



## GOSHEN COMMON COUNCIL

### Minutes of the Nov. 16, 2021 Regular Meeting

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

Mayor Jeremy Stutsman called the meeting to order at 6 p.m. and led the Pledge of Allegiance

Mayor Stutsman asked the Clerk-Treasurer to conduct the roll call.

**Present:** Megan Eichorn (District 4)                      Julia King (At-Large)                      Doug Nisley (District 2)  
Donald Riegsecker (District 1)                      Matt Schrock (District 3)                      Council President  
Brett Weddell (At-Large)                      Youth Advisor Adrian Mora (Non-voting)

**Absent:** Gilberto Pérez Jr. (District 5)

Mayor Stutsman asked the Council's wishes regarding the minutes of the City's Council's Nov. 2, 2021 meeting. Council members King/Eichorn moved to approve the minutes of the Nov. 2, 2021 meeting as presented. Motion passed 6-0.

Mayor Stutsman presented the agenda of the Nov. 16, 2021 Council meeting. Council members Eichorn/Riegsecker moved to approve the agenda as presented. Motion passed 6-0.

Privilege of the Floor:

At 6:01 p.m., Mayor Stutsman invited public comments on matters not on the agenda. No audience members or Zoom meeting participants asked to speak, so Mayor Stutsman closed the Privilege of the Floor.

**1. Ordinance 5106 (Public Hearing & 2<sup>nd</sup> Reading): Goshen Water Utility Schedule of Rates and Charges**

Mayor Stutsman opened a public hearing on the proposed Goshen Water Utility Schedule of Rates and Charges for 2022-2025. No one asked to speak, so Mayor Stutsman closed the public hearing.

Mayor Stutsman then called for the introduction of Ordinance 5106 on Second Reading. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5106 by title only, which was done. Weddell/King moved for passage of Ordinance 5106 on Second Reading.

Ordinance 5106 would establish a schedule of rates and charges for services of the Goshen Water Utility. For 2022 to 2025, it would establish the following modifications of the existing schedule of rates and charges to be effective upon passage of the ordinance:

**SECTION 1 Water Rates and Charges**

**Monthly Water Usage Charge.** Each customer shall pay the monthly water usage charge in accordance with the following schedule based on the metered volume of water per one hundred (100) cubic feet supplied. The monthly water usage charge will be adjusted each year pursuant to Section 2.



Cubic Feet of Water Supplied	2022	2023	2024	2025
First 3,000 cubic feet	\$2.88	\$3.09	\$3.24	\$3.40
Next 97,000 cubic feet	\$2.15	\$2.15	\$2.20	\$2.21
Next 100,000 cubic feet	\$1.45	\$1.52	\$1.61	\$1.72

**Monthly Water Service Charge.** Each customer shall pay the monthly water service charge in accordance with the following schedule based on the applicable size of the meter installed. If there is a compound meter, only the larger meter will pay a service charge. This service charge pays for administrative costs, billing charges, fire protection charges and meter maintenance. This service charge is in addition to the monthly water usage charge. The monthly water service charge will be adjusted each year pursuant to Section 2.

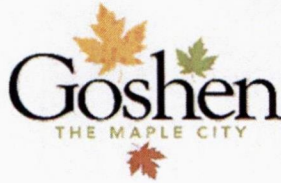
Meter Size	2022	2023	2024	2025
5/8-inch meter	\$12.55	\$12.23	\$11.95	\$11.68
3/4-inch meter	\$15.33	\$15.10	\$14.80	\$14.57
1-inch meter	\$21.13	\$20.93	\$20.95	\$21.35
1 1/2-inch meter	\$36.70	\$37.40	\$38.00	\$38.65
2-inch meter	\$55.30	\$56.74	\$58.05	\$59.39
3-inch meter	\$107.85	\$107.55	\$107.20	\$107.80
4-inch meter	\$169.10	\$171.85	\$174.30	\$176.95
6-inch meter	\$322.50	\$330.25	\$337.65	\$345.90
8-inch meter	\$498.00	\$509.10	\$519.85	\$531.40

**Monthly Water Service Charge for Sprinkler Meters.** Each customer with a sprinkler meter shall pay the monthly water service charge for sprinkler meters in accordance with the following schedule based on the applicable size of the meter installed. The amount is different than the service charges set forth in paragraph (B) so that customers are not billed twice for fire protection. The monthly water service charge for sprinkler meters will be adjusted each year pursuant to Section 2.

Meter Size	2022	2023	2024	2025
5/8-inch meter	\$7.50	\$7.10	\$6.75	\$6.40
3/4-inch meter	\$7.75	\$7.40	\$7.00	\$6.65
1-inch meter	\$8.50	\$8.10	\$7.95	\$8.15
1 1/2-inch meter	\$11.45	\$11.75	\$12.00	\$12.25
2-inch meter	\$14.90	\$15.70	\$16.45	\$17.15
3-inch meter	\$32.10	\$30.60	\$29.20	\$28.60
4-inch meter	\$42.85	\$43.60	\$44.30	\$44.95
6-inch meter	\$70.00	\$73.75	\$77.65	\$81.90
8-inch meter	\$94.00	\$98.70	\$103.85	\$109.00

**Public Fire Protection Charges**

(i) **Public Fire Protection Charge for Water Utility Customers.** The monthly public fire protection charge for customers of the Goshen Water Utility is included in the monthly water service charge set forth in paragraph (B).



