



Goshen Common Council

6:00 p.m. February 7, 2022 Regular Meeting

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

Call to Order by Mayor Jeremy Stutsman

Pledge of Allegiance

Roll: Megan Eichorn (District 4) Julia King (At-Large) Doug Nisley (District 2)
Gilberto Pérez, Jr. (District 5) Donald Riegsecker (District 1) Matt Schrock (District 3)
Council President Brett Weddell (At-Large) Youth Advisor Adrian Mora (Non-voting)

Approval of Minutes – January 18, 2022 regular meeting & January 14, 2022 work session

Approval of Meeting Agenda

Privilege of the Floor

1) Ordinance 5115: Amend Ordinance 3011 by Rezoning Real Estate Hereinafter Described, and Commonly Known as 233 S Main Street and 113 W Jefferson Street, from Commercial B-3 District to Commercial B-2 District

2) Resolution 2022-08: Interlocal agreement with Elkhart County for Animal Control Services

3) Ordinance 51: To Establish a Redistricting Advisory Commission

4) Report and discussion on the impact of Storm Landon on the City of Goshen

Elected Official Reports

Adjournment



GOSHEN COMMON COUNCIL

Minutes of the Jan. 18, 2022 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)
 Gilberto Pérez Jr. (District 5) Donald Riegsecker (District 1) Matt Schrock (District 3)
 Council President Brett Weddell (At-Large)

Absent: Youth Advisor Adrian Mora (Non-voting) (arrived late)

Mayor Stutsman asked the Council's wishes regarding the minutes of the City Council's meeting of Jan. 4, 2022. Councilors Eichorn/King moved to approve the minutes of the Jan. 4, 2022 meeting as submitted. The motion to approve the minutes passed 7-0.

Mayor Stutsman presented the agenda of the Jan. 24, 2022 meeting with one addition, designated as agenda item #1: Resolution 2022-02: Opposing Legislation Regarding the Reduction of Business Personal Taxes Without Adequate Replacement of Revenue. Councilors Nisley/Pérez moved to approve the amended meeting agenda. Motion passed 7-0.

Privilege of the Floor:

At 6:02 p.m., Mayor Stutsman invited public comments on matters not on the agenda.

Robert Roeder of Goshen offered comments on the importance of the nation's founding principles and warned of divisions caused by an overemphasis on race as well as socialist ideology. He said he hoped Council members were still living in the afterglow of Martin Luther King Jr. holiday on Jan. 17. In King's honor, Roeder said he wanted to read an excerpt of King's 1963 "I Have a Dream" speech and to read some reflections in an article by Monsignor Charles Pope in the *National Catholic Register*. Roeder read from King's speech as follows:

"When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir. This note was a promise that all men — yes, Black men as well as white men — would be guaranteed the unalienable rights of life, liberty and the pursuit of happiness. It is obvious today that America has defaulted on this promissory note insofar as her citizens of color are concerned. Instead of honoring this sacred obligation, America has given the colored people a bad check, a check which has come back marked insufficient funds. But we refuse to believe that the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great vaults of opportunity of this nation. And so we've come to cash this check, a check that will give us upon demand the riches of freedom and the security of justice. We have also come to his hallowed spot to remind America of the fierce urgency of now."

Roeder went on to quote Monsignor Pope, who wrote about King's speech, *"Note that Rev. King spoke of this land as a "great republic" and of our founding documents as "magnificent words" of "promise." He called the Lincoln Memorial a "hallowed spot." There were none of the current notions of America as existentially racist and fundamentally and irredeemably flawed.*



"The very Declaration of Independence, so maligned now by so many, was not wrong in its words, but in its deployment. The Declaration is glorious and a point of (civil) hope. Its words were a catalyst for America to be what she had always (and will always) aspire to be: a land of equal justice, freedom and opportunity under the law. Today, I fear, we are dangerously far from the colorblind, character-based meritocracy King dreamed of. Increasingly, color is all that matters. If you are person of color, you are oppressed. If you are white, you are privileged. And this means war. The class struggle of the Marxists becomes the race struggle of America. We are better than this, and I am convinced Rev. King knew that and built on that. Our Declaration of Independence and Constitution provided the very basis whereby we were spurred to end slavery, banish segregation and abolish the Jim Crow laws that marginalized African Americans and others. It's true that we have further progress to make, but abandoning our principles is no way to get there. The principle that "all men are created equal" remains true, even though we have not always honored it."

Informed by **Councilor Nisley** that the three minutes members of the public are allowed to speak had elapsed,

Roeder read some verses from "America The Beautiful" and concluded by saying, "God Bless America!"

After good-natured comments about wearing a T-shirt promoting Cycle Works, which is owned by Councilor Schrock,

Glenn Null of Goshen said he appreciated the City's snow removal services. He said the work didn't go perfectly, but staff did a good job. He expressed the hope their services wouldn't be needed again until next December. Null said the bottom line was that City employees did OK. Null said he has friends from Georgia who wished their community had a quarter of the City of Goshen's snow-removal equipment.

There were no further public comments, either from those in the council chamber or via Zoom, so the Mayor closed Privilege of the Floor at 6:08 p.m.

1) Resolution 2022-02: Opposing Legislation Regarding the Reduction of Business Personal Property Tax without Adequate Replacement of Revenue

Mayor Stutsman called for the introduction of Resolution 2022-02, which was added to the agenda (*EXHIBIT #1*).

Council President Brett Weddell asked the Clerk-Treasurer to read Resolution 2022-02 by title only, which was done.

Weddell/Eichorn moved for passage of Resolution 2022-02.

Background: Resolution 2022-02 described the impact to the City of Goshen of a proposal before the Indiana General Assembly and established the Common Council's position on that legislation. The state House and Senate are considering changes to the depreciation floor and other aspects of Indiana's business personal property tax.

The resolution stated: the personal property tax is a relied upon method for funding local government; for taxing units not at the caps, a reduction in the tax base could result in property owners paying more in residential property taxes; for those communities at the caps, any phase out of the business personal property tax means a loss in revenue for local units of government; Business Personal Property Tax distributions to local units of government exceed \$1 billion; the Tax Foundation 2022 State Business Tax Climate Index lists Indiana as number one ranking for property tax; and Indiana consistently ranks in the top states with an attractive business tax climate, yet a community's quality of life is an increasingly greater influencer of business relocation and growth decisions.

As for the potential impact of the personal property tax elimination, Resolution 2022-02 stated that: the City of Goshen would lose an estimated \$2,943,805.00 in tax revenues (17% of its tax base) and significantly reducing the business personal property tax would have a dramatic impact on the City of Goshen's ability to repay tax increment financing bonds because a significant portion of the revenue backing the bonds comes from personal property taxes."

Resolution 2022-02 resolved that the Common Council "opposes all legislation that contemplates eliminating any portion of the business personal property tax without full and permanent replacement guaranteed by the state."



Further, it stated that “any contemplated revenue replacement must be a source of revenue that continues to grow over time, just as a property tax base would, in order to allow growing communities to meet the demand for services.”

Mayor Stutsman thanked Councilors for adding Resolution 2022-02 to the agenda. He said the Indiana General Assembly’s proposal to change the business personal property tax was discussed this morning by the executive committee of Accelerate Indiana Municipalities (AIM) and has also been a subject of discussion since last fall.

Mayor Stutsman provided information to Councilors from a PowerPoint slide presentation, “City of Goshen, Indiana Illustrative Impact of Personal Property Elimination, November 10, 2021 by Baker Tilly Municipal Advisors” (*EXHIBIT #2*, which was distributed at the meeting. The Mayor said Baker Tilly concluded that eliminating the personal property tax would have a negative financial impact on the City of Goshen.

Mayor Stutsman said AIM leaders was encouraging City Councils to pass resolutions opposing changes in the business personal property tax, without adequate replacement state revenue, before February to bolster its efforts. The Mayor said the resolution does not state that the business personal property tax is either good or bad, nor that it should be kept or eliminated. Instead, he said the resolution focuses on the funding that cities receive from the tax and that if it is eliminated, the General Assembly should provide adequate replacement revenue.

Referring to the Baker Tilly report, **Mayor Stutsman** said that if the business personal property tax was eliminated, in 2023, the estimated revenue loss to the City of Goshen would be about \$3 million, or 17% of the City’s tax base. He said these revenues go into the General Fund. The Mayor said the City’s two largest departments, Police and Fire, make up 61% of the General Fund. So, the Mayor said a 17% revenue loss would likely prompt drastic budget cuts.

Mayor Stutsman said other Northern Indiana mayors oppose changes in the business personal property tax without replacement revenue. He said that when the General Assembly eliminated property tax caps, lawmakers promised replacement revenue for cities like Goshen that lost revenue, but that never was provided. Mayor Stutsman said the City of Goshen loses about \$2.6 million in revenue every year because of the tax caps. Although the City has adjusted to that loss, the Mayor said losing another \$3 million a year would be very difficult.

Mayor Stutsman said he brought Resolution 2022-02 to the Council for discussion and in hopes of its passage. He said he contacted three Councilors before the meeting and informed them he would be proposing the resolution. The Mayor offered to answer any questions.

Councilor Eichorn thanked the Mayor for the report from Baker Tilly about the potential revenue loss from the elimination of the business personal property tax. She asked if the potential impact on schools was known and whether schools would need to seek replacement funding through more referendums. **Mayor Stutsman** said he knows there will be an impact, but didn’t know the extent of the losses. He said the overall statewide reduction of revenue if the tax was eliminated would be about \$1 billion, with the majority of revenue losses to townships, cities and counties.

Councilor Eichorn asked if state lawmakers were proposing the elimination of the business personal property tax without replacement revenue or with revenue replacement. **Mayor Stutsman** said there are many proposals and approaches being considered by the House and Senate and the Governor’s Office ranging from removal of the tax with no replacement to the tax’s removal with replacement revenue. Mayor Stutsman said it’s hoped that local resolutions, such as Resolution 2022-02 will have impact on the General Assembly. He said local communities are not asking for extra taxes but just that the General Assembly not eliminate the tax without replacement revenue. He added that some communities would face an even larger revenue loss than Goshen.

Councilor Eichorn asked about the primary motivation by those who want to eliminate the business personal property tax. Mayor Stutsman said that wasn’t clear.



Mayor Stutsman said Indiana already is ranked as one of the most business-friendly states and one with low property taxes. He also said that although the Indiana Chamber of Commerce was supporting the elimination of the business personal property tax, it wasn't actively pushing it. He added that **Goshen Chamber of Commerce President & CEO Nick Kieffer** might be able to clarify the state Chamber's position.

