other parts of the county.

Murray said this metric is similar to research by the Third Way, a national think tank based in Washington, D.C. which has ranked 203 broad communities based on mean household income, housing costs, costs of living and access to health care. Third way ranked Rochester, Minnesota first and San Francisco last in the country. Elkhart-Goshen was ranked 51 and South Bend-Mishawaka was ranked 93.



Respondents were surveyed on **resilience**, which was defined as “the sustained ability to utilize available resources to respond to, withstand and recover from adverse situations.” This measurement includes health & well-being, economy & financial infrastructure, social infrastructure, physical infrastructure & natural environment and local governance & planning.

Murray said Goshen ranked about the same as the rest of the county in this category. However, in health and well-being, Goshen gave a rating that was significantly higher than other areas of the county, with a rating of 4.01 on a 5-point scale. Goshen also gave a higher score in social infrastructure – 3.90 on a 5-point scale.

Respondents were also surveyed on **neighborhood satisfaction**, which measures “the extent to which residents’ expectations are met or exceeded” and reflects perceptions about respect for people and property, safety and shared beliefs and actions. This measurement includes questions about perceptions of commonality, involvement, treatment of property, and respect and trust.

Murray said Goshen had a combined rating of 3.83 on a 5-point scale, which included a “treatment of property” score of 4.23 on a 5-point scale, which was one of the highest such scores in the county.

Finally, there were survey questions to determine **community satisfaction**, which included responses to such statements as: My community is a very good place for me; I feel like I belong here; and I am proud of where I live. In this category, Goshen had a combined score of 4.06 on a 5-point scale. Countywide, more than 80% of respondents agreed (and 9.5% disagreed) with the statement, “I am hopeful about the future of my community.”

Murray also described the additional detailed information he was providing to the Council. He said there were many outstanding responses to the open-ended questions. **Murray** also said consistently there were lower scores regarding the county’s economic infrastructure, but he believes that may be more a matter of people not knowing about the available resources that are available.

Murray invited questions from Councilors.

Councilor Schrock asked whether the lack of knowledge about resources might also apply to the rest of the state.

Murray said he would guess that was true.

Councilor Peel asked if the survey was offered in Spanish. **Murray** said it was offered in Spanish online and there were also personal interviews. Interestingly, **Murray** said the vast majority of respondents who identified as Hispanic, answered the survey in English.

Councilor Schrock said he understands that the Pumpkinvine Trail in Goshen is ranked first or second in the state and attracts people throughout the Midwest, adding that it is a “huge asset” for the City. **Murray** agreed and said that the open-ended comments about parks, trails and waterways are popular in Goshen and throughout the county.

Mayor Leichty thanked **Murray** for his presentation and the efforts to assess the county’s vibrancy.

Elected Official Reports

Mayor Leichty asked Councilors if they had any reports from the Boards and Commissions they serve on.

Councilor Peel said the **Community Relations Commission** has not met since the last Council meeting and she will not have a report until the next Council meeting.



Councilor Lederach said the **Board of Aviation Commissioners** met today. He said **Airport Manager Randy Sharkey** wanted Councilors to know they were invited to the free “Fly-in” luncheon on First Friday, May 3.

Mayor Leichty explained that pilots throughout the Midwest fly to the Goshen Airport for the Fly-in luncheon. She said attending presents a great opportunity to meet visitors and is also a good hospitality opportunity for the City.

Councilor Schrock said property owners on East Lincoln Avenue recently cleaned up a lot of dead trees and brush in the area looks and it looks much better. He thanked all involved for doing this.

Councilor Riegsecker asked for an update on the roundabout on the west side of town, by Reliance Road.

City Director of Public Works & Utilities Dustin Sailor said starting Wednesday, the City will be blocking more traffic to continue work on Reliance Road by Highway 33. He said a pedestrian path is being installed by Elkhart County. He said work is starting on retention ponds along with other improvements on Reliance Road. Sailor said the City is also awaiting work by NIPSCO to relocate electric power poles and gas lines.

Councilor Riegsecker asked if access into and out of Reliance Road from Highway 33 would be closed. **Sailor** said it would be closed and barricades also will be installed at Peddler’s Village Road.

Councilor Riegsecker asked if County Road 28 could still be used to reach County Road 17.

Sailor said that route can still be used, but eventually it will need to be temporarily closed. He said the City has experienced some delays from utility companies. He added that the City’s goal is to complete the Reliance Road improvements as well as the roundabout, but it might take another year to finish the Peddler’s Village Road work.

Councilor Riegsecker asked if there will be a traffic signal at Highway 33 and Reliance Road. **Sailor** said there will be and a roundabout at Peddler’s Village Road and Reliance Road.