**(ii) Public Fire Protection Charge for Sewer-Only Utility Customers.** Each customer of the Goshen Sewer Utility whose premises is not connected to the services provided by Goshen Water Utility shall pay a monthly public fire protection charge in accordance with the following schedule based on the applicable size of the meter installed. A customer of the Goshen Sewer Utility who does not have a meter installed will be charged a monthly public fire protection charge based on the rate for a 5/8-inch meter. The monthly public fire protection charge will be adjusted each year pursuant to Section 2

<b>Meter Size</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
5/8-inch meter	\$5.05	\$5.13	\$5.20	\$5.28
3/4-inch meter	\$7.58	\$7.70	\$7.80	\$7.92
1-inch meter	\$12.63	\$12.83	\$13.00	\$13.20
1 1/2-inch meter	\$25.25	\$25.65	\$26.00	\$26.40
2-inch meter	\$40.40	\$41.04	\$41.60	\$42.24
3-inch meter	\$75.75	\$76.95	\$78.00	\$79.20
4-inch meter	\$126.25	\$128.25	\$130.00	\$132.00
6-inch meter	\$252.50	\$256.50	\$260.00	\$264.00
8-inch meter	\$404.00	\$410.40	\$416.00	\$422.40

**Private Fire Hydrants.** Each customer with a private fire hydrant shall pay the annual private fire hydrant protection charge in accordance with the following schedule. The annual private fire hydrant protection charge will be adjusted each year pursuant to Section 2.

<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
\$647.82	\$634.47	\$601.07	\$573.25

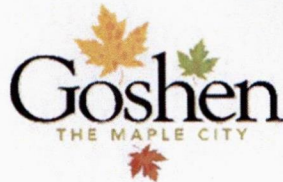
**Private Fire Sprinkler Lines.** Each customer with a private fire sprinkler line shall pay the annual private fire sprinkler line protection charge in accordance with the following schedule based on the applicable size of the sprinkler line connection. The annual Ordinance 5106 Page 4 private fire sprinkler line protection charge will be adjusted each year pursuant to Section 2.

<b>Connection Size</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
1 1/2-inch connection	\$41.67	\$40.65	\$38.55	\$36.60
2-inch connection	\$71.93	\$70.26	\$66.54	\$63.14
3-inch connection	\$161.82	\$158.04	\$150.13	\$142.04
4-inch connection	\$287.78	\$282.42	\$268.24	\$254.83
6-inch connection	\$647.82	\$634.47	\$601.07	\$573.25
8-inch connection	\$1,150.47	\$1,174.19	\$1,186.05	\$1,209.77
10-inch connection	\$2,068.91	\$2,111.57	\$2,132.90	\$2,175.56
12-inch connection	\$3,169.58	\$3,341.84	\$3,445.20	\$3,514.10

**Building Water Repair Program.**

(1) Building Line Assessment (the combined water/sewer charge) - \$1.10 per month

(F) **Miscellaneous Charges.** The charge for new meters and related accessories will be charged to each customer at cost plus applicable taxes, without any mark-up.



**SECTION 2 Annual Adjustments**

The schedule of rates and charges set forth in Section 1 (A), (B), (C) and (D) shall go into effect the first billing cycle in 2022 after the effective date of this ordinance, and shall be adjusted the first billing cycle of 2023 and each year thereafter.

**Mayor Stutsman** said three consultants for the City were present and available to answer questions: **Jason Semler**, a partner with Baker Tilley, was at the meeting and attending via Zoom were **Alex Hilt**, a director at Baker Tilley, and **Eric Walsh**, a partner and municipal adviser with Baker Tilly.

**Mayor Stutsman** asked if any Council members had any questions. None did. **Councilor King** said she didn't have any questions because council questions were addressed at the previous Council meeting on the proposed rate increases. **The Mayor** confirmed that was the case.

**Mayor Stutsman** asked if there were any questions or comments from the audience. There were none.

**There were no further questions or comments by Council members. Council President Brett Weddell said the Council was prepared to vote.**

**Mayor Stutsman called for a voice vote on the Second and Final Reading of Ordinance 5106. The motion passed unanimously, 6-0, with all councilors present voting "yes." Youth Advisor Mora also voted "yes."**

**2. Ordinance 5107 (Public Hearing & 2<sup>nd</sup> Reading): Goshen Sewer Utility Schedule of Rates and Charges**

**Mayor Stutsman opened a public hearing on the proposed Goshen Sewer Utility Schedule of Rates and Charges for 2022-2025. No one asked to speak, so Mayor Stutsman closed the public hearing.**

**Mayor Stutsman then called for the introduction of Ordinance 5107 on Second Reading. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5107 by title only, which was done.**

**Weddell/Eichorn moved for passage of Ordinance 5107 on Second Reading.**

**Ordinance 5107** would establish a schedule of rates and charges for services of the Goshen Sewer Utility. For 2022 to 2025, it would establish the following modifications of the existing schedule of rates and charges to be effective upon passage of this ordinance:

**Metered Customers**

**(i) Monthly Sewer Usage Charge.** Each metered customer shall pay the monthly sewer usage charge in accordance with the following schedule based on the volume of sewage per one hundred (100) cubic feet discharged. The monthly sewer usage charge will be adjusted each year pursuant to Section 2.

2022	2023	2024	2025
\$7.07	\$7.28	\$7.50	\$7.73

**(ii) Monthly Sewer Service Charge.** Each metered customer shall pay the monthly sewer service charge in accordance with the following schedule based on the applicable size of the meter installed. If there is a compound meter, only the larger meter will pay a service charge. This service charge pays for administrative costs, billing charges, and meter maintenance. This service charge is in addition to the monthly sewer usage charge. The monthly sewer service charge will be adjusted each year pursuant to Section 2.