Kieffer said the state Chamber was supporting the elimination of the tax. **Council President Weddell** said it was his understanding that the Indiana Chamber wants to make Indiana even more business friendly and that the business personal property tax is one of last roadblocks to bringing new companies and businesses to the state. He said of Indiana's surrounding states, only Kentucky also has this tax. Council President Weddell also said the Indiana House is pushing for elimination of the tax, but the Senate has reservations.

Councilors King and Weddell asked about the impact of the elimination of the tax on bonds. **Mayor Stutsman and Deputy Mayor Mark Brinson** said they didn't believe there would be much of an impact because most current bonds are not backed by personal business taxes. Brinson added that this could be done, but hasn't in the City of Goshen.

Councilor Pérez commented on the various proposals being discussed by the House and Senate.

Mayor Stutsman made additional comments about Baker Tilly's analysis of the projected revenue loss to the City.

(NOTE: At 6:19 p.m., Youth Adviser Adrian Mora arrived.)

In response to questions from **Councilor Riegsecker**, **Mayor Stutsman** provided further information about the financial impact of a 17% revenue loss on the Police and Fire Departments. The Mayor said the City expects to receive tax receipts of \$23 million, so eliminating the business personal property tax would drop that to \$20 million. He said property taxes make up the lion's share of the City's General Fund and will bring in about \$14 million in 2022. He said the City also receives excise taxes, alcohol beverage and cigarette taxes and local income taxes. Mayor Stutsman said it costs the City about \$14.7 million to pay for Police and Fire services, so one could say that the equivalent of all of the city's property taxes pay for Police and Fire services. The Mayor said the balance of all other taxes received pays for all other City services.

Mayor Stutsman said the Council is scheduled to meet again on Feb. 7, which would be before the Indiana Senate is expected to vote on the tax proposal, but after the House will have already voted. **Councilor Pérez** said it appeared that the House was scheduled to vote on Jan. 25. **Councilor King** said it would be a powerful message if the Council passed this resolution.

Mayor Stutsman said that if the Council was not comfortable voting on Resolution 2022-02 tonight, he could bring it back for consideration on Feb. 7.

Council President Weddell said that as a small business owner, he would love to see the tax eliminated but as a City Council member and understanding budgets, it is important to acknowledge that one cannot just pull 17% from the City's budget without some impact. He said it would be a different situation if there were not property tax cuts and the City was flush with money and wasting money. Council Weddell said some may contend that is the case, but there should be some explanation as to what the City should do if the business personal property tax is eliminated.

Councilor Eichorn said it was irresponsible for state lawmakers to consider eliminating the tax without consideration of some replacement revenue.

Councilor King said her husband is also small business owner and they have discussed the proposal and he isn't looking for this tax relief because if it hurts the City, it won't be helping his business.

Mayor Stutsman said he has spoken to several small business owners in the City as well as some large business owners and they all favor eliminating the tax. However, the Mayor said business owners also want to live in a community with good roads and other City services for their employees.



Councilor Riegsecker said he believed Resolution 2022-02 was written OK. Riegsecker said he wants to help businesses as well and to attract new businesses by eliminating personal property taxes if there is a permanent replacement of revenue guaranteed by the state. He said he would be hesitant to support the proposal without that provision. **Councilor Nisley and Mayor Stutsman** agreed with Councilor Riegsecker.

Asked by **Councilor Pérez** what he wanted the Council to do, Mayor Stutsman said he would like the Council to act tonight to either approve or table Resolution 2022-02.

At 6:25 p.m., Mayor Stutsman invited public comment on Resolution 2022-02.

Goshen Chamber of Commerce President & CEO Nick Kieffer said he believes the Indiana Chamber of Commerce is supporting a gradual phase-out of the tax over seven to 10 years. He said state Chamber leaders believe that if the tax is eliminated, companies will invest in more and newer equipment and that will bring more money into communities. Kieffer said that response was given by Chamber leaders when he asked how communities could maintain a good quality of place if tax revenue was eliminated.

Former Council member Jim McKee asked if the tax would be eliminated over 10 years. He said doing so over that period of time would not be too bad.

Councilor Schrock asked if the current proposal would result in an immediate loss of \$3 million in personal business property tax revenue in a year to the City of Goshen. **Mayor Stutsman** said the state Chamber favors a gradual elimination of the tax, but it isn't known what state lawmakers will do. The Mayor and Councilors commented on the impact of an immediate vs. gradual loss of revenue to the City budget.

Councilor Schrock asked if Councilors were being asked to support the tax elimination without knowing if it will be phased in or not. **Mayor Stutsman** said he believes the City Council should request replacement funding from the state, whether that is for a sudden or gradual loss of tax revenue.

Glenn Null of Goshen criticized state lawmakers for taking action without considering the impact on local communities. Null said that if the City cannot afford to fix its roads, business would not want to use local roads. Null said politicians, from library boards to the White House, cannot be trusted. Null said state lawmakers like to take action and force communities to deal with the impact, and this leads to mistrust. Null said the City should stand up for its position.

Pamela Weishaupt of Goshen said business investments in new equipment won't serve her well if she needs a police officer or other city services. She said she doesn't care about business investments in new equipment and agreed with Glenn Null about the need for good roads. Weishaupt asked Councilors to support Resolution 2022-02 and to call on state lawmakers to provide replacement revenue.

There were no further public comments, so Mayor Stutsman closed the public comment period at 6:32 p.m.

There were also no further comments from the Council and Councilors affirmed they were ready to vote.

On a roll vote, councilors approved Resolution 2022-02 by a 7-0 vote, with all members voting "yes." Youth Advisor Adrian Mora also voted "yes." Mayor Stutsman thanked Councilors for their support.

2) Ordinance 5113 (1st/2nd Reading): City of Goshen Cemetery Fees

Mayor Stutsman called for the introduction of Ordinance 5113 on First Reading. **Council President Weddell** asked the Clerk-Treasurer to read Ordinance 5113 by title only, which was done.



Weddell/Pérez moved for passage of Ordinance 5113 on First Reading.

(Note: At 6:34 p.m., and after the introduction of Ordinance 5113, Council President Weddell stated that he had to leave for a family obligation, leaving six voting members of the Council. Council President Weddell apologized for leaving early and said that he supported the three remaining items on the agenda.)

Background: The Board of Cemetery Trustees asked the Common Council to add a new fee for burial services scheduled on a City-observed holiday with that fee to be the same as the fee for burial services scheduled on Saturday afternoon. In addition, the Board requested a new, reduced fee for the burial of cremated remains of more than one person with the remains of another person. This new fee would not apply to scattering. The normal burial fee would be charged for the first person, and one-half the normal fee would be charged for burial of the cremated remains of each additional person.

Due to the nature of the revisions to incorporate these requested new fees, the City Legal Department prepared a new Ordinance 5113 with a consolidated fee schedule attached to the Council packet as Exhibit A. Ordinance 5113 would repeal and replace Ordinance 4915, as amended by Ordinance 5018. The cemetery fees as previously adopted by Ordinance 4915, as amended by Ordinance 5018, increase each year on January 1 through 2025. There are no changes to these fees, but the Legal Department removed the fees for years 2017 through 2021 from the Exhibit.

Language for the new fee for interment, entombment, inurnment or scattering services scheduled on a City-observed holiday was added as the last three sentences under the heading DAYS AND TIMES OF SERVICES on page 4. Additionally, the phrase "and a City observed holiday" has been added in nine places in Exhibit A following the phrase "Saturday 12 p.m. and after, but before 3 p.m." A new paragraph with the heading BURIAL OF CREMATED REMAINS WITH ANOTHER was added on page 5 for the new, reduced fee for the burial of cremated remains of more than one person with the remains of another person.

City of Goshen Director of Cemeteries Burton Matteson said Ordinance 5113 was proposed by the Cemetery Board and would make changes to two fees. On City holidays, the burial or entombment fee would be the same as that charged on a Saturday afternoon, which is the City's highest rate. In addition, there would be a lower fee to bury two sets of cremated remains.

Mayor Stutsman noted that two Cemetery Board members, **Colin Yoder** and **Jim McKee**, were present.

Mayor Stutsman invited questions or comments from the Council and the public, but no one asked to speak about the fee changes in Ordinance 5113. Councilors indicated they were ready to vote.

On a voice vote, councilors approved Ordinance 5113 on First Reading by a 6-0 vote, with all members present voting "yes." Youth Adviser Mora also voted "yes."

Councilors gave Mayor Stutsman unanimous consent to proceed to the Second Reading of Ordinance 5113.

Mayor Stutsman called for the introduction of Ordinance 5113 on Second Reading. **Councilor Nisley** asked the Clerk-Treasurer to read Ordinance 5113 by title only, which was done.

Nisley/Riegsecker moved for passage of Ordinance 5113 on Second Reading.

There were no further questions or comments from the public or the Council, and Councilors affirmed to Mayor Stutsman that they were ready to vote. On a voice vote, councilors approved Ordinance 5113 on Second and Final Reading by a 6-0 vote, with all members present voting "yes."



3) Ordinance 5114 (1st/2nd Reading): An Ordinance to Establish Rules and Regulations for Cemetery Properties in the City of Goshen, Indiana

Mayor Stutsman called for the introduction of Ordinance 5114 on First Reading. Councilor Nisley asked the Clerk-Treasurer to read Ordinance 5114 by title only, which was done.

Nisley/Pérez moved for passage of Ordinance 5114 on First Reading.

Background: Ordinance 5114 would clarify cemetery hours of operation and explicitly prohibit the possession and use of alcohol on City of Goshen cemetery property.

It would specify that no person shall enter or remain in or on any cemetery property after cemetery properties are closed to the public. Cemetery properties are open to the public from dawn until dusk of the same day or until the conclusion of a City of Goshen Cemetery Department approved event, if later. Cemetery Properties would be considered closed to the public at all other times. The prohibition against entering or remaining in or on any cemetery property when cemetery properties are closed to the public would not apply to city streets, highways, bicycle and pedestrian paths, or similar trails traversing cemetery properties. Normal travel on city streets, highways, bicycle and pedestrian paths, or similar trails through Cemetery Property, without the intent to visit or remain on cemetery property, at any time cemetery properties are closed to the public would not be a violation.