Sailor said the City hopes this roundabout will change the community’s perception of roundabouts. He said the City’s first roundabout, on Dierdorff Road, “is undersized and didn’t do justice to what roundabouts can do for traffic movement.”

Councilor Riegsecker said he believes roundabouts are good. He said there are extensive roundabouts in Florida as well as Indianapolis, which is said to have more than 400. **Sailor** said it was the “roundabout capital.”

Councilor Schrock said that delays caused by utility companies didn’t seem to be a new thing.

Councilor Gerber said she appreciated receiving the City’s recent advisory that the federal Environmental Protection Agency would be conducting community interviews in Goshen from April 23 through April 25, regarding the North 5th Street Superfund site (in 2015, a plume of chlorinated solvents was found in the four municipal wells at the site). She encouraged those interested to provide feedback.

Councilor Riegsecker said that communication between the City Council and the Mayor’s Office has been very good, adding, “It’s very conducive to us getting things done as a community and making sure that we help most of the people in the community that want us to do a good job for everybody. I really appreciate how it’s going.”

Mayor Leichty thanked **Councilor Riegsecker** for his comments. She also commended her staff members for facilitating the EPA communication as she was leaving for vacation.

There were no further Council comments or questions.



Councilor Peel made a motion to adjourn the meeting. Councilor Riegsecker seconded the motion. By a voice vote, Councilors unanimously, by a 5-0 margin, approved the motion to adjourn the meeting.

Mayor Leichty adjourned the meeting at 6:43 p.m.

EXHIBIT #1: *The final Interlocal Agreement for the Improvement of the Pumpkinvine. The 12-page agreement between the City of Goshen and Elkhart County, sets forth the terms and conditions for improving and paving the Pumpkinvine Trail, from Lincoln Avenue to County Road 28. City Attorney Bodie Stegelmann provided this revised and final version of the draft agreement to replace the one previously provided to Councilors. Councilors substituted this final agreement with the draft and approved it at the meeting.*

EXHIBIT #2: *A 46-slide PowerPoint presentation, titled "Vibrant Communities," that Bil Murray of Elkhart, a member of the of the Vibrant Communities Steering Committee & Community Task Force, used in summarizing of the Vibrant Communities Survey conducted last year.*

EXHIBIT #3: *A seven-page document, titled "2023-2024 Vibrant Communities Survey," with survey responses from Goshen residents to a wide range of questions. The document was distributed to Councilors by Bil Murray of Elkhart, a member of the of the Vibrant Communities Steering Committee & Community Task Force, during his presentation to the Council.*

EXHIBIT #4: *A 17-page document, titled "Vibrant Communities Elkhart County 2023 Community Survey," with demographic information on Goshen survey respondents and responses to open-ended survey questions. The document was distributed to Councilors by Bil Murray of Elkhart, a member of the of the Vibrant Communities Steering Committee & Community Task Force, during his presentation to the Council.*

APPROVED:

Gina Leichty, Mayor of Goshen

ATTEST:

Richard R. Aguirre, City Clerk-Treasurer



CITY OF GOSHEN, INDIANA

City of Goshen Legal Department
City Annex
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528-3405

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May 13, 2024

To: Goshen Common Council

From: Shannon Marks, Legal Compliance Administrator

RE: Goshen Downtown Economic Improvement District Board

The Goshen Downtown Economic Improvement District (EID) Board consists of five members appointed by the Goshen Common Council. The Board members must either be an owner of real estate in the district or directly involved in a business operating within the district, and at least three of the five members must own real estate within the district. The current members of the EID Board are Justin Bell, Rosie Singh, Dave Pottinger, Jonathan Weiland and Scott Woldruff, all which own real estate within the district. The terms of Board members Dave Pottinger, Jonathan Weiland and Scott Woldruff will expire on May 31, 2024.

Goshen City Ordinance 4062 requires the EID Board to first poll all real estate owners within the district that are assessed an annual assessment (EID “members”) for names of persons to serve on the Board and then forward the results of the polling to the Common Council. A letter was sent on April 10, 2024 to all EID members within the district to solicit names of owners and/or individuals involved in operating a business in the district that would be interested in serving on the EID Board. Responses were received from the following individuals:

- Denise Davis, property owner at 130 North Main Street and involved in a business at Yoder, Ainlay, Ulmer & Buckingham at the same address
- Jason Oswald, property owner at 227 South Main Street and involved in a business at The Elephant Bar at the same address
- Miriam (Mim) Shirk, property owner and resident at 127 South Main Street, Suite 1

Historically, after the initial solicitation, ballots were then mailed to the EID members to vote on the candidates with the results being submitted to the Common Council for appointment. Since only three individuals expressed interest in serving on the EID Board, this office did not send out ballots this year.