Meter Size	2022	2023	2024	2025
5/8-inch meter	\$11.09	\$11.42	\$11.76	\$12.11
3/4-inch meter	\$14.04	\$14.46	\$14.89	\$15.34
1-inch meter	\$22.15	\$22.81	\$23.49	\$24.19
1 1/2-inch meter	\$46.55	\$47.95	\$49.39	\$50.87
2-inch meter	\$77.56	\$79.89	\$82.29	\$84.76
3-inch meter	\$173.59	\$178.80	\$184.16	\$189.68
4-inch meter	\$299.20	\$308.18	\$317.43	\$326.95
6-inch meter	\$675.94	\$696.22	\$717.11	\$738.62
8-inch meter	\$1,201.18	\$1,237.22	\$1,274.34	\$1,312.57

**Unmetered Customers**

**(i) City Water Available - Monthly Sewer Usage Charge and Service Charge.** Each customer receiving sewer services for an unmetered residential lot, or unmetered residential building that has city water available shall pay the following monthly sewer usage charge and service charge in accordance with the following schedule. The monthly sewer usage charge and service charge will be adjusted each year pursuant to Section 2.

2022	2023	2024	2025
\$99.91	\$102.92	\$106.02	\$109.25

**City Water Not Available - Monthly Sewer Usage Charge and Service Charge.** Each customer receiving sewer services for an unmetered residential lot or unmetered residential building that does not have city water available shall pay the following monthly sewer usage charge and service charge in accordance with the following schedule. The monthly sewer usage charge and service charge will be adjusted each year pursuant to Section 2.

2022	2023	2024	2025
\$71.64	\$73.80	\$76.02	\$78.33

**Surcharges.** The following treatment surcharges shall be charged per pound in accordance with the following schedule. The surcharges will be adjusted each year pursuant to Section 2.

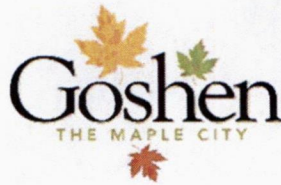
Surcharges (per pound)	2022	2023	2024	2025
BOD (in excess of 200 mg/l)	\$0.13	\$0.13	\$0.14	\$0.14
SS (in excess of 200 mg/l)	\$0.13	\$0.13	\$0.14	\$0.14
NH3N (in excess of 30 mg/l)	\$0.52	\$0.54	\$0.56	\$0.58
Phosphate (in excess of 10 mg/l)	\$0.79	\$0.81	\$0.83	\$0.85
FOG (in excess of 200 mg/l)	\$0.72	\$0.74	\$0.76	\$0.78

**Building Sewer Repair Program.**

- (1) Building Line Assessment (the combined water/sewer charge) - \$1.10 per month
- (2) Building Sewer Claim Fee - \$350.00 per claim

**SECTION 2 Annual Adjustments**

The schedule of rates and charges set forth in Section 1 (A) and (B) shall go into effect the first billing cycle in 2022 after the effective date of this ordinance, and shall be adjusted the first billing cycle of 2023 and each year thereafter.



**Mayor Stutsman** asked if Council members had any questions or comments.

**Councilor King** said she still had concerns about the rates charged to customers generating large quantities of waste. King said she wasn't opposed to the rate proposal, but hoped the City would continue studying the rates.

**Council President Brett Weddell** thanked **City Director of Public Works and Utilities Dustin Sailor** for his detailed responses.

**Councilor Nisley** said he had questions about the rates charged to sewer-only customers with or without access to City water service. Nisley asked why the City imposes different charges on those who have access to City water service versus those without such access.

**City Director of Public Works and Utilities Dustin Sailor** responded that the best way to measure both water and sewer consumption is with a water meter. He said customers who have only sewer service have two options: they are either an un-metered customer and they are charged a flat rate, and there is no way to measure their sewer service consumption, or they can install a meter on their well. Sailor said the best option for customers with available City water service is to connect to City water and have a meter. He said the current rate structure is an incentive for customers to connect to City water and have a meter.

**Mayor Stutsman** said a meter allows for more exact billing. Otherwise, the City staff members must make their best guess about what customers will use if they refuse to install a meter. The Mayor said City staff estimates sewer system usage based on what other similarly-sized households are using in sewer services.

**Councilor Nisley** said he had a problem with charging some customers more just because they have access to City water. He said some customers have no reason to connect to City water, but they are being charged more.

**Mayor Stutsman** said these customers don't have to connect to City water; they just have to install a meter on their wells to qualify for a lower rate.

**Councilor Nisley** said that if these customers don't want to install a meter, they still have to pay more than a customer who doesn't have access to City water.

**Mayor Stutsman** said the City could be charging them less than the City should because these customers may have higher sewer system consumption.

**Councilor Nisley** said he didn't understand why the City didn't have a flat rate fee for sewer-only customers regardless of whether they have access to City water or not, and at the lower rate.

**Mayor Stutsman** said if these customers are paying the flat rate and feel they are overpaying, they could install meters to prove how much they are using in sewer services.

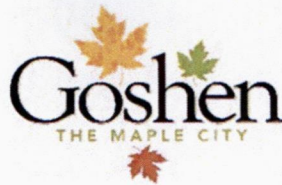
**Councilor Nisley** asked the cost of a meter and how much it costs to install.

**City Director of Public Works and Utilities Dustin Sailor** said he did not bring those numbers to the meeting. He said in general, if water service is already "subbed" to the property, the cost is \$1,400. Sailor said if there is no service subbed to the property, there is a \$2,000 connection fee, plus the meter fee, which is another \$300.

**Mayor Stutsman** said he believed **Councilor Nisley** was asking about the cost of a well meter. **Sailor** said once a homeowner installs a meter and a Smart Point reader, the cost is about \$400. **City Water and Sewer Office Manager Kelly Saenz** said there is also a \$13 or \$14 monthly service fee for these customers.