Ordinance 5114 also would specify that no person shall possess or consume any alcoholic beverage in or on any cemetery property in the City of Goshen. An alcoholic beverage is defined in the ordinance as a liquid or solid that is or contains one-half percent (0.5%) or more alcohol by volume; is fit for human consumption; and is reasonably likely, or intended, to be used as a beverage.

The City of Goshen would be empowered to enforce violations of the ordinance pursuant to Indiana Code §34-28-5, as amended from time to time, and the City of Goshen Ordinance Violations Bureau. And the ordinance shall be in full force and effect from and after its passage, approval and adoption.

City of Goshen Director of Cemeteries Burton Matteson said that in recent months there has been an increase in activity after dark in the cemeteries, including the consumption of alcoholic beverages. He said neighbors asked the City to do something about it. Matteson said he discussed the matter with Police Chief José Miller and later learned that the City didn't have any ordinances against the use of alcoholic beverages in the cemeteries or prohibiting people from being in the cemeteries after dusk and before dawn, so a new ordinance was requested.

Mayor Stutsman said some of the late night activities in cemeteries has been accompanied by large gatherings, the playing of loud music and the launching of fireworks. He said Ordinance 5114 will allow the Police Department to address the situation and regulate activity in the cemeteries.

Councilor King asked if the City had a broad ordinance against the use of alcoholic beverages on City property. Mayor Stutsman said the City has an ordinance banning alcoholic beverages in City parks, but otherwise doesn't have such a prohibition.

Councilor Riegsecker asked if there were ever any cemetery rules and regulations or whether this proposal was the only one for cemetery properties. **Matteson** said the City has a list of regulations approved by the Cemetery Board, but most of them are not enforced by Police. He said he enforces most of those himself. **Mayor Stutsman** added that the Council would need to approve Ordinance 5114 for the Police Department to enforce these prohibitions.

Councilor Eichorn asked if the people holding cemetery parties are cleaning up after themselves. **Matteson** said those staying late are not doing so. Cemetery staff, he said, are having to clean more messes.

Councilor Schrock asked if there were more problems in in some cemeteries than others. Matteson said the worst problems are at the Violet and West Goshen cemeteries.



Councilor King asked if it would still be possible to be in the cemetery after hours on some occasions. **City Attorney Bodie Stegelmann** said that could be allowed. Stegelmann said the ordinance would not apply to city streets, highways, bicycle and pedestrian paths, or similar trails traversing cemetery properties.

Councilor Eichorn said she may know people who have visited the cemetery after hours. She asked if people would be allowed to visit cemeteries late if they didn't drink alcoholic beverages or play loud music. **Matteson** said post-dusk visits would not be allowed.

Mayor Stutsman said the City recognizes that families want to grieve, but the goal of Ordinance 5114 is to stop problem activity in the cemeteries. He added: "Most of the negative activity we're seeing tends to be gang related. So, we're attempting to get at that. We're not trying to shut families down that just want to be there with their loved ones. But a majority of families don't come out during the dark hours."

Councilor Riegsecker said he understood that people would still be able to gather, and even play music, in cemeteries, but could not do so after hours and drink alcoholic beverages.

At 6:45 p.m., Mayor Stutsman opened a period of public comment on Ordinance 5114.

Tom Rose of Goshen said he has lived for 20 years in the Larimer Village neighborhood and has noticed an increase in problematic activity over the past three years. Rose said that after the burials of young men, their mourners have visited the West Goshen cemetery at all hours and have played loud music and flashed lights. He said in one case, gun shots were fired near his home. Rose said police officers have responded to the cemetery, but the problems have continued. Rose added: "Our concern is the activity there after dark. During the day, hey, have all kinds of celebrations you want."

Jonathan Wieand of Goshen, who also lives in the Larimer Village neighborhood, said he supports Ordinance 5114. He said that those who live adjacent to cemetery are being affected by the problem behavior.

Glenn Null of Goshen said that last spring he and wife began walking through the West Goshen cemetery for exercise. He said there is a lot of day-time activity that is suspicious. Null said Goshen has nice cemeteries with old grave markers that he doesn't want to see damaged. Null said he knows police are stretched thin, but he recommended that officers pass through often and that the City consider installing cameras to monitor and stop suspicious activity. He also said suspicious activity should be reported to police.

As no one else asked to speak, Mayor Stutsman closed the period of public comment at 6:52 p.m.

Councilor Pérez asked Matteson how the City planned to communicate Ordinance 5114 to families. He asked if there was a plan to educate the community about the time and alcoholic prohibitions. Matteson said he some local funeral directors have said they are willing to mention the new rules to families. He said the city also will post some signs and may issue a news release.

Mayor Stutsman added: "We don't want to get in the way of families doing what they need to do, but we need to cut down on the activities that are happening as far as the negative side of things."

Councilor Pérez thanked residents for attending the council meeting and expressing their concerns. He said he was sorry they have had to endure problems at the cemeteries and expressed the hope that Ordinance 5114 along with public education and help from the Police Department will eliminate the problems and keep the community safe.



There were no further questions or comments from the Council. Councilors indicated they were ready to vote. **On a voice vote, councilors approved Ordinance 5114 on First Reading by a 6-0 vote, with all members present voting "yes." Youth Adviser Mora also voted "yes."**

Councilors gave Mayor Stutsman unanimous consent to proceed to the Second Reading of Ordinance 5114. Mayor Stutsman called for the introduction of Ordinance 5114 on Second Reading. Councilor Nisley asked the Clerk-Treasurer to read Ordinance 5114 by title only, which was done.

Nisley/Pérez moved for passage of Ordinance 5114 on Second Reading.

There were no further questions or comments from the public or the Council, and Councilors affirmed to Mayor Stutsman that they were ready to vote. On a voice vote, councilors approved Ordinance 5114 on Second and Final Reading by a 6-0 vote, with all members present voting "yes."

4. Resolution 2022-01: Service Delivery Agreement between County of Elkhart and Goshen Police Department for 2022 Elkhart County Drug-Free Community Funds

Mayor Stutsman called for the introduction of Resolution 2022-01. Councilor Nisley asked the Clerk-Treasurer to read Resolution 2022-01 by title only, which was done.

Nisley/Schrock moved for passage of Resolution 2022-01.

Background: Resolution 2022-01 would approve the terms and conditions of the Service Delivery Agreement between the County of Elkhart and Goshen Police Department for the 2022 Elkhart County Drug-Free Community Funds, a copy of which is attached to and made a part of the resolution. The Police Department applied for and was awarded \$36,900 in grant funds for the purchase of two K9s, K9 vests and equipment for a department vehicle.

Mayor Stutsman provided further information on the request and stated that the Police Department has already identified the two officers who will be assigned the K9s.

Police Chief José Miller said one of the dogs will be assigned to a handler whose current K9 is retiring. He said that it will be a "single-purpose dog which will be for drug use only." Miller said the second dog will allow the department to have a dog per shift and it will be a "dual purpose dog." He added that vests will be purchased for the two dogs and funds also will be used to equip a third police car.

Youth Adviser Mora asked if the grant would cover all of the Police Department's costs for the dogs. **Chief Miller** said the grant would cover all the up-front costs as well as some training. However, he said the Police Department will pay salary and overtime costs for additional required "maintenance training." **Mayor Stutsman** added that the dogs and their handlers are rarely separated; they pretty much live together.

Mayor Stutsman invited comment from the public, but no one asked to speak. There were no further questions or comments from the Council and Councilors affirmed they were ready to vote.

On a voice vote, councilors approved Resolution 2022-01 by a 6-0 vote, with all members present voting "yes." Youth Adviser Mora also voted "yes."

Elected Official Reports:

Councilor King said Downtown Goshen, Inc. will be hosting an educational panel discussion via Zoom, on Jan. 25, on the benefits and barriers of adding more upper-story residential units downtown.

Councilor Megan Eichorn said the City Community Relations Commission is working on a proposal to sponsor an essay contest for students on the Commission's principles. It will be open to students in grades 7-12.



Youth Adviser Mora added that it will be open to all Goshen students, including those attending private schools. **Councilor Schrock** said he wanted to remind the public that there will be another opportunity to comment on the proposal to relocate Interfaith Hospitality Network's homeless shelter to the Merit Learning Center site. He said the City Board of Zoning Appeals will consider it at 4 p.m. on Jan. 25 in the City Courtroom/Council Chamber.

Mayor Stutsman said a news release was issued about a warming shelter being available and there was some confusion about Interfaith Hospitality possibly hosting one. The Mayor said Interfaith isn't sponsoring a low-barrier warming shelter.

Council Schrock thanked all City staff responsible for the Jan. 14 work session on the City's proposed Flood Resilience Plan. He said the session was very informative. **Mayor Stutsman** thanked Schrock for his comment and said that City staff worked hard to prepare for the session. He said next steps are already being discussed.

Mayor Stutsman said he plans to introduce an ordinance on the redistricting of City Council districts. He said it would guide the process and limit the influence of politics. The Mayor said he and **City Attorney Bodie Stegelmann** and **Deputy Mayor Mark Brinson** have been drafting the ordinance and he hopes to bring it to the next Council meeting for discussion. Mayor Stutsman added that **Youth Adviser Mora** will start working next week as an intern in the Mayor's office.

Councilor Riegsecker said he will miss the Feb. 7 Council meeting because he will be on vacation with his two sons. He apologized for missing the meeting and said he will try not to miss any others. **Councilors** responded with humorous comments.

Adjournment:

Councilors Nisley/King moved to adjourn the meeting. Passed 6-0. Mayor Stutsman adjourned the meeting at 7:03 p.m.