It is requested that the Common Council appoint three members to the Goshen Downtown Economic Improvement District Board. The terms of the new Board members would be from June 1, 2024 through May 31, 2026.



Richard Aguirre, City Clerk-Treasurer
CITY OF GOSHEN

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TO: Goshen City Common Council, Mayor Gina Leichty

FROM: Richard Aguirre, Clerk-Treasurer; Jeffery Weaver, Deputy Clerk-Treasurer

RE: Ordinance 5182: Establishing a Redhawk Academy Fund

DATE: May 13, 2024

Thank you for considering the attached ordinance, Ordinance 5182: Establishing a Redhawk Academy Fund. This fund will be established in order to maintain the Redhawk Academy, a cooperative program between Goshen Community Schools and the Goshen Fire Department, in which high-school students can receive training toward a Fire/EMT career.

The program will begin in Fall of 2024, but has already gathered funding from various sources, including:

- A start-up donation and endowment fund through the Floyd Bud Wortinger Jr. and Mable Wortinger Redhawk Fire Academy Endowment Fund, maintained by the Community Foundation of Elkhart County
- A grant from Norfolk Southern
- A donation from Middlebury Electric

The fund will also allow reimbursement for student supplies through the Indiana Treasurer of State's Career Scholarship Accounts. Fund expenditures will include uniforms, equipment and training materials for students as well as technology costs incurred by both students and instructors.

This fund is a piece of a larger project reflecting months of preparation and coordination between Goshen Fire Department and Goshen Community Schools.

Ordinance 5182

Establishing a Redhawk Academy Fund

WHEREAS, the Goshen Fire Department is collaborating with Goshen Community Schools to provide a Fire and EMT training academy to be known as the Redhawk Academy.

WHEREAS, it is necessary to establish a separate fund for all receipts and disbursements of the Redhawk Academy.

NOW, THEREFORE, BE IT ORDAINED by the Goshen Common Council that:

- (1) Fund Established. A Redhawk Academy Fund is established.
- (2) Source of Funds. The sources of the Redhawk Academy Fund shall be from:
 - (a) The Floyd Bud Wortinger Jr. and Mable Wortinger Redhawk Fire Academy Endowment Fund proceeds,
 - (b) Career Scholarship Account proceeds from the Indiana Treasurer of State,
 - (c) Federal, State and Local Grants received for the operation of the Redhawk Academy,
 - (d) Donations, proceeds and billings directly intended for the ongoing operations and projects related to the Redhawk Academy.
- (3) Use of Funds. The Fund shall be used to pay expenses related to the Redhawk Academy, including, but not limited to uniforms, equipment, training materials and technology.
- (4) Fiscal Year-End Balance; Termination. The Fund shall be non-reverting. The Fund will terminate without further action of the Common Council if the Redhawk Academy is discontinued and all funds have been expended in accordance with the terms of the Endowment, Career Scholarship Account and any grants. Any remaining balances will revert to the General Fund upon fund termination.

PASSED by the Goshen Common Council on _____, 20____.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 20____, at the hour of _____:_____m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 20____.

Gina Leichty, Mayor

ORDINANCE 5183

Revisions to the Dial-A-Truck Program

WHEREAS, the Goshen Street Department operates a Dial-A-Truck Program from May 15th through September 15th of each year to help City of Goshen residents dispose of large quantities of solid waste or vegetative waste;

WHEREAS, and the Common Council of the City of Goshen, Indiana first established a fee for the Dial-A-Truck Program in 2001, and increased the fee over time as expenses incurred in operating the Program increased;

WHEREAS, the Goshen Street Department no longer use trucks as part of the Dial-A-Truck Program and seeks to change the name of the Program to accurately describe the Program; and

WHEREAS the costs of operating the Dial-A-Truck Program continue to increase and City staff seeks to modify the fees charged for the Program to better aligned with the city's actual cost in providing this service.

NOW THEREFORE, BE IT ORDAINED by the Goshen Common Council that:

Section 1. Change of Name

The Dial-A-Truck Program shall hereinafter be called the Dial-A-Trailer Program.

Section 2. Dial-A-Trailer Program.

- A. The City of Goshen Dial-A-Trailer Program will be offered from May 15th through September 15th each year, unless alternative dates are announced by the Goshen Board of Public Works and Safety.
- B. Upon scheduling a trailer, payment of any fees, and execution of a document acknowledging the terms and conditions of the Dial-A-Trailer program, the Goshen Street Department will deliver a trailer to a site within the corporate boundaries of the City of Goshen to be used for the disposal of large amounts of solid waste or vegetative waste.
- C. The Street Department will transport a trailer loaded with any solid waste to the Elkhart County Landfill for disposal, and a trailer loaded with only vegetative waste to the Goshen Environmental Center for disposal.
- D. The Board of Public Works and Safety shall establish rules for the Dial-A-Trailer program consistent with this Ordinance.