In response to a question from **Council President Weddell**, Saenz said these customers don't have additional service charges and just pay the flat monthly fees.

**Councilor Riegsecker** said it appeared that Councilor Nisley's main issue seemed to be that he didn't understand why there was a higher sewer service fee for customers who had access to City water than for those who didn't have access to it.



**City Director of Public Works and Utilities Dustin Sailor** said he hadn't wanted to mention this issue in a public meeting, but would do so. He said the city had another issue associated with the 300 or so flat-rate sewer customers. Sailor said that when these customers don't pay, there is no way to shut off their service. Sailor said that when a water service customer doesn't pay for a period of time, the City can discontinue the service until the customer pays. But for a sewer service customer who doesn't pay the flat rate, Sailor said the City has no method to shut them off. There is little recourse for the City, Sailor said, besides imposing a lien on the property and it becomes difficult when there are properties that are rentals to recover missing payments. So, sewer-only properties pose a higher cost risk to the Utility, Sailor said.

**Councilor Nisley** said both types of property owners are sewer customers and he pointed to the differences in charges to customers with or without available water service. **Sailor** responded that customers without available City water service have no option than to be a flat rate customer. He said that customers with City water service available have the option of connecting and that is the best outcome for the City. Sailor said that if a person builds a new house in the City, you cannot put in a well. He said the customers affected by the flat-rate fee live in older homes and that if they had new homes they would have no option for sewer-only service.

**Councilor Nisley** said that he understands that it may be better for people to hook up to City water, but he wanted to make an amendment that the City charge a flat rate fee for sewer-only customers of \$71.64 for 2022. He said he intended this to be a motion. **Councilor Schrock** seconded the motion.

**Mayor Stutsman** clarified that **Councilor Nisley's** motion would amend Ordinance 5107 and establish a flat rate of \$71.64 for sewer-only customers regardless of whether they had access to City water service or not. **The Mayor** pointed out that Council rules specified that the amendment had to be discussed now.

**Mayor Stutsman** asked if City staff or consultants from Baker Tilly had a response to the motion and the two-rate structure for sewer-only customers.

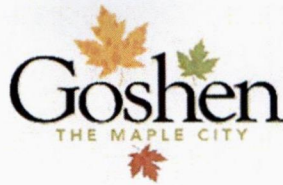
**Alex Hilt**, a director at Baker Tilley, explained the rationale for the different fees for sewer-only customers. Partly, Hilt said, this was done to encourage more customers to hook up to the City water system. He said that if customers have access to City water and are choosing not to connect, the City is making the assumption that those customers are choosing not to do so because they are higher water users than typical households. Hilt said both sewer-only rates are based on an assumed flow amount for those customers and it's also assumed these customers have higher volumes of sewer system usage.

**Councilor Nisley** said a customer told him he cannot afford to connect to the City water system and also believes it's unfair there is a higher cost for sewer service. Nisley said the City was penalizing customers who cannot afford to connect to City water service.

**Councilor King** said she wanted to know the economic impact of Councilor Nisley's proposed amendment.

**Mayor Stutsman** said the proposed rates were based on study and analysis and were designed to cover the cost of future system improvement projects. The Mayor said that instead of picking the higher or lower cost for sewer-only service, perhaps it would be better to pick a middle amount, which would be \$85.64 per month, and which would balance out the change of having one fee.

**Council President Weddell** asked about the number of sewer-only customers and the numbers of them with and without access to City water service. **City Water and Sewer Office Manager Kelly Saenz** said the City has 274 sewer-only customers. Saenz said she didn't have the exact breakdown of customers paying the higher and lower monthly fees, but could provide the information on Wednesday. **Mayor Stutsman** said if the Council approved a single monthly fee of \$85.64 – for 300 customers for 12 months – that would generate \$308,304 a year.



**Mayor Stutsman** said establishing a single monthly flat fee of \$71.64 for sewer-only customers would translate into a \$50,000 revenue reduction from having higher and lower rates.

**Council President Weddell** said at the moment, the Council didn't know the number of the 274 sewer-only customers paying the higher and lower rates. He said without knowing the breakdown of customers, he would be inclined to impose the higher proposed rate on all of these customers to protect the City.

**Councilor Eichorn** asked **Alex Hilt** of Baker Tilly if the City's dual rate structure for sewer-only customers was typical of what other governments do for unmetered customers. **Hilt** said he has seen the same rate structure elsewhere, but that it's less common than a single flat rate. Most communities that don't embrace dual rates would consider this a more burdensome system to maintain. **Hilt** said the amendment would cause a \$50,000 to \$75,000 revenue reduction. **Hilt** said this would be a relatively minor change, but any reduction will be felt in the Utility's capital budget. Still, he said the change "would not result in dramatic negative consequences to the Utility."

**Councilor Nisley** asked Mayor Stutsman to clarify the mid-point rate between the proposed rates for sewer-only customers. **Mayor Stutsman** said the rate would be \$85.64.

**Councilor Schrock** asked if the sewer-only customers have had this status for a long time. **City Water and Sewer Office Manager Kelly Saenz** said they have. She said some customers connect to sewer service from time to time, but most of the 274 sewer-only customers have relied on wells for many years. **Saenz** said most of the sewer-only customers are paying the higher rate; just a handful are paying the lower rate because they don't have access to City water service. **Mayor Stutsman** said sometimes as their wells fail, customers will connect to City water service if it's available rather than re-doing their wells. If the taps are already there, **Saenz** said, it also saves customers money.

**Council President Weddell** said it appeared the majority of sewer-only customers were paying the higher rate and if the city passed Councilor Nisley's amendment they would have a significant rate reduction. **Saenz** confirmed this was the case. He thanked **Saenz** for her speedy information.