EXHIBIT #1: Resolution 2022-02: Opposing Legislation Regarding the Reduction of Business Personal Property Tax without Adequate Replacement of Revenue (added to the agenda)

EXHIBIT #2: City of Goshen, Indiana Illustrative Impact of Personal Property Elimination, November 10, 2021 by Baker Tilly Municipal Advisors (PowerPoint slide presentation distributed at the meeting)

APPROVED:

Jeremy P. Stutsman, Mayor of Goshen

ATTEST:

Richard R. Aguirre, City Clerk-Treasurer



GOSHEN COMMON COUNCIL

Minutes of the Jan. 14, 2022 Work Session on draft Flood Resilience Plan

Convened in the Schrock Pavilion, Shanklin Park, 411 West Plymouth Avenue, Goshen, Indiana

Present: Mayor Jeremy Stutsman

Council members:

Megan Eichorn (District 4)

Julia King (At-Large)

Doug Nisley (District 2)

Gilberto Pérez Jr. (District 5)

Donald Riegsecker (District 1)

Matt Schrock (District 3)

Council President Brett Weddell (At-Large)

City staff:

Deputy Mayor and Community Development Director Mark Brinson

Director of Public Works & Utilities Director Dustin Sailor

Director of Environmental Resilience Aaron Sawatsky Kingsley and Grant Writer & Educator Theresa Sailor

Stormwater Coordinator Jason Kauffman and Stormwater Specialist Mattie Lehman

Planning & Zoning Administrator Rhonda Yoder

Superintendent of Parks & Recreation Tanya Heyde

Christopher B. Burke Engineering, LLC consultants:

Vice President & Principal Engineer Siavash Beik and Director of Planning Sheila McKinley

1) Welcome and opening comments

Mayor Stutsman opened the work session on the City of Goshen's draft Flood Resilience Plan at 9 a.m. The Mayor said it was an important topic of discussion and that past floods in Goshen have proven the seriousness of the situation facing the City. He said the problem won't be solved easily, but he would like decisions made that minimize disruptions. Mayor Stutsman thanked **Director of Environmental Resilience Aaron Sawatsky Kingsley** and his staff for putting together today's program. He concluded by wishing **Councilor Eichorn** a happy birthday.

Sawatsky Kingsley thanked the Mayor for his comments, the Parks Department for hosting the work session and staff members who developed the day's program. He also asked the consultants from Christopher B. Burke Engineering, LLC to introduce themselves. They were **Vice President and Principal Engineer Siavash Beik and Director of Planning Sheila McKinley**.

Sawatsky Kingsley began a PowerPoint slide presentation, "Flood Resilience Plan." (**EXHIBIT #1**)

Sawatsky Kingsley named the members of the Flood Resilience Plan Project Team. Besides himself and Mayor Stutsman, they are: Rhonda Yoder, Planning & Zoning Administrator; Mark Brinson, Community Development Director; Dustin Sailor, Public Works Director; Jason Kauffman, Stormwater Coordinator; Mattie Lehman, Stormwater Specialist; Theresa Sailor, Environmental Educator; David Gibbs, Street Commissioner; Julia King, City Council member; Matt Schrock, City Council member; and Jennifer Tobey, Elkhart County Emergency Management. He noted the presence today of all of the project team members except for Gibbs and Tobey.

Sawatsky Kingsley stressed the importance of the work facing City leaders and said it was crucial for the community to be prepared for floods. He said the work session was an important step in developing a Flood Resilience Plan and that it will be an involved process that will require good Council and community input.



2) Review of past floods and climate change

Stormwater Coordinator Jason Kauffman said that the Stormwater Department's first-ever Stormwater Report, covering 2021, was nearing completion. He said he was working closely with Stormwater Specialist Mattie Lehman to evaluate flooding in Goshen and planned to provide background on the issue.

Kauffman began a new PowerPoint slide presentation, "Assessing Flood Vulnerability in Goshen, January 14, 2022, City of Goshen Stormwater Department." (*EXHIBIT #2*)

Kauffman discussed the last major flood in Goshen, in February 2018. He displayed photos showing the severity of the flooding, discussed the impact on residents and shared memories. He said the flooding occurred because mild temperatures and rainfall occurred after 12 inches of snow fell in the City. **Kauffman** said the Elkhart River crested at 12.5 feet, flooding nine major roads and many businesses and homes.

Despite being considered one of the City's worst floods, **Kauffman** said the February 2018 flood may not have been the worst one in Goshen. He showed a photo of an 1892 flood with water spread over a larger area than in 2018.

Kauffman said there was another major flood, in 1908, that was caused by the failure of a dam.

Kauffman next displayed a slide describing major historical flooding events in Goshen. He said that ever since the U.S. Geological Survey (USGS) installed a river gauge near the North Indiana Avenue Bridge in 1924, Goshen has experienced many flood events, including four major floods since 1982. He said each has been unique, depending on the time of year, the weather and other factors, but each has had economic impact.

Stormwater Specialist Lehman said that over the years, powerful tools have been developed to assess a community's vulnerability for floods, so there is a better understanding of risks. She displayed color maps developed by the Federal Emergency Management Agency (FEMA) showing a relatively low annual chance of flooding by the Elkhart River, expressed by percentage. A companion slide showing the same areas and a 30-year chance of flooding showed that there was a 95% chance of flooding in many areas.

Lehman showed a climate change vulnerability assessment developed with the Great Lakes Integrated Sciences and Assessments (GLISA). It encompassed five major elements: Regional Climate Predictions; Social Vulnerability Indicators, Landscape Features, Assessment Locations, and a Final Matrix. **Lehman** described each and then discussed the City of Goshen's potential flood risks based on the five major elements.

Lehman said the most vulnerable area in the City is northeast Goshen. She said some of the most affordable areas are most at risk because they have drainage issues, but potential flooding is an issue throughout the City. **Lehman** described the adaptive potential of areas to minimize flood risk, the impact of landscape features, including soil types and elevation. She discussed vulnerable infrastructure, including roads, water and sewer treatment facilities. **Lehman** said there was no practical way to address flood risks to areas such as Linway Plaza, but that action can be taken to minimize risks for other vulnerable areas. **Lehman** ended her presentation by showing a slide with an aerial photo of Shanklin Park during the February 2018 flood.

Mayor Stutsman pointed out that the only part of Shanklin Park that didn't flood in 2018 was the swimming pool.

3) Overview of flood resilience planning areas and strategies

Sawatsky Kingsley said **Kauffman** and **Lehman** had addressed the historical background and the City's vulnerability and that the Flood Resilience Plan was designed to address the risks.



Sawatsky Kingsley said the City's consultants from Christopher B. Burke Engineering, LLC would further describe the issue from national and state perspectives and offer possible solutions.

Using the PowerPoint that Sawatsky Kingsley used at the start of the meeting, **Vice President and Principal Engineer Siavash Beik** and **Director of Planning Sheila McKinley** presented a wide range of information.

Siavash Beik said the National Climate Change Assessment shows that substantial climate changes have taken place, including an increase in rainfall in the Midwest. He said a greater number and severity of extreme weather events are expected. He said Indiana's Climate Change Assessment is showing that there will be more rainfall and intense storms producing more water and less soil absorption because of increased development; so there will be higher levels of runoff, more water flowing into rivers – and more flooding.

Siavash Beik said communities cannot do much to control rainfall, but they can do something about land use policies to minimize runoff and they can do something about flood control. Moving forward, he said communities can take three basic approaches:

1. Mitigation – Secure major funding, allocate and spend the ever-increasing necessary funds to try to reduce the flooding.
2. Adaptation – Adapt to these unavoidable climate change impacts by adopting and implementing appropriate flood resilience strategies.
3. Do nothing/Status quo – Suffer the consequences and brace for more devastation and economic uncertainty.

Siavash Beik said the approach he recommended was Flood Resilience Planning, which he described as:

- (The) Ability to prepare for, absorb, recover from and adapt to adverse flood events;
- Define flood resilience areas and adopt smart growth strategies.
- Support natural and beneficial floodplain function – leave room for the river.

Siavash Beik said this is a new approach that allows development to continue, and even be promoted, but with less risk. This is accomplished using a two-pronged approach: Use land-use planning policies to direct growth to areas less vulnerable to flooding; and identify and implement projects to protect those already vulnerable to flood risk.

Siavash Beik said to effectively fight a fire, experts isolate the area and stop the spread to new areas and then put out the fire. He said it is best to use the same approach when it comes to flooding: vulnerable areas should be isolated to stop greater risks from spreading and then the underlying problems should be addressed.

Siavash Beik displayed a PowerPoint slide titled "Flood Resilience Planning Areas," which showed a map of the city with flood-prone high hazard, moderate hazard and safer areas. He described how the map could be used for planning purposes. He also answered questions about it.

Siavash Beik then reviewed these six major recommendations to address the City's flood issues:

1. RIVER CORRIDOR IMPACT AREA

To conserve land and prohibit development.

RECOMMENDED ACTION:

1. Adopt fluvial erosion hazard (FEH) regulations
2. Protect undeveloped land

2. UNDEVELOPED HIGH HAZARD/FLOOD STORAGE AREA

To conserve land and maintain the natural and beneficial function of the floodway fringe; discourage future development.



RECOMMENDED ACTION:

1. Protect undeveloped land in the floodway fringe
2. Establish compensatory floodplain storage requirement

3. MODERATE FLOOD HAZARD AREA

To highlight areas subject to flood risk during extreme flood events, to avoid placement of critical facilities, and preserve these areas as additional flood storage.

RECOMMENDED ACTION:

1. Discourage new development, especially critical facilities
2. Require higher standards for buildings

4. VULNERABLE DEVELOPED AREA

To protect people, buildings and facilities vulnerable to flooding and reduce future flood risk.

RECOMMENDED ACTION:

1. Prepare a Flood Response Plan
2. Prepare a citywide Stormwater Master Plan
3. Participate in the National Flood Insurance Program (NFIP) Community Rating System (CRS) program
4. Relocate and/or buyout structures inside the river corridor impact area
5. Retrofit, relocate and/or buyout structures outside the river corridor area
6. Bring nonconforming uses into compliance

5. SAFER AREA

To plan for and promote development in areas that are less vulnerable to future floods.

RECOMMENDED ACTION:

- Guide growth and development to safer areas
- Promote conservation design and development
- Promote placement of critical facilities in safer area.

6. WATERSHED AREA

To promote coordination and partnerships and implement practices to slow, spread and infiltrate floodwater.

RECOMMENDED ACTION:

- Support USGS stream gauges
- Build partnerships within the watershed
- Support SWCD programs
- Reduce impact from tile and surface drains in the watershed

Siavash Beik also briefly discussed some citywide recommendations as follows:

OVERALL STRATEGIES

To improve resiliency citywide. Emphasize importance of syncing plans, policies and regulations for consistency of resilience concepts and strategies.



RECOMMENDED ACTION:

1. Update Stormwater Ordinance and conduct training
2. Improve flood risk communication and education
3. Conduct regular audits of plans, programs and policies
4. Update City Code and Zoning Ordinance
5. Update the stormwater utility fee
6. Integrate resilience into the Comprehensive Plan
7. Include flood resilience in capital projects
8. Implement the Multi-hazard Mitigation Plan flood mitigation measures

Councilor Riegsecker asked **Siavash Beik** what had a greater impact on flooding – rain or snow. Beik said both had an impact, but especially rain falling rapidly after a major snowfall. Riegsecker acknowledged that there has been a climate change, noting that having lived in Goshen for many years, he remembers snow falling in November and lingering for months. He said that rarely happens any more.