Section 3. Fees.

- A. Solid Waste Disposal. The following fees shall be assessed for each trailer delivered to a site within the corporate boundaries of the City of Goshen, as well as the transportation to and disposal of solid waste at the Elkhart County Landfill:
 - 1. A fee of One Hundred Fifty Dollars (\$150.00) per day shall be charged for a residential project.
 - 2. A fee of Seventy-Five Dollars (\$75.00) per day shall be charged to a

Neighborhood Association and Non-Profit Organization for a Neighborhood Association or Non-Profit Organization sponsored clean-up project, with the prior written approval of the Board of Public Works and Safety.

- B. Vegetative Waste Disposal. If the waste to be disposed is entirely vegetative waste, there will be no fee for each trailer delivered, as well as the transportation to and disposal of vegetative waste at the Goshen Environmental Center.
- C. Cost Reimbursement. The City may require a program participant to reimburse the City the following costs:
 - 1. City of Goshen employee time spent to reload, sort, and re-transport waste due to the resident, Neighborhood Association, or Non-Profit Organization violating disposing of waste prohibited by the disposal site. This shall include the attempted disposal of non-vegetative waste in a trailer delivered for the disposal of entirely vegetative waste.
 - 2. City of Goshen employee time to correct conditions created by resident, Neighborhood Association, or Non-Profit Organization that violate the rules established by the Street Department Commissioner, such as clearing debris from around a trailer or tires, or to make the trailer ready to transport to the disposal site.
 - 3. Costs to repair any damages caused to the City's trailer while the resident, Neighborhood Association, or Non-Profit Organization is in possession of the trailer.

City employee time will be assessed at a rate of Forty-two Dollars (\$42.00) per hour.

- D. Definitions. The following definitions shall apply for the purposes of this section:
 - 1. Neighborhood Association means a neighborhood association that is recognized by the Goshen Plan Commission.
 - 2. Non-Profit Organization means an Indiana non-profit corporation organized and operated for religious, charitable, scientific, literary, or educational purposes that is exempt from taxation under the Internal Revenue Code. This shall specifically include exempt organizations under Section 501(c)(3) through (7), (10), and (19).

Section 4. Fees Collected.

All fees collected for the Dial-A-Trailer Program shall be deposited into the City's Motor Vehicle Highway Fund.

Section 5. Other Ordinances.

All ordinances and parts of ordinances inconsistent or in conflict with the terms of this ordinance are repealed to the extent of the inconsistency or conflict. This ordinance specifically repeals Ordinance 4750.

Section 6. Severability.

The provisions of this ordinance are severable, and the invalidity of any phrase, clause, or

part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 7. Effective Date.

This ordinance shall be in full force and effect for new trailer reservations made from and after its passage, approval, and adoption according to the laws of the State of Indiana.

PASSED by the Common Council of the City of Goshen, Indiana on the _____ day of _____, 2024.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024, at the hour of ____:____ __.m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on May _____, 2024.

Gina M. Leichty, Mayor

ORDINANCE 5184

Authorizing the Use of Golf Carts and Off-Road Vehicles on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such

WHEREAS, pursuant to Indiana Code § 9-21-8-57, a golf cart or off-road vehicle may not be operated on a highway under the jurisdiction of the City of Goshen, Indiana, except in accordance with an ordinance adopted under I.C. § 9-21-1-3(a)(14) and I.C. § 9-21-1-3.3(a) which authorizes the operation of a golf cart or an off-road vehicle on the highway; and

WHEREAS, the City of Goshen now wishes to allow the use of golf carts and off-road vehicles on highways under the jurisdiction of the City of Goshen, IN, and set minimum requirements for the use thereof.

NOW THEREFORE BE IT ORDAINED, by the Common Council of the City of Goshen, Indiana, as follows:

Section 1. Operation of Golf Carts and Off-Road Vehicles.

- A. The operation of a Golf Carts and Off-Road Vehicles upon highways under the jurisdiction of the City of Goshen is strictly prohibited unless the Golf Cart or Off-Road Vehicle is operated and equipped in full compliance with this Ordinance.
- B. This ordinance does not restrict the use of municipally owned Golf Carts and Off-Road Vehicles used for maintenance, public safety, or special events.

Section 2. Requirements for Operation of Golf Carts and Off-Road Vehicles.