**Councilor Riegsecker** asked how long flat rates have been charged to sewer-only customers. **Saenz** said it's been done this way for a long time.

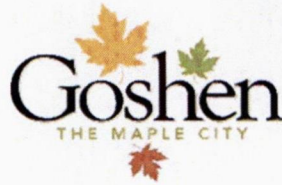
**Councilor Schrock** asked if these customers ever complain about their rates. **Saenz** said the majority of those who complain about the sewer-only rate live in single-family homes or elderly customers who aren't using much water but are charged the flat rate. **Saenz** said she always recommends these customers install a meter on their wells and they will save money – and most do. Still, **Saenz** said she understands there is the initial cost of the meter of \$400, but most customer will normally recoup the investment in six to eight months.

**Mayor Stutsman**, noting that the city's four Utility Department heads were in the Council chambers, and he asked if any of them thought the proposed amendment wouldn't be a mistake.

**City Director of Public Works and Utilities Dustin Sailor** said that if the Council wants to shift to a single rate for sewer-only customers, he would feel better about the higher rate suggested by the Mayor. **Sailor** also said that for these customers, an additional issue the City has is that if a person moves out of a rental, there is no incentive for a new resident to sign up for sewer service. In these cases, the Utility must track down those residents, monitor the residence to see if someone is living there and persuade them to sign up. So, **Sailor** said, this is an administrative issue for the Utility to have flat rate sewer customers. **Sailor** said taking away the incentive to install a meter or connect to City water service would be a disadvantage to the City Utility.

**Mayor Stutsman** asked if any member of the public wanted to comment on Councilor Nisley's proposed amendment to Ordinance 5107. None asked to speak, so the Mayor closed the public comment period on the amendment. The Mayor asked if Council members had further comments on the amendment.





**Councilor King** said she was ready to vote. She said that by passing this amendment, the Council would be removing an incentive to connect to City water service, which is what the City wants people to do.

**Council President Weddell** said that a majority of the sewer-only customers already are paying the higher rate and they are accustomed to it. He said the Council didn't know the current rate, but it was higher than Councilor Nisley's proposed rate of \$71.64.

**City Water and Sewer Office Manager Kelly Saenz** said the current monthly rate for sewer-only customers with access to City water is \$86.22 per month and that those without access to City water are charged \$58.70 per month.

**Mayor Stutsman** asked if the Council might consider an alternate rate of \$85.64 per month for all sewer-only customers. He said Councilor Nisley's proposed single rate of \$71.64 would be a big cut for sewer-only customers with access to City water and a big increase for those without access.

**Clerk-Treasurer Richard R. Aguirre** provided his perspective to the City Council as a longtime sewer-only customer with access to City water. He said that when he moved to the City, he was surprised by the higher cost of sewer-only service compared to the cost for residents with water meters. Aguirre said he accepted this after learning of the cost to connect to City water service. A neighbor did so after experiencing some problems with his well, but Aguirre said his well is working well and producing good quality water. Aguirre said he was unaware of the option to get a well meter to reduce sewer charges and will now look into doing so. Aguirre said he didn't have a position on the amendment, but thought it might be helpful to provide the perspective of a sewer-only customer.

**Councilor Riegsecker** said the sewer-only customers without meters should get them. Riegsecker said he has had a well meter for a long time and knows his water usage and knows he does better on his bill than the proposed rates for sewer-only customers.

**Mayor Stutsman and Councilors** discussed the possibility of amending the amendment, and substituting a higher flat rate, but **Council Nisley** declined to accept an amendment, preferring his proposed fee of \$71.64.

There were no further Council comments, so **Mayor Stutsman called for a roll vote on Councilor Nisley's proposed amendment to Ordinance 5107 – establishing a flat rate of \$71.64 for sewer-only customers regardless of whether they had access to City water service or not. The motion failed on 1-5 vote, with Councilor Nisley voting "yes" and Councilors Eichorn, King, Riegsecker, Schrock and Weddell voting "no."**

**Mayor Stutsman** asked if there were further Council comments on Ordinance 5107 as submitted. Council President Weddell thanked city staff for answering so many questions with such short notice.

**Mayor Stutsman asked if there were any other questions or comments from the audience. There were none,** There were no further questions or comments by Council members, so Mayor Stutsman asked if the Council was prepared to vote. Council President Weddell said it was.

**Mayor Stutsman called for a voice vote on the Second and Final Reading of Ordinance 5107. The motion passed unanimously, 6-0, with all councilors present voting "yes." Youth Advisor Mora also voted "yes."**

### **3. Ordinance 5105 (2nd Reading): Ordinance Authorizing the City of Goshen to Issue Economic Development Revenue Bonds, Series 2021 (College Avenue Project) and Approving Other Actions in Respect Thereto**

**Mayor Stutsman** called for the introduction of Ordinance 5105 on Second Reading. **Council President Weddell** asked the Clerk-Treasurer to read Ordinance 5105 by title only, which was done.

**Weddell/Nisley moved for passage of Ordinance 5105 on Second Reading.**



**Ordinance 5105** is among the final steps in a lengthy process leading to the development and construction of two new RV manufacturing buildings and one lamination building by Last Dance, LLC in the College Avenue Economic Development Area, in southeast Goshen.

Proceeds from Economic Development Revenue Bonds (not to exceed \$10.7 million) would be used to finance the construction of infrastructure improvements, including roads, curbs and sidewalks, sanitary sewer, water and flood control improvements, together with all necessary appurtenances and related improvements. Some of those improvements will facilitate future development in the area. The Bonds will not be payable by taxation, but are proposed to be payable from Tax Increment Financing (TIF), a special funding tool used by municipal governments to promote public and private investment.