BREAK: There was a break in the work session from 10:07 a.m. to 10:19 a.m.

Referring to Councilor Riegsecker's comment before the break, **Director Sawatsky Kingsley** said Roger Taylor, a long-time parks employee has recalled that on his first day on the job, in November 1976, before Thanksgiving, one of his first jobs was to shovel snow off the frozen Millrace Pond. He said that in order for the pond to have frozen, there must have been several weeks of below-freezing temperatures. **Sawatsky Kingsley** said that's no longer the case and part of the new reality for the City.

4) Detailed discussion of short-term implementation strategies

Sheila McKinley, Director of Planning for Christopher B. Burke Engineering, LLC, discussed her work for the City, including the development of a Goshen Flood Resilience Plan Implementation Guidance, a five-page document that is part of the City of Goshen Flood Resilience Plan. Copies were distributed at the work session (**EXHIBIT #3**)

McKinley said a model storm water ordinance would have three strategies:

1. Update Stormwater Ordinance and Technical Standards
2. Adopt fluvial erosion hazard (FEH) regulations
3. Adopt compensatory flood storage requirements

McKinley described **Fluvial Erosion Hazard Area regulations** as follows:

- (A) New primary building are not allowed to be constructed in FEHAs
- (B) Improvements to existing structures, and any associated fill as needed to comply with elevation requirements in the SFHA shall not decrease the distance between the existing structures and the top of bank and must comply with all compensatory flood storage requirements
- (C) Development shall not increase the potential for fluvial erosion damage on the property or on neighboring properties



(D) Development shall not increase the potential of materials being swept onto other lands or into stream and causing damage to other properties from fluvial erosion

(E) Development shall not cause an undue burden on public services and facilities including roads, bridges, culverts and emergency service providers during and after fluvial erosion event

McKinley described Compensatory Flood Storage as follows:

Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.

Deputy City Manager Mark Brinson asked where this might take place. **Siavash Beik** said it ideally would take place on the site being developed or upstream.

McKinley described Landscape Standards as follows:

1. Adopt tree mitigation and tree replacement requirements;
2. Promote use of native plants;
3. Allow vegetated stormwater practices to count toward landscape requirements.

McKinley said another promising strategy would be requiring tree replacement or contributions to a tree fund. She described that as follows:

1. Tree replacement ratios:
 - a. 1 to 1 tree replacement to removal for trees that are at least 5 inches DBH, but less than 16 inches DBH;
 - b. 2 to 1 tree replacement to removal for trees that are at least 16 inches DBH, but less than 24 inches DBH;
 - b. 3 to 1 tree replacement to removal for trees that are at least 24 inches DBH, but less than 30 inches DBH;
 - c. 4 to 1 tree replacement to removal for trees that are at least 30 inches DBH.
2. [specifies location, minimum caliper and/or height, native species]
3. In lieu of replacement, applicant shall pay \$200 per replacement tree to Tree Fund; maximum payment is \$10,000 per project

McKinley said it was important to diversify species when planting trees. She also Goshen could require the planting of native species.

In response to a question from **Councilor Eichorn** about the type of plantings desired, **Director Sawatsky Kingsley** said it's important to continually update lists of desired plantings. He said new maps were created three years ago with that in mind. **Mayor Stutsman** said a healthy system requires a diversity of plantings.

Councilor Riegsecker asked how requiring the planting of trees elsewhere, if they could not be planted on the site of a new development, would be beneficial. **Sawatsky Kingsley** said that if mature trees are removed for new development, replacing them with small trees results in a loss from the benefits mature trees provided. It could take several decades for the trees to grow and restore those benefits.

Councilor Riegsecker said he loves trees and understands about the value of replacement, but is unclear about the benefits of replacing them as part of flood resiliency. **Mayor Stutsman** said that there is a loss of benefits when mature trees are removed from a site, but putting them elsewhere could still be helpful. **Sawatsky Kingsley** said trees absorb and slow the flow of stormwater.

Councilor King asked if it is known which areas of the City would get new trees. **Sawatsky Kingsley** said his department is working to identify places that could become tree reserves.



Councilors Schrock, Pérez and Riegsecker continued the discussion about the removal and replacement of trees and how this might be accomplished. **McKinley** said planting trees in the right places is beneficial to water quality. **Councilor Schrock** asked if trees will be planted to replace those removed on Wilden Avenue. **Director of Public Works Dustin Sailor** said they would, but that this issue raises the longstanding conflict between maintaining the right-of-way to accommodate infrastructure and promoting more trees. He said the trees along Wilden Avenue grew and eventually destroyed sidewalks. And at present, he said, there is a narrow area to replant trees.

Councilor Pérez asked if that area was vulnerable to floods and whether replacement trees could be planted elsewhere. **Sawatsky Kingsley** said Sailor's point was correct and this comes down to the kind of development the city needs. He said the Wilden Avenue area isn't subject to flooding, but an area further east is vulnerable. Still, he said that without an adequate tree canopy, less rain water will be contained and there will be greater runoff.

Councilor Pérez said the City needs to create incentives to capture more water and that it is good to encourage more tree planting.

Councilor Riegsecker said it will be important to balance the need for flood mitigation while also facilitating development.

Councilor King said City leaders also need to think holistically. She said the City shouldn't do something in one area that will hurt something else. King said the City needs both a good tree canopy and good sidewalks. **Mayor Stutsman** agreed, pointing out that development that is good in one area could hurt another area.

McKinley said that implementing planning changes will require hard decisions. **Siavash Beik** said this discussion was good and has identified some of the key issues facing the City. He said often new regulations are perceived as hurting development and posed as harsh choices. However, he said if a community doesn't want a developer to pay flood mitigation costs, taxpayers eventually will pay for the negative impacts of that development when flood occur.

Mayor Stutsman said Goshen has imposed requirements in the past, but doesn't want to stop development. He said the City previously didn't do enough about flood control and it now must deal with the risks. The Mayor said taxpayers will have to pay some more, but it needs to be a balancing act.

McKinley continued her presentation by discussing four more short-term implementation strategies:

FLOOD CONTROL DISTRICT

1. Update flood resilience planning areas based on updated FIRM information

REDEVELOPMENT

1. Promote growth and development in safer areas
2. Consider climate change and flood impacts in capital projects; promote low impact development and green infrastructure

COMMUNICATION, EDUCATION & TRAINING

1. Train city stormwater inspection staff about green infrastructure practices
2. Develop a flood risk education and outreach program

PLANS, PROGRAMS & STUDIES

1. Update the stormwater utility fee
2. Incorporate flood resilience planning areas into the proposed Future Growth Plan
3. Prepare a Flood Response :Plan
4. Prepare a Stormwater Master Plan



Next, **McKinley** presented a slide titled “**Indiana Stormwater Utilities Monthly SFR Fees and Fee Types.**” The slide described the monthly single-family residential (SFR) fees charged to customers in 95 Indiana entities. The chart showed that the average of all 95 entities was \$5.74 per month. The charge in Goshen and Elkhart County was listed as \$1.25 per month.

Goshen Public Utilities Director Dustin Sailor said Goshen has accumulated about \$100,000 from the fees. **Mayor Stutsman and Councilors** engaged in a conversation about if, could or should the city raise the fee to pay for stormwater system improvements. There appeared to be a consensus that this could be done, but the City would have to take over the billing from the county and that might not be worthwhile.

McKinley showed a slide titled “**Flood Response Plan,**” which depicted two maps of the City of Columbia, Indiana and indicated what actions could be taken in response to different flood events. **McKinley** said a Flood Response Plan puts institutional knowledge into a single document for quick access. The Columbus map showed areas to evacuate people, the locations of planned emergency shelters and accessible evacuation routes.

Mayor Stutsman said this type of plan would have been very useful to the City during the February 2018 flood. **Councilor Nisley** joked that everyone should remember to go to the Shanklin Pool during the next flood because it remained above the flood waters in February 2018.

Councilor Schrock asked if it would be helpful to have a USGS river gauge on the Elkhart River closer to the City of Goshen. **McKinley** said it would. **Sawatsky Kingsley** said the Draft Flood Resilience Plan calls for locating a river gauge closer to the City.

McKinley showed a PowerPoint slide titled “**Stormwater Master Plan,**” which is from the City of Jeffersonville. It featured the key elements of that City’s plan.

McKinley ended her presentation with a slide of a cartoon-like color drawing that showed a small tent set up in the middle of a road. The caption: “**Building in a floodplain is like pitching your tent on a highway when there are no cars coming.**” **McKinley** said the cartoon underscored the points she and **Siavash Beik** made today.

5) Open discussion and next steps

Following the formal presentations, **Mayor Stutsman, Councilors, City staff and the consultants from Christopher B. Burke** engaged in a far-ranging discussion on many topics, including:

- The impact of the Elkhart River on Rogers Park, erosion issues and possible development adjacent to it.
- Whenever there is flooding at Linway Plaza and related areas, people ask City staff about solutions to the problem, but the flooding really can’t be stopped.
- It may seem callous, but it people build in the flood plain, knowing the risks, it shouldn’t be the city’s responsibility to fix the problem.
- The Oasis restaurant was rebuilt and the building was raised, which may prevent future flooding there, but that also means the floodwater will just end up someplace else.
- What is the City’s ultimate responsibility to solve flooding problems?



- Is the City imposing sufficient requirements to address potential flood issues?
- Perhaps the City should acquire more property to prevent future development in flood-prone areas.
- Building in the flood plain is, and probably should be, expensive.
- People are allowed to build, even near flood zones, if they can meet the City's requirements. The City can require offsets for development, but it cannot ban it.
- One key issue is that the City is running out of developable land.
- Some cities have imposed ordinances to discourage development. In Goshen, people can build in flood zones, but structures must be elevated and that just displaces the problem.
- If the City limits development, that will just move problems elsewhere.
- Some flood-prone areas in Goshen are suitable for farming, open space or recreation. The City could acquire some of this land for parks.

Deputy Mayor Brinson briefly discussed next steps in the process of further developing the Draft Flood Resilience Plan and how to present it to the broader community.

Mayor Stutsman said he wants to advance the process and advise the community about the plan. He also said he would like three Council members to be involved in the process of creating draft ordinances.

Councilor Pérez said it seems there are some points of agreement among Councilors. He said it would be good to identify priority areas so ordinances can be developed.