- A. Rules.
 - 1. A person who operates a Golf Cart or Off-Road Vehicle on a highway under the jurisdiction of the City of Goshen must comply with all Federal, State, and Local traffic laws.
 - 2. A person who operates a Golf Cart or Off-Road Vehicle on a highway under the jurisdiction of the City of Goshen must comply with slow moving vehicle regulations under I.C. 9-21-9, as amended from time to time, including the requirement that such vehicle properly display a slow-moving vehicle emblem.
 - 3. No Golf Cart or Off-Road Vehicle may be operated on a highway under the jurisdiction of the City of Goshen in excess of 25 miles per hour.
 - 4. Operation of Golf Carts and Off-Road Vehicles on highways under the jurisdiction of the City of Goshen shall be limited to times between sunrise and sunset, when visibility is not limited by weather conditions, except that a Golf Cart or Off-Road Vehicle may be operated after sunset and before sunrise or in weather conditions limiting visibility, provided the Golf Cart or Off-Road Vehicle is equipped with and utilizes operational headlamps, tail lamps, turn signals, brake lights, and flashing lights under I.C. § 9-21-9-4, as amended from time to time.

5. No person may operate a Golf Cart or Off-Road Vehicle on highways under the jurisdiction of the City of Goshen unless all passengers of said vehicle are seated in a factory installed seat attached to the vehicle, with seatbelt restraints properly fastened as specified by the manufacturer.
6. A Golf Cart or Off-Road Vehicle may not be operated in a manner that unreasonably impedes the normal flow of traffic, and may not be operated in a manner that endangers life or property.

B. Equipment.

1. Off-Road Vehicles must be equipped with the minimum safety equipment as set forth in I.C. 14-16-1, as amended from time to time, in order to be registered and operated on highways under the jurisdiction of the City of Goshen.
2. Unless otherwise exempted herein, all Golf Carts must be equipped with the following minimum safety equipment in order to be registered and operated on highways under the jurisdiction of the City of Goshen:
 - (a) A rear-view mirror;
 - (b) Head lights;
 - (c) Tail lights;
 - (d) Brake lights; and
 - (e) Turn signals (front and back).
3. All safety equipment must be maintained in good operating order. Lights must be used when time of day or weather conditions necessitate such use in order for the Golf Cart or Off-Road Vehicle to be visible from a distance of at least five hundred (500) feet. Failure to equip, maintain and use such equipment as required herein shall constitute a violation of this Ordinance.

C. Operator.

1. Only individuals sixteen (16) years of age or older, who have been issued a driver's license from a State Bureau of Motor Vehicles, and whose driver's license is not suspended or revoked, may operate a Golf Cart or Off-Road Vehicle on a highway under the jurisdiction of the City of Goshen.
2. The owner of a Golf Cart or Off-Road Vehicle may not cause or knowingly permit an individual to operate the Golf Cart on highways under the jurisdiction of the City of Goshen unless the individual holds a valid driver's license from a State Bureau of Motor Vehicles, that is not suspended or revoked.

D. Financial Responsibility.

1. A person shall not operate a Golf Cart or Off-Road Vehicle on a highway under the jurisdiction of the City of Goshen without current financial

responsibility in effect on said vehicle in accordance with I.C. § 9-25-4-4, as amended from time to time.

2. A person who operates a Golf Cart or Off-Road Vehicle on a highway under the jurisdiction of the City of Goshen must, at all times, maintain the state required minimum amount of financial responsibility in accordance with I.C. § 9-25-4-5, as amended from time to time.

E. Highways under the jurisdiction of the City.

1. Golf Carts and Off-Road Vehicle shall not be operated on any bicycle path, trail, sidewalk, or any public property within the City that is not designated for vehicular traffic.
2. Golf Carts and Off-Road Vehicle shall not be operated on any highway within the corporate boundaries of the City that is designated as part of the Indiana State Highway System (*e.g.*, S.R. 119, S.R. 15, S.R. 4, and U.S.33). (*see* I.C. § 9-21-1-3.3).

Section 3. Permit.

- A. No Golf Cart or Off-Road Vehicle may be operated within the City unless the owner of such Golf Cart or Off-Road Vehicle shall have applied for and obtained a valid Golf Cart or Off-Road Vehicle permit from the City.
- B. Application for such a permit must be made utilizing the application form as approved from time to time by the Board of Public Works and Safety.
- C. The fee for such application shall be Fifty Dollars (\$50), payable to the City of Goshen.
- D. Such permit shall be effective for the calendar year in which it is issued, and expires on December 31 of the year in which it is issued.
- E. Upon issuance of a permit, the Golf Cart or Off-Road Vehicle owner shall be provided a decal, which must be affixed to the left rear of the vehicle at all times so as to be visible from the rear of the vehicle and left front side quarter panel.
- F. A person or entity may apply for a temporary permit for the use of a Golf Cart or Off-Road Vehicle during or in connection with an authorized parade or festival. Any petition for a temporary permit must be presented to the Board of Public Works and Safety, which shall have the authority to determine if a temporary permit for specific use and limitations shall be issued; and to issue said temporary permit. Any issuance of temporary permit with limitations approved by Board of Public Works and Safety will have an effective period not longer than five days from the effective start date of the temporary permit, as determined by the Board of Public Works and Safety.