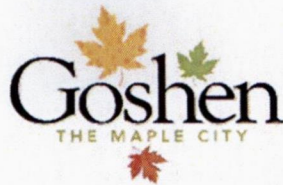
The Goshen Economic Development Commission met on Nov. 9, conducted a public hearing and passed Resolution 2021-03, *City of Goshen Economic Development Commission Resolution Approving Issuance of Bonds and Other Actions in Respect Thereto*. The Commission determined that financing the development with TIF revenues would benefit the health and welfare of the City of Goshen and its residents.

Besides providing the background and rationale for the bond issue, Ordinance 5105 also holds that the funding of the project and the construction of the facilities would not have an adverse competitive effect on any similar facilities located in or near the City and approves the Financing Agreement, the Bond Purchase Agreement and the Indenture approved by the Redevelopment Commission. It specifies that the bonds will be repaid within 21 years and also authorizes the Mayor and Clerk-Treasurer to take action to advance the bond issuance.

Documents provided in the Council agenda packet set forth the parameters of the bond issue as well as the financing and covenant agreement between the City and Last Dance, LLC, the developer of the College Avenue Project.

**Mayor Stutsman** thanked **Jason Semler**, a partner with Baker Tilley, and **Eric Walsh**, a partner and municipal adviser with Baker Tilly (attending via Zoom) for being present to answer questions about the background and implications of Ordinance 5105. The Mayor also welcomed comments from **City Redevelopment Director Becky Hutsell**, who asked the Council to authorize the issuance of Economic Development Revenue Bonds for the College Avenue project, which has been pending for six months and whose development agreement was approved in June. **Hutsell** said: "This is in regards to 313 acres of industrial property on East College Avenue. This is all in line with that economic development agreement. As it stands, a portion of the project will be funded with TIF (Tax Increment Financing). The remaining portion will be covered by this bond, which is being purchased by Last Dance, which is the developer for the project. The financing for the bond, they will pay for it up front. We will construct the project with the bond (proceeds) and as their project develops, and revenue is generated, that is what will be used to repay the bonds.

"If, for some reason, the project never develops, there is no repayment, and that's a loss to the developer," **Hutsell** added. "At this point, there's very little risk to the (Redevelopment) Commission, (and) to the City, for the issuance of the bonds. Since we have approved the development agreement, we have removed a portion of this land from the Dierdorff-Lippert TIF. We have established, through the normal public hearing process, a stand-alone TIF for the land owned by Last Dance, LLC. It's the College Avenue Economic Development Area. The revenue generated from those parcels alone – I believe there are eight – is what will repay the bond. So, we are here tonight to ask for approval, issuance and authorizing of the bonds for this project."



**Mayor Stutsman** said that present for the meeting (via Zoom) besides **Jason Semler** of Baker Tilly, was **Lisa Lee**, a partner with Ice Miller of Indianapolis and the City's bond counsel.

**Mayor Stutsman** invited comments or questions from the Council. There were none, so the **Mayor invited public comments on Ordinance 5105**.

**Council President Weddell** advised audience members that they were allowed three minutes to address the Council, but that if they asked questions, such exchanges would not be counted as part of their three minutes.

**Caryl Guth** of Goshen said when she voted for the City's current administration, she did so with the hope officials would follow the law and Indiana statutes. She said it "hurts" when local officials decide to ignore the law when citizens are expected to obey the law. She said she would quote two Indiana statutes – 36-7-12-17 and 36-7-12-21 – and would ask Council members to take notice of the words used in the statutes – "shall." And she alleged the Economic Development Commission had ignored that word.

Reading partially from 36-7-12-17, **Guth** said the economic development commission "shall investigate, study, and survey the need for additional job opportunities, industrial diversification, water services, and pollution control facilities..." And **Guth** said the second statute, 36-7-12-21, requires that the commission "shall consider whether a proposed economic development facility may have an adverse (competitive) effect on similar facilities already constructed or operating in the unit."

**Guth** said that based on a public records request that she made, she learned from the City Legal Department that "no study, no investigation and no surveys have been done in the last seven years – not even to comply with the state statute." She alleged the City Legal Department forwarded Ordinance 5105 and ignored the word "shall" and the law and she feared the City Council would do the same.

**Guth** said a drive through the city showed the presence of many "help wanted" signs and she questioned the need to spend millions to attract more jobs when many local businesses don't have enough employees. She criticized the Plan Commission for approving two more RV manufacturing facilities and a laminating plant as part of College Avenue Project and for the Council previously approving other RV facilities.

**Councilor Weddell and Nisley** advised **Guth** that her three minutes for comments were over.

**Guth** concluded, "I don't mean to try humor tonight because it's not funny when our public officials ignore reason and common sense and violate the law, but it just seems that you, Mr. Mayor, and Common Council members perhaps would prefer industrial and big business socialism. Thank you."

**There were no further audience members wishing to speak, so Mayor Stutsman closed the public comment period at 6:40 p.m.**

**Mayor Stutsman** asked **City Attorney Bodie Stegelmann** to respond to **Caryl Guth's** remarks about the Indiana statutes. **Stegelmann** said he believed **Lisa Lee** and **Becky Hutsell** would have more information about the statutes.

**Lisa Lee**, the City's bond counsel with Ice Miller, said she appreciated the public comments. **Lee** said that with respect to the statute requiring that the economic development commission study the need for additional jobs, the commission is a three-member appointed body that is unable to go out on its own and do studies and determine whether or not jobs are needed. "That's really what the Economic Development Department for the City is for – is to determine what the needs are and provide those (determinations) to the economic development commission. So from that perspective of that statute, I'm comfortable that the city has met that requirement."