Siavash Beik said in other communities, plans have been adopted by resolution and then leaders have move to implementation by imposing regulations that had broad support.

Brinson said he would like Council feedback and affirmation of certain policies, so staff time can be better used. Ideally, Brinson said, there would be broad agreement on some measures.

Councilor Pérez said the purpose of today work session was informational and that the Council doesn't necessarily have to indicate their preferences now. He said perhaps some measures should be brought to the Council.

Director Sawatsky Kingsley said today has been introduction of the flood plan to the Council. He said there is a lot to digest and there will be more to review over the next few months. He said the next step is to present the plan to the public, discuss options and further refine the plan. Sawatsky Kingsley said it will be important to interact with people and inform them of the flood risks and the potential solutions. He added that engagement with the public and Councilors will help improve the plan and build support for some of its recommendations.

Councilor Eichorn said she understands the key elements of the situation, including the lack of developable space. She said it's important to inform people.

Mayor Stutsman said it's important to tell the full story and to point out that the City isn't just trying to hinder development.

Councilor King said that's exactly what she would say. The City needs to be careful and encourage green and creative development – and we do have a future.

Councilor Nisley said the City also needs to look upstream to see what neighboring communities are doing because they may be pushing more water to Goshen. He said if other communities aren't dealing with the problem, the City of Goshen could be spinning its wheels. Nisley said the City has to do something, but he isn't sure about the solutions.

Councilor Pérez said he believes others are taking action and some are doing more than Goshen. He said the City of Goshen should be doing more to address flood risks.



Mayor Stutsman said that whatever the City does will help reduce flooding. The Mayor said hopefully the City can persuade others to do more. Similar to water quality, Mayor Stutsman said the City is responsible for the amount of water that leaves our community.

Siavash Beik said that it's not likely runoff will decrease, so the City of Goshen must do more to address flood risks. The City also cannot rely on others to do more.

Sawatsky Kingsley said the draft plan calls for the City to evaluate what upstream communities are doing.

Councilor Schrock agreed with that recommendation and said the City should place a closer storm runoff monitoring station on the Elkhart River. He also asked if the City has an emergency response plan for floods.

Mayor Stutsman said the plan is not yet developed yet. In case of emergencies, key staff members gather at City Hall and activate a phone tree. He said he is proud of city staff because they mobilize quickly and do what's needed. In February 2018, the Mayor said many people praised the City's flood response.

Siavash Beik said he works with many communities and that the City of Goshen should be proud of its efforts because it is a leader. He said no other Indiana city has an Environmental Resilience Department head. He congratulated Councilors and said perhaps Goshen's actions can inspire other communities.

Mayor Stutsman concluded the work session by thanking all for their participation today.

Adjournment:

Mayor Stutsman adjourned the work session at 11:50 a.m.

EXHIBIT #1: *"Flood Resilience Plan, City of Goshen Common Council Work Session, Friday, January 14, 2022," a PDF copy of a PowerPoint slide presentation used throughout the work session.*

EXHIBIT #2: *"Assessing Flood Vulnerability in Goshen, January 14, 2022, City of Goshen Stormwater Department," a PDF copy of a PowerPoint slide presentation used during the work session.*

EXHIBIT 3: *"Goshen Flood Resilience Plan Implementation Guidance," a five-page document that is part of the City of Goshen Flood Resilience Plan. Copies were distributed at the work session.*

APPROVED:

Jeremy P. Stutsman, Mayor of Goshen

ATTEST:

Richard R. Aguirre, City Clerk-Treasurer



Rhonda L. Yoder, AICP
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MEMORANDUM

TO: Goshen Common Council
FROM: Rhonda L. Yoder, City Planner
DATE: February 7, 2022
RE: Ordinance 5115

The Goshen Plan Commission met on January 18, 2022, in regular session and considered a request for a rezoning from Commercial B-3 to Commercial B-2 (Central Business District), to align with surrounding B-2 zoning, for subject property generally located at the northwest corner of Main Street and Jefferson Street, with common addresses of 233 S Main Street and 113 W Jefferson Street, with the following outcome:

Forwarded to the Goshen Common Council with a favorable recommendation by a vote of 8-0.

The favorable recommendation is based upon the following:

1. The subject property is completely surrounded by B-2 District zoning.
2. The future development of the subject property will be constrained if zoned B-3 District.
3. The rezoning is consistent with the Comprehensive Plan, including:
 - Land Use, Goal L-6: Maintain an attractive and vibrant downtown.
4. The B-2 District requirements are able to be met.

One inquiry was received prior to the Plan Commission meeting, asking about the rezoning process and proposed use of the property. No questions/concerns/comments were received from the public at the Plan Commission meeting.

Ordinance 5115

Amend Ordinance 3011 by Rezoning Real Estate Hereinafter Described, and Commonly Known as 233 S Main Street and 113 W Jefferson Street, from Commercial B-3 District to Commercial B-2 District

WHEREAS City of Goshen Department of Redevelopment submitted an application on the 15th day of December 2021 to rezone the real estate hereinafter described from Commercial B-3 District to Commercial B-2 District, and the Goshen City Plan Commission did after proper legal notice conduct a hearing on said Petition as provided by the Law on the 18th day of January 2022, and recommended the adoption of this Ordinance by a vote of 8-0.

NOW, THEREFORE be it ordained by the Common Council of the City of Goshen, Indiana, that:

Property generally located at the northwest corner of South Main Street and West Jefferson Street, with common addresses of 233 S Main Street and 113 W Jefferson Street, containing ±0.25 acres, and more particularly described as follows:

Lot Number Twenty-eight (28) in Barns' First South Addition to the City of Goshen, Elkhart County, Indiana.

All of the above shall be rezoned from Commercial B-3 District to Commercial B-2 District, and the zone maps designated and referred to in Ordinance No. 3011 shall hereby be amended and ordered amended to reflect such classification and rezoning of said real estate.

PASSED by the Common Council of the City of Goshen on _____, 2022.

Presiding Officer

Attest:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2022 at _____ a.m./p.m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED AND ADOPTED by the Mayor of the City of Goshen on _____, 2022.

Jeremy P. Stutsman, Mayor

To: Goshen City Plan Commission/Goshen Common Council
From: Rhonda L. Yoder, Planning & Zoning Administrator
Subject: 22-01R – Rezoning
233 S Main/113 W Jefferson, Commercial B-3 to Commercial B-2
Date: January 18, 2022

ANALYSIS

City of Goshen Department of Redevelopment requests a rezoning from Commercial B-3 to Commercial B-2 (Central Business District), to align with surrounding B-2 zoning. The subject property is generally located at the northwest corner of Main Street and Jefferson Street, with common addresses of 233 S Main Street and 113 W Jefferson Street.

The subject property is two tax parcels, Lot 28 of Barns' First South Addition, measuring approximately 66' x 165 feet. The property was purchased by the City of Goshen in August 2021, and is the former D&T Muffler.

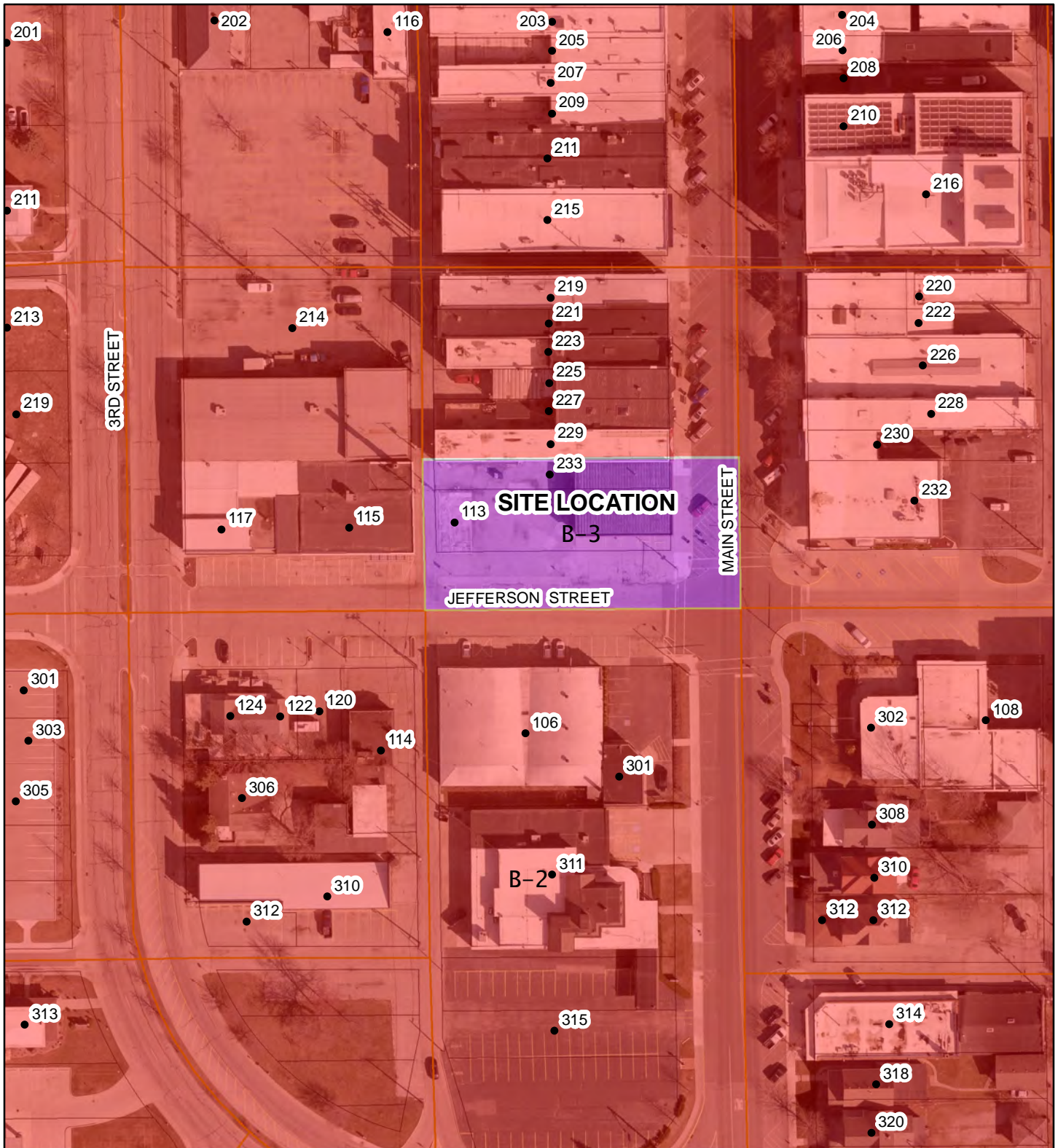
The property is completely surrounded by B-2 (Central Business District) zoning and should also be zoned B-2, as a single property zoned B-3 within the Central Business District can meet few, if any, of the developmental requirements of the B-3 District, which will constrain future changes to the building and/or site. For example, in the B-3 District, a 35' building setback is required along the Main Street property line (compared to 0' in the B-2), a maximum 50% building coverage is allowed (compared to 90% allowed in the B-2), and parking is required for each use (compared to no commercial parking requirements in the B-2).