Section 4. Definitions

- A. "Golf Cart" shall have the definition prescribed in I.C. § 9-13-2-69.7, as amended.

- B. “Off-Road Vehicle” shall have the definition prescribed in I.C. § 9-13-2-117.3 (I.C. § 14-8-2-185), as amended. The term Off-Road Vehicle refers to a vehicle manufactured with a standard steering wheel for operation, side-by-side seating arrangement for passengers, seat belts, and roll over protection in accordance with I.C. 9-13-2-94.5 (Low-Speed Vehicle) and I.C. 14-19-1-0.5 (Motorized Cart). The term Off-Road Vehicle does not include motorcycles, motor scooters, All Terrain Vehicles, snowmobiles, or any vehicle capable of being registered and licensed by the State.

Section 5. Violations, Enforcement, and Penalties.

- A. Violation notices issued under this Ordinance may be issued by any sworn member of the Goshen Police Department, any City code enforcement officer, any designated parking enforcement officer, or any other duly authorized city inspector or designated code enforcement agent or assistant.
- B. This Ordinance may be enforced in the City’s Ordinance Violations Bureau. A person who violates this Ordinance shall on the first offense be ordered to pay a Civil Penalty in the amount of \$175.00. A person who violates this Ordinance a second time within a Twelve (12) month period shall be ordered to pay a Civil Penalty of \$225.00, and a person will be ordered to pay \$250.00 for a third violation within that Twelve (12) month period.
- C. The City may enforce this Ordinance by filing an action in any court of general jurisdiction to recover a fine in a sum not to exceed \$2,500.
- D. A person who violates this Ordinance more than two (2) times in a 365-day period may be subject to the impoundment of the Golf Cart or Off-Road Vehicle and/or revocation of a permit issued under this Ordinance.
- E. Each day of violating this Ordinance shall be construed as a separate violation.
- F. All fines or civil penalties collected shall be deposited in the general fund of the City of Goshen.

Section 6. Other Ordinances.

All ordinances and parts of ordinances inconsistent or in conflict with the terms of this ordinance are repealed to the extent of the inconsistency or conflict.

Section 7. Severability.

The provisions of this ordinance are severable, and the invalidity of any phrase, clause, or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 8. Effective Date.

This Ordinance shall be in full force and effect from and after its passage, approval, and adoption according to the laws of the State of Indiana.

ADOPTED, PASSED, AND ORDAINED by the Goshen Common Council this _____ day of May, 2024.

Gina M. Leichty, Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024, at the hour of _____:_____ .m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2024.

Gina M. Leichty, Mayor

ORDINANCE NO. 5185

An Ordinance of the Common Council of the City of Goshen to Establish a Process to Address Chronic Disorderly Properties

WHEREAS, the Common Council of the City of Goshen has a substantial and compelling interest in protecting the health, safety, property, and welfare of its citizens and the neighborhoods affected by chronic unlawful or nuisance activity;

WHEREAS, Chronic unlawful or nuisance activity of various kinds within the City adversely affects the health, safety, and welfare of citizens and diminishes the quality of life in neighborhoods where this chronic activity occurs. Chronic unlawful or nuisance activity constitutes a public nuisance and is subject to abatement;

WHEREAS, existing City ordinances and enforcement processes do not adequately control chronic unlawful or nuisance activity, or its detrimental effects on citizens and neighborhoods where such activity occurs;

WHEREAS, time and resources of the Police Department and other City officials responsible for code enforcement are disproportionately allocated towards chronic unlawful and/or nuisance activity;

WHEREAS, establishing a regulatory framework contained herein will help alleviate the problems created by chronic unlawful or nuisance activity through early intervention by the Police Department and/or other City officials responsible for code enforcement;

WHEREAS, nothing in this ordinance shall limit any other civil and/or criminal action against the Property owner and/or Occupant;

WHEREAS, the City is aware of the potential punitive impact this Ordinance could have on victims of criminal activities and individuals suffering from physical and mental impairments.