**Lee** said that with respect to the second statute, the statute does state that the commission "shall consider any adverse competitive effect, which my understanding ... is that they did not take any comments that were provided by the public or any competitors to show that there was an adverse competitive effect of the City providing this incentive.



"And my understanding is, no evidence was provided. It is certainly not the EDC's requirement to go out and try to determine, and do their own studies at the City's cost, as to whether there's an adverse competitive effect. So, I believe that the City has met the requirements and the EDC has met the requirements and that no evidence was provided at the EDC meeting or public hearing that was noticed 10 days ahead of time that there was any adverse competitive effects of the City providing these incentives. But again, I want to say, the EDC does not have to determine there's not any adverse competitive effects. They just have to consider whether or not there is an adverse competitive effect to move forward."

**Councilors Weddell and Nisley** asked clarifying questions about Lisa Lee's role as bond counsel, which were answered by **Mayor Stutsman**.

**Councilor King** said, for the benefit of the audience, that councilors had previously asked many questions about Ordinance 5105, which is why they weren't asking many questions tonight.

**Mayor Stutsman** said the complex issues raised during consideration of the bond is why the City hires consultants – "to make sure that we're doing everything by the book and staying legal with it. So, my concerns are diminished knowing that we have two great firms working alongside to help inform us along with our City staff."

**Councilor Nisley** said councilors have to take the word of trust of the legal personnel the city hires. Nisley added: "That's what I make my decisions on – is their guidance on what laws that we have to do and don't have to do. And that's how I vote."

**Councilor King** said, "I would just add that we also listen to the guidance from community members, if we come down on different places, and our own vision of what we think is best for the community. What we think is actually best for Goshen is how we need to vote."

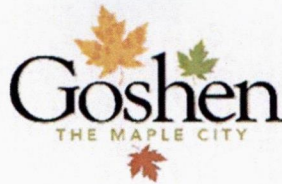
**Councilor Nisley** agreed. **Mayor Stutsman** said, "I would just add to that, too, that with the concerns that were brought to us tonight about state statutes, if we didn't have people here tonight that could answer those, I would be saying we need to get those answered before we move forward."

**City Redevelopment Director Becky Hutsell** said, "Over the last five months we have been working with the developers, attorneys – their bond counsel as well as ours. The investigation, it was on them. They provided information to the City documenting that the industrial RV industry is more than just Elkhart County. There's a nationwide demand. Several articles over the last several months, several reports, have documented a substantial backlog for the RV manufacturers within our community. And so there is a need, there is a demand there. And, so, with no one demonstrating that this would have an adverse competitive effect at the EDC meeting or at tonight's meeting, with the information provided from their counsel, the documents provided, the news stories, newspaper articles and reports, we feel that we have done that investigation. They have provided the evidence. We do still have unemployment. There are still people that aren't working. There are still jobs available."

Asked by **Mayor Stutsman** if this was the process followed in the past, **Hutsell** said, "I believe so. I personally was not involved in those instances; that was before my time, but it is part of the homework process. We can't just take the word of someone. They had to provide us with documentation showing that their claim was actually validated."

**Mayor Stutsman** said, "I believe the City has done this process in the past. And, I guess, the reason I bring this up is because we're audited every year by the state, too, so if we've done this and it wasn't flagged, I think we're in the good. And, especially, as I've said before, we have excellent consultants and that's why we pay the money we do to make sure that we're staying legal."

**Council President Weddell** said it's important to keep in mind that even though people are focusing on the current developer and what he plans to do, the project also would produce additional benefits.



**Council President Weddell** said: "This project, the infrastructure, allows the city to grow into the future with other developments, other projects, which we don't know what they are yet. And I remember at least a month and a half ago, the previous Mayor, Allan Kauffman, came and explained to this council that this is the way that a city grows and without that, we don't have the financial capability to put the infrastructure in ourselves. And without this opportunity, we become stagnant. That's not a good thing"

**Mayor Stutsman** responded, "And growth can be a good thing, but it can also be painful along the way as we work through all the issues."

**City Redevelopment Director Hutsell** expressed her support for the ordinance, adding "I will concur that for the immediate subdivision that's being approved, it's 313 acres – 150 (acres) of it are the immediate desire of the developer. That leaves over 150 acres for something else. There are no immediate plans for that. Beyond that, the infrastructure extends far beyond that. It could allow for additional residential development, industrial development, and commercial development. We don't know what that looks like in the future. For today, we don't know, but it gives us the opportunity. It puts the infrastructure in the ground to allow us to grow."

**Councilor King** responded to the characterization offered by Council President Weddell about growth and stagnation. She said: "I just would object somewhat to that characterization because I support growth. The question, people who have struggled with this particular project, is it's not because they're against growth. It's against certain kinds of growth and when is it appropriate, and where does the city leverage its resources. So, I want to make that clear. I don't accept that this is a vote about growth or stagnation."

**There were no further public comments, nor further questions or comments by Council members, Council President Weddell said the Council was ready to vote.**

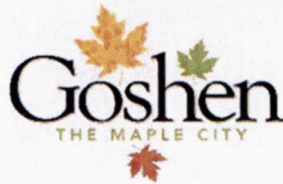
**Mayor Stutsman called for a roll call vote on Ordinance 5105, as amended, on Second & Final Reading. The motion passed 5-1, with Councilors Eichorn, Nisley, Riegsecker, Schrock and Weddell voting "yes" and Councilor King voting "no." Youth Advisor Mora also voted "yes."**

#### **Elected Official Reports:**

**Mayor Stutsman** said that Professor Duane Stoltzfus of Goshen College was present along with his journalism class. The Mayor said he meets every year with the students earlier in the day to discuss how city government operates and then they attend that evening's council meeting. The students have a midnight deadline for writing a story about the meeting. The Mayor welcomed the students to the meeting.