The subject property was rezoned from B-2 to B-3 in February 1984, and although there were at least two subsequent neighborhood rezonings to B-2 District in the Central Business District, in 1989 and 2000, the subject property was not included. Based on the file record, it appears the subject property may at some point have been mistakenly classified as B-2, as there is at least one approval from 1991 that includes a reference to the subject property being zoned B-2. The Zoning Map discrepancy was discovered in 2012. While the City owns the subject property, it is an appropriate time to rezone to B-2 District so the spot zoning is removed and the issues related to the B-3 zoning are resolved.

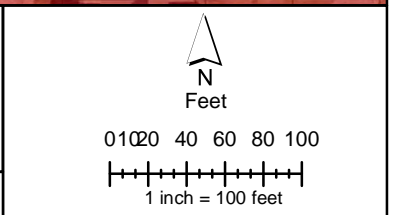
RECOMMENDATIONS

Staff recommends the Plan Commission forward a favorable recommendation to Goshen Common Council for the rezoning from Commercial B-3 to Commercial B-2 District for the subject property generally located at the northwest corner of Main Street and Jefferson Street, with common addresses of 233 S Main Street and 113 W Jefferson Street, based upon the following:

1. The subject property is completely surrounded by B-2 District zoning.
2. The future development of the subject property will be constrained if zoned B-3 District.
3. The rezoning is consistent with the Comprehensive Plan, including:
 - Land Use, Goal L-6: Maintain an attractive and vibrant downtown.
4. The B-2 District requirements are able to be met.



The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.



233 S Main Street & 113 W Jefferson Street

Rezoning: B-3 to B-2
 Printed December 14, 2021

The City of Goshen
 Department of
 Planning & Zoning
 204 East Jefferson Street, Goshen, Indiana 46528
 Phone: 574-534-3600 Fax: 574-533-8626

**Goshen Common Council
Resolution 2022-03**

**Interlocal Agreement with Elkhart County
for Animal Control Services**

WHEREAS Elkhart County has negotiated a contract with The Humane Society of Elkhart County, Inc. to provide animal shelter management and animal control services for 2022 for certain areas of Elkhart County, including within the corporate boundaries of the City of Goshen.

WHEREAS the City of Goshen agrees to contribute \$85,400 to reimburse Elkhart County for the cost of providing animal shelter management and animal control services within the City of Goshen.

WHEREAS pursuant to Indiana Code § 36-1-7 et seq., a power that may be exercised by one governmental entity may be exercised by one entity on behalf of another entity if the entities enter into a written agreement.

NOW, THEREFORE, BE IT RESOLVED that the Goshen Common Council approves the terms and conditions of the Interlocal Agreement with Elkhart County for animal control services attached to and made a part of this resolution.

PASSED by the Goshen Common Council on _____, 2022.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2022, at the hour of ____ : ____ .m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2022.

Jeremy P. Stutsman, Mayor

**INTERLOCAL AGREEMENT BETWEEN ELKHART COUNTY, INDIANA
AND CITY OF GOSHEN, INDIANA FOR ANIMAL
CONTROL SERVICES**

This Agreement is made and entered into this 15th day of JAN, 2022, by and between the COUNTY OF ELKHART, INDIANA (hereinafter referred to as the "County"), and the CITY OF GOSHEN, INDIANA (hereinafter referred to as "Municipality"),

WITNESSETH:

WHEREAS County has negotiated with The Humane Society of Elkhart County, Inc. for animal shelter management and animal control services for 2022;

WHEREAS the Contract for Animal Shelter Management and Animal Control Services for 2022 includes the unincorporated areas of Elkhart County and may include the areas within the corporate limits of the Municipality;

WHEREAS the Contract for Animal Shelter Management and Animal Control Services for 2022 has been entered into by County in the form which is attached to as Exhibit A;

WHEREAS the County and Municipality desire to enter into this Agreement in order to provide for the Services within the Municipality and to facilitate the reimbursement to the County by the Municipality for the cost of providing the Services within the Municipality for calendar year 2022;

NOW, THEREFORE in consideration of the foregoing and of the promises and commitments herein contained, the parties hereby agree as follows:

1. Definition of Services. For purposes of this Agreement, the term "Services" shall refer to the animal shelter management and animal control services to be furnished by The Humane Society of Elkhart County, Inc. to the Municipality pursuant to the Contract attached hereto as Exhibit A.

2. Administration. The County shall serve as the lead agency for the Services and assumes and agrees to be responsible for the overall administration of the Services to include, but not be limited to, the following:

a. Contracting with The Humane Society of Elkhart County, Inc. as required by and in compliance with the applicable statutes governing the County and contracts for public services;

b. Administering the contract with The Humane Society of Elkhart County, Inc.;

c. Maintaining the documents, contracts, notices, and other records in connection with the Services, including the financial records and providing a financial summary to the Municipality for all funds expended and received in connection with the Services; and

d. Providing such other general administrative services as are necessary to complete the Services.

3. Municipality Participation.

Municipality shall be responsible for reimbursing and contributing to County the sum of Eighty Five Thousand Four Hundred Dollars (\$85,400.00) for the Services which shall be paid in two (2) installments of Forty Two Thousand Seven Hundred Dollars (\$42,700.00) each with the first installment becoming due and payable on or before April 1st 2022 and with the second installment being payable on or before August 1st 2022. The Municipality contribution, or changes in amounts thereto, for calendar year 2022 are subject to budget approvals and appropriations by the Municipality.

4. Filing Requirements. Within thirty (30) days after the approval and execution of this Agreement, the County shall have this Agreement recorded and filed with the appropriate governmental offices and agencies as required by Indiana Code.

5. Supplemental Documents. The Municipality and County agree to execute any and all supplementary documents and to take any and all supplementary steps as are reasonable and appropriate to accomplish the purposes and provisions of this Agreement.

6. Non-Discrimination. Pursuant to Indiana Code § 22-9-1-10, neither the County nor any of its contractors or subcontractors shall discriminate against any employee or applicant for employment, to be employed in the performance of any work under this Agreement with respect to hire, tenure, terms or conditions or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, sex, disability, national origin, ancestry or veteran status. Breach of this covenant may be regarded as a material breach of this Agreement.

7. Miscellaneous.

a. Amendment. This Agreement, and any exhibits attached hereto, may be amended only by the mutual written consent of the parties, by the adoption of a resolution approving said amendment as provided by law, and by the execution of said amendment by the parties.

b. No Other Agreement. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations, and discussions relative to the subject matter hereof and is a full integration of the agreement of the parties.

c. Severability. If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements, or portions of this Agreement, and to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.

d. Indiana Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

e. Notice. Any notices required or permitted under this Agreement shall be given to the parties at their respective mailing addresses provided below by deposit in the United State mail, certified mail, return receipt requested, with proper postage affixed thereto, and which notices shall be effective three (3) days after date of mailing:

County: Board of Commissioners of the County of Elkhart, Indiana
Elkhart County Administration Building
117 North Second Street
Goshen, IN 46526

Municipality: City of Goshen
C/O Goshen Legal Department
204 East Jefferson Street, Suite 2
Goshen, IN 46528

With copies to: Craig Buche, Elkhart County Attorney
Yoder, Ainlay, Ulmer & Buckingham, LLP
P.O. Box 575
130 North Main Street
Goshen, IN 46527

And _____

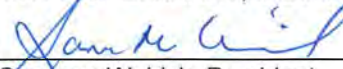
The parties may change their respective mailing addresses by providing written notice of the new address in accordance with the terms and provisions of this paragraph.

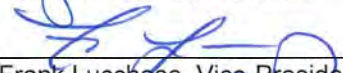
8. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that this Agreement may not be assigned without the express written consent of the non-assigning party.

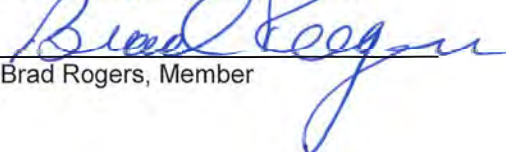
9. Counterparts. This Agreement may be executed in multiple counterparts and with multiple but separate signature pages with the multiple counterparts and multiple and separate signature pages constituting one single and unified Agreement when combined.


IN WITNESS WHEREOF, the parties have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

BOARD OF COMMISSIONERS OF THE
COUNTY OF ELKHART, INDIANA

By 
Suzanne Weirick, President

By 
Frank Lucchese, Vice President

By 
Brad Rogers, Member

ATTEST: 
Patricia A. Pickens, Elkhart County Auditor

APPROVAL

The Elkhart County Council hereby approves of the above and foregoing Interlocal Agreement this 8th day of January, 2022.

ELKHART COUNTY COUNCIL

By Thomas W. Stump
Thomas Stump, President

ATTEST:

Patricia A. Pickens
Patricia A. Pickens, Elkhart County Auditor

EXHIBIT A

CONTRACT FOR ANIMAL SHELTER MANAGEMENT AND ANIMAL CONTROL SERVICES

This contract made effective this 1st day of January, 2022 by and between the County of Elkhart, State of Indiana, hereinafter called the "County" and The Humane Society of Elkhart County, Inc., 54687 County Road 19, Bristol, Indiana, 46507, or its successors, executors, administrators and assignees, hereinafter called the "Contractor";

WITNESSETH:

WHEREAS, the Contractor is a not-for-profit corporation organized for the purpose of caring for and sheltering animals within Elkhart County, Indiana and has the personnel, facilities and equipment to aid the County with these services;

WHEREAS, the County desires to contract with the Contractor for animal control and shelter service, and the Contractor desires to provide the County with such services;

NOW, THEREFORE, in consideration of the premises and payments set forth in Section IV below, and the mutual promises herein, the parties agree as follows:

I. CONTRACT DOCUMENTS

The parties hereby agree to the following contract requirements. Where there is a conflict between the requirements of State and County law and the requirements set forth below, the requirements of State and County law shall take precedence and govern.