NOW, THEREFORE, BE IT ORDAINED by the City of Goshen Common Council that:

1. Title.

1.1. Ordinance No. _____ shall be known as the “Disorderly Property Ordinance.”

2. Definitions.

2.1. “Disorderly Property” shall mean a building, dwelling, establishment, premises, or place (collectively “Property”) where Prohibited Conduct occurs. It includes the outside area contiguous to and surrounding the Property such as a yard, parking lot or lot under the same ownership. If the Property has multiple dwelling units or residences, or is a hotel or motel, this definition applies to all dwelling units, rooms or suites of rooms in which

Prohibited Conduct occurs. If the Property is part of a larger apartment complex, this definition applies collectively to all buildings connected to the apartment complex in which Prohibited Conduct occurs. This definition specifically includes both owner and nonowner occupied Properties.

- 2.2. "Occupant" shall mean any person(s) residing at or having actual possession of any Property.
- 2.3. "Ordinance Citation" shall mean any citation issued by a City of Goshen Code Enforcement Officer or other official charged with enforcement of city ordinances.
- 2.4. "Owner" shall mean the Owner of record of the Property, as identified by the records of the Elkhart County Auditor's Office.
- 2.5. "Prohibited Conduct" shall mean activities occurring in violation of the statutes or ordinances relating to any of the following:
 - 2.5.1. Gambling, as defined in I.C. § 35-45-5-1;
 - 2.5.2. Battery, as defined in I.C. § 35-42-2-1;
 - 2.5.3. Contributing to the delinquency of a minor, as defined in I.C. § 35-46-1-8;
 - 2.5.4. Resisting law enforcement, as defined in I.C. § 35-44.1-3-1;
 - 2.5.5. Disorderly conduct, as defined in I.C. § 35-45-1-3;
 - 2.5.6. Criminal recklessness, as defined in I.C. § 35-42-2-2;
 - 2.5.7. Harassment as defined in I.C. § 35-42-2-2;
 - 2.5.8. Violations of any of the following Indiana statutes governing:
 - 2.5.8.1. Prostitution in violation of I.C. § 35-45-4-2;
 - 2.5.8.2. Making an unlawful proposition in violation of I.C. § 35-43-4-3; or
 - 2.5.8.3. Promoting prostitution or juvenile prostitution in violation of I.C. § 35-45-4-4;
 - 2.5.9. Violations of any of the following Indiana statutes governing:
 - 2.5.9.1. Criminal gang activity in violation of I.C. § 35-45-9-3;
 - 2.5.9.2. Criminal gang intimidation in violation of I.C. § 35-45-9-4; or
 - 2.5.9.3. Criminal gang recruitment in violation of I.C. § 35-45-9-5;
 - 2.5.10. Violations of the following Indiana statutes governing:
 - 2.5.10.1. Dealing in cocaine or a narcotic drug in violation of I.C. § 35-48-4-1;
 - 2.5.10.2. Dealing in methamphetamine in violation of I.C. § 35-48-4-1.1 and/or manufacturing methamphetamine in violation of I.C. § 35-48-4-1.2;
 - 2.5.10.3. Dealing in a schedule I, II, or III controlled substance or controlled substance analog in violation of I.C. § 35-48-4-2;
 - 2.5.10.4. Dealing in a schedule IV controlled substance or controlled substance analog in violation of I.C. § 35-48-4-3;
 - 2.5.10.5. Dealing in a schedule V controlled substance or controlled substance analog in violation of I.C. § 35-48-4-4'
 - 2.5.10.6. Dealing in marijuana, hash oil, hashish, salvia, a synthetic drug, as defined by I.C. § 35-31.5-2-321 or I.C. § 25-26-13-4.1, as those statutes are from time to time amended, or a controlled substance analog, as defined in I.C. § 35-48-

1-9.3 and/or I.C. § 35-48-4-10. The distribution of law THC hemp extract in full compliance with I.C. § 24-4-21-1 *et seq.* is excluded from this subpart.

2.5.10.7. Use of possession of any of the substances described in subsections 2.3.10.1 through and including 2.3.10.6 above, or the sale, use, or possession of any other illicit narcotics or dangerous controlled substances; or

2.5.10.8. Dealing in a controlled substance by a practitioner in violation of I.C. § 35-48-4-1.5.

2.5.11. Failure to keep vacant property secured against entry, in violation of I.C. § 36-7-9-1 *et seq.* and Goshen City Code § 6.3.1.1(ff);

2.5.12. Accumulation of Materials Creating a Fire, Health, or Safety Hazard, as prohibited by Goshen City Code § 6.10.1.1 *et seq.*;

2.5.13. Graffiti, as prohibited by Goshen City Code § 6.11.1.1 *et seq.*;

2.5.14. Excessive Noise and Sound, as prohibited by Goshen City Code § 3.3.1.1 *et seq.*;

2.5.15. Discharge of firearms, as prohibited by Goshen City Code § 3.5.1.1;

2.5.16. Use, discharge, or ignition of fireworks, as prohibited by Goshen City Code § 3.6.1.1

2.6. “Verified Complaint” shall mean a law enforcement documented call for service that an incident took place at a specific property address requiring sworn law enforcement personnel to be dispatched or caused to respond. The term does not include incidents involving an occupant of the premises who is the victim of the crime, or any ambulance or medical service response.