**Council President Weddell** said the Redevelopment Commission met and Councilor King was present. He said Jason Semler of Baker Tilly did his annual presentation of information for all of the local governing bodies. Invitations were sent to all of the taxing units in the area. Council President Weddell said more information will be presented about this later. He also said the Redevelopment Board staff has presented recommendations about potentially creating some TIF districts for multi-family or residential housing, which is something the Mayor is interested in and other communities have been doing. Council President Weddell said the Redevelopment Commission is perhaps moving slower than the Mayor would like.

**Mayor Stutsman** said it's not moving too slowly. **Council President Weddell** said the Mayor just wants to keep the process moving. Council President Weddell said residential housing availability is an issue in Goshen. Mayor Stutsman said it's new for Goshen to consider doing this. He said many communities are looking at doing this now. He said housing is an economic development tool to help attract people to the jobs that are being created.



**Councilor Nisley** said the City Board of Aviation met on Monday. Nisley said Freedom Fest was approved for an air show next summer. He also said maintenance is needed on some airport buildings and that the Board of Aviation will be seeking the Council's support. "I encourage that we give it to them," Nisley said.

**Councilor Eichorn** said she attended a meeting of the City Community Relations Commission (CRC). Eichorn said a workshop was conducted on setting priorities. She said Youth Advisor Mora was present and that he made good contributions. Eichorn said the CRC is continuing to work on the proposed "Sundown Town" marker, but she does not know when that work will be completed. Eichorn also said the council will need to make two appointments to the CRC, so members of the public are invited to apply.

**Councilor Schrock** said he attended last night's Parks and Recreation Board meeting via Zoom. He said the Parks Department's maintenance facility on South 10<sup>th</sup> Street has been approved and construction may begin as early as spring 2022. Schrock said Abshire Park will install a 300-foot water slide on the sled hill for next summer. He said it will be 12 foot wide and eight feet tall. Schrock said it will attract people to the park who wouldn't normally visit during the summer. Schrock also said he attended his first Board of Works meeting on Monday. He said two major infrastructure upgrades are planned in his district – the Indiana Avenue construction, between Pike Street and Chicago Avenue, with a possible bicycle trail connection, and the Wilden Avenue construction, from North 6<sup>th</sup> Street to Rock Run Creek. Schrock said the projects are moving forward and he's glad to see them. He said such neighborhood projects do more than just produce physical improvements. Schrock said: "For the residents and businesses impacted by these upgrades, it may change the perception of the City to a more positive one." He thanked all involved for making the projects possible in the Third District.

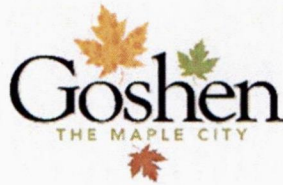
**Youth Advisor Adrian Mora** commented on Clerk-Treasurer Aguirre's earlier statement that he was unaware the City's sewer-only customers could have a meter installed on their water wells and reduce the cost of their sewer service. Mora asked how the City could spread that and similar information to residents.

**Mayor Stutsman** responded that he assumes new sewer-only customers are advised of their options when they sign up for service, but that this may not have been the practice in the past. The Mayor said it may make sense for older customers to be notified of their options. The Mayor said Mora raised an excellent point.

**Councilor Schrock** asked if that information could be printed on bills or invoices mailed to customers.

**City Water and Sewer Office Manager Kelly Saenz** said the invoices are printed by a contractor and could not be easily modified. Still, Saenz said some of that information is on the City's website and that customers can always get information during office hours. Saenz said it would be good to further disseminate this information. **Mayor Stutsman** said the information could be included in the "Maple City Now" newsletter and also could be sent to the 300 or so affected customers through a direct mailing.

**Mayor Stutsman** also discussed the good budget management of **Police Chief José Miller** and other department heads. The Mayor reminded Councilors that last year police contract negotiations were finalized after the 2021 budget was approved. Because of the outcome of the negotiations, the Council was advised that the City had under-budgeted several of the personnel account lines and that the Police Department might need an additional appropriation in 2021. However, Mayor Stutsman said that due to way Chief Miller handled the budget this year, by shifting funds between accounts, the Police Department won't need an additional appropriation. In fact, the Mayor said, Chief Miller has done such a good job managing the budget, the Police Department will return funds to the City. Mayor Stutsman said he wanted to mention this as an example of the many City department heads who are always working hard to make sure they are returning at least 5% of their budgets to the General Fund every year. The Mayor said the City's department heads are managing funds well for the taxpayers and the Council.



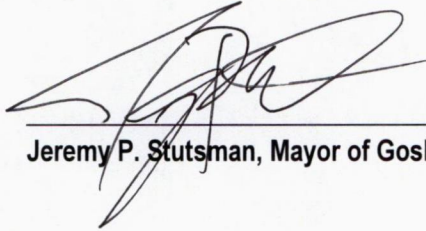
**Youth Adviser Mora** said he also wanted to mention that the Parks Board was considering an idea to add wind chimes at parks as a way to facilitate meditation. **Councilor Schrock** added that the Board also discussed pickleball, "but I'm not sure what that's all about."

**Adjournment:**

Nisley/King moved to adjourn the meeting. Passed 6-0.

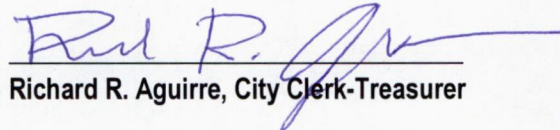
Mayor Stutsman declared the meeting adjourned at 7:01 p.m.

APPROVED:



Jeremy P. Stutsman, Mayor of Goshen

ATTEST:



Richard R. Aguirre, City Clerk-Treasurer