3. Public Nuisance.

3.1. For Property with less than four (4) separate residential units, whenever Prohibited Conduct, as documented by Verified Complaint or Ordinance Citation, occurs in or upon the Property on three (3) or more separate occasions during a sixty (60) day period, the City deems the Property to be a Disorderly Property and a public nuisance.

3.2. For a Property between four (4) and twenty (20) separate residential units, whenever Prohibited Conduct, as documented by Verified Complaint or Ordinance Citation, occurs in or upon the Property on four (4) or more separate occasions during a thirty (30) day period, the City deems the Property to be a Disorderly Property and a public nuisance.

3.3. For Property with twenty (20) or more separate residential units, whenever Prohibited Conduct, as documented by Verified Complaint or Ordinance Citation, occurs in or upon the Property on six (6) or more separate occasions during a thirty (30) day period, the City deems the Property to be a Disorderly Property and a public nuisance.

3.4. For Property used for commercial or industrial purposes, whether or not such property is zoned commercial or industrial pursuant to the Goshen City Zoning Ordinance, whenever Prohibited Conduct, as documented by Verified Complaint or Ordinance Citation, occurs in or upon the Property on six (6) or more separate occasions during a thirty (30) day period, the City deems the Property to be a Disorderly Property and a public nuisance.

4. Penalty, Injunctive Relief.

- 4.1. Whenever Prohibited Conduct constituting a public nuisance occurs at a property as specified in Section 3, the matter shall be referred to the City Attorney. If the City Attorney, after review, determines that sufficient and proper cause exists to deem the property a Disorderly Property and a public nuisance, and that enforcement will not be unduly punitive on victims of criminal activities or individuals suffering from physical and mental impairments, the City may file an action in any court of general jurisdiction against the Owner and/or occupants to enjoin the nuisance and to recover a fine. In the case of a rental property, apartment or multi-unit rental dwelling, enjoinder of the nuisance may include the suspension of all future rental activities, including revocation of a rental registration receipt under Goshen City Code.
- 4.2. The fine shall be Two Thousand Five Hundred Dollars (\$2,500.00) for the first violation (the applicable number of incidents of Prohibited Conduct within the period identified in Section 3.1, 3.2, or 3.3). For a second and each subsequent succeeding separate violation (the applicable number of incidents of Prohibited Conduct within the period identified in Section 3.1, 3.2, or 3.3 at the same Property subsequent to the date of the incident of Prohibited Conduct establishing a first violation), a fine of Seven Thousand Five Hundred Dollars (\$7,500.00) shall be assessed to Owner and/or occupants.

5. Cooperation with Owner/Items Excluded from Definition of “Prohibited Conduct”.

- 5.1. An Owner of Property identified as a Disorderly Property is encouraged to communicate and cooperate with the Goshen Police Department and other City officials responsible for code enforcement.
- 5.2. It is not the intent of this Ordinance to discourage anyone from requesting police assistance – especially the victim of domestic violation and/or child abuse or neglect. Indiana Code § 35-31.5-2-78 (crime of domestic violation), Indiana Code § 31-33-1-1 (reporting of suspected or known incidents of child abuse or neglect), Indiana Code § 35-46-1-4 (neglect of a dependent), and other related statutes are specifically excluded from Section 2.3. In addition, ambulance calls, welfare checks, routine traffic stops, and motor vehicle accidents are also specifically excluded from Section 2.3.
- 5.3. It is also not the intent of this Ordinance to resolve disagreements or disputes between neighbors. Rather, it is to alleviate the impact on City resources created by chronic unlawful or nuisance activity and minimize the detrimental effects on citizens and neighborhoods through early intervention.

6. Miscellaneous.

- 6.1. Nothing in this Ordinance shall limit the City’s ability to otherwise declare any particular action or activity a public nuisance and/or pursue any other remedy allowed by law.

- 6.2. Any ordinance or provision of any ordinance of the City of Goshen, Indiana in conflict with the provisions of this Ordinance is hereby repealed.
- 6.3. The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance that can be given effect without such invalid part or parts.
- 6.4. This Ordinance shall be in full force and effect from and after its passage, approval, and adoption according to the laws of the State of Indiana.

PASSED by the Goshen Common Council on _____, 2024.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024 at the hour of _____:_____ .m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2024.

Gina M. Leichty, Mayor