II. CONTRACTOR WORK REQUIREMENT

It is agreed that the service to be performed under this Contract is to provide animal shelter management services and animal control services in accordance with the terms, conditions and specifications contained or referenced herein.

The Contractor agrees that all animal shelter management services and animal control performed for the County shall be performed in full compliance with the applicable Federal, State and County laws, regulations and guidelines for such services.

The Contractor agrees that it shall provide the following animal shelter management services and animal control services:

A. Operation of the Animal Shelter

1. The Contractor shall operate and maintain the Animal Shelter located at 54687 County Road 19, Bristol, Indiana 46507 (the "Shelter").

2. The Contractor shall abide by all laws of the State of Indiana and all local ordinances designed to prevent cruelty to animals, and to enforce those laws and ordinances where it has the lawful authority to do so. The Contractor shall be entitled to rely in good faith upon the opinion of legal counsel as to whether it has such lawful authority.
3. Subject to paragraph IV (B) below but excluding the incorporated areas of the Town of Millersburg, the Contractor shall lawfully pick up, capture, impound, accept, care for, board, maintain and dispose of animals within the incorporated and unincorporated areas of Elkhart County, Indiana in the following instances: 1) the Contractor shall, during its regular business hours on Mondays through Fridays, pick up all observed or reported stray, confined, domestic animals; and 2) the Contractor shall, during other hours, pick up all observed or reported stray, confined, domestic animals where an animal is observed or reported as sick or injured, or where the animal is observed or reported to have bitten a human.
4. At a minimum, the Contractor shall operate the Shelter and keep the Shelter open to the public from 9 a.m. through 4 p.m. Monday through Saturday, except for Federal, State and County holidays when the Shelter may be closed to the public.
5. The Contractor shall provide an adequately trained animal technician staff of sufficient size to provide all the services required under this Contract.
6. The Contractor shall provide adequate food, water, shelter, space, care, treatment and transportation to all animals housed at the Shelter.
7. The Contractor shall provide a system to monitor medical and other information on each sheltered animal.
8. The Contractor shall be responsible for publicizing the hours of operation and the services of the Shelter.

B. Impoundment of Animals

1. The Contractor shall be responsible for enforcement of the quarantine for a 10 day period of any stray domestic animal which has bitten or is suspected to have bitten a person or as directed by the Elkhart County Health Department or County officials.
2. The Contractor shall be responsible for the humane euthanasia of any animal using methods approved by the State Veterinarian, if euthanasia is

required for reasons of public safety or welfare. The County acknowledges that nothing in this Contract shall be deemed to preclude the euthanasia of any animal by the Humane Society of Elkhart County, Inc. In the event the Humane Society of Elkhart County, Inc. performs euthanasia of any animal for reasons other than public safety or welfare, or other than in satisfaction of the County's legal obligations, if any, the Humane Society of Elkhart County, Inc., shall be responsible for, shall defend against and shall indemnify and hold the County harmless against any and all suits, claims, demands, losses or actions made against the County based upon, arising from, or incident to the performance of such euthanasia.

3. The Contractor shall not be responsible for the collection and disposal of the carcasses of dead animals.
4. The Contractor shall maintain all necessary records and reports of animals impounded at the Shelter.
5. The Contractor shall, upon request, furnish law enforcement agencies of Elkhart County and the Elkhart County Health Department all information in its possession about animals which have been impounded due to cruelty, neglect, bite cases or contagious diseases and shall cooperate with the said officials in the enforcement of laws prohibiting animal cruelty and supporting public safety.
6. Whenever the ownership of an impounded animal is ascertained, the Contractor shall make a reasonable effort to notify the owner of the animal's impoundment within the next business day after the animal is initially confined.
7. The Contractor shall collect, secure and deposit all fees, fines and costs due, including the cost of providing veterinary care for an animal, from owners of impounded animals in accordance with applicable laws. County shall not be responsible for such obligations.

C. Animal Control Officers

1. The Contractor shall employ individuals to enforce the provisions of, and to perform as animal control officers ("Animal Control Officers").
2. The Contractor shall be responsible for all continuing education training of Animal Control Officers to assure their continued compliance with State and local educational and training requirements.

D. Public Service Programs

In consideration of the award of this contract to the Contractor, the Contractor shall provide at its sole cost and expense, the following services:

1. A volunteer program to encourage support for the Contractor and its operations of the Shelter; provided that all volunteers shall execute, as a condition of their participation, a waiver of liability, in form and content acceptable to the Contractor;
2. Events designed to promote animal adoptions and to educate the public about animal welfare; and
3. The adoption program shall be conducted to ensure humane, permanent homes for animals. The Contractor must maintain a documented adoption procedure and maintain complete records of all adoption attempts and placements.

E. Cost of Operation, Expenses of Contractor and Expenses of County

1. The Contractor shall maintain at all times adequate supplies for the performance of its obligations under this Contract, including without limitation, the lawful duties of the Animal Control Officers.
2. All donations of any kind, made to the Humane Society of Elkhart County, Inc., will be considered the sole property of the Contractor, and if received by the County will be promptly forwarded to the Contractor.

F. Meetings and Other Requirements

The County shall appoint an individual to serve as liaison with the Contractor for the purpose of reviewing any matters relative to this Contract. To ensure adequate communication and coordination among all County agencies, the Contractor shall direct all notices required or permitted under this Contract through the contract administrator. In the case of an event requiring notification of County agencies other than the Sheriff Department, the Contractor shall inform the contract administrator or designee in a timely manner.

III. PERIOD OF CONTRACT PERFORMANCE

The term of this Contract is from January 1, 2022 through December 31, 2022. County may renew this Contract for calendar years 2023 and 2024 subject to the mutual agreement with the Contractor as to the Contract costs for said years.

IV. CONTRACT COSTS

- A. The Contractor at its own proper cost and expense shall do all the work necessary to carry out its obligations set forth in this Contract to the full extent as set forth herein and to the satisfaction of the County.

- B. For calendar year 2022, County shall pay the total sum of Two Hundred Twenty Thousand Dollars [\$220,000.00] to Contractor to perform all services under this Contract in accordance with the terms, conditions, and specifications contained or referenced herein with respect to the unincorporated areas in Elkhart County, Indiana. Said amount shall be payable by County to Contractor as follows: County shall pay One Hundred Thirty Thousand Dollars (\$130,000.00) to Contractor on or before February 15, 2022, the balance of Ninety Thousand Dollars [\$90,000.00] shall be payable by County to Contractor in three (3) quarterly installments of Thirty Thousand Dollars [\$30,000.00] on April 1, 2022, July 1, 2022 and October 1, 2022. In consideration of the advancement of the One Hundred Thirty Thousand Dollars (\$130,000.00) on or before February 15, 2022, Contractor agrees to provide all of the services to be performed under this Contract in accordance with the terms, conditions, and specifications contained or referenced herein both in the incorporated and unincorporated areas of Elkhart County, Indiana, but excluding the incorporated areas of the Town of Millersburg.

After March 31, 2022, Contractor shall not be required to provide the services to be performed under this Contract in the incorporated areas of Elkhart County, Indiana unless County agrees to pay an additional amount for any or all of the following incorporated areas respectively:

<u>Municipality</u>	<u>Amount</u>
City of Elkhart	\$139,150
City of Goshen	\$85,400
Town of Middlebury	\$5,940
Town of Wakarusa	\$6,600
Town of Bristol	\$4,400
Town of Nappanee	\$11,535

County intends to seek Interlocal Agreements with each of these listed municipalities to cover the additional costs specified above for each municipality. If such Interlocal Agreements are entered, County shall give written notice to Contractor on or before March 31, 2022 of which incorporated areas are to be covered by the services to be performed under this Contract by Contractor after March 31, 2022. County's notice may provide by its election to have Contractor

provide the services under this Contract in any or all of the municipalities listed above. For each municipality to be provided the services under this Contract after March 31, 2022, County shall pay to Contractor the additional amount specified above for that municipality which amounts shall be payable in three (3) quarterly installments paid on April 1, 2022, July 1, 2022 and October 1, 2022. Should any of the municipalities increase or decrease the amounts specified above the County will adjust the quarterly obligation to reflect the increase or decrease in funding from the municipalities in 2022.

- C. The parties reserve the right to negotiate mutually agreed rates for other future specified services. If the Contractor reasonably believes that any work it is requested to perform under this Contract is not, or may not be, within the scope of the Contract, or represents, or may represent a material change in the Contract, the Contractor shall immediately notify the Contract Administrator that the work is beyond the scope of the Contract or represents a material change in the Contract, and if the County desires the work to be undertaken, then the Contractor shall be fully compensated for performing the work; provided that a written change order to this Contract must have been made pursuant to Section V, B prior to the work being performed in order for such additional compensation to be paid to the Contractor.

V. PERSONNEL AUTHORIZED TO REPRESENT THE PARTIES

A. Authorized Contract Administrators

- 1. Contract Administrator for the County shall be:

T. Jeffery Taylor
Elkhart County Administrator
117 N. Second Street
Goshen, IN 46528-3298
574-534-3541 FAX 574-535-6747

- 2. Contract Administrator for the Contractor shall be:

Director
Humane Society of Elkhart County, Inc.
54687 County Road 19
Bristol, IN 46507
574-848-4225 FAX 574-848-5453

B. Contracting Officer

County and Contractor's Administrator must authorize changes made to this Contract throughout the Contract period in writing.

VI. STATE LAW CERTIFICATION PROVISIONS

- A. Pursuant to Indiana Code §22-9-1-10, Contractor and its subcontractors, if any, shall not discriminate against any employee or applicant for employment to be employed in the performance of this Contract with respect to hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Contract.

- B. Contractor certifies that, except for de minimis and non-systematic violations, it has not violated the terms of I.C. 24-4.7, I.C. 24-5-12, or I.C. 24-5-14 in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law and that Contractor will not violate the terms of I.C. 24-4.7 for the duration of this Contract, even if I.C. 24-4.7 is preempted by federal law. Contractor further certifies that any affiliate or principal of Contractor and any agent acting on behalf of Contractor or on behalf of any affiliate or principal of Contractor, except for de minimis and non-systematic violations, has not violated the terms of I.C. 24-4.7, in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law, and will not violate the terms of I.C. 24-4.7 for the duration of this Contract, even if I.C. 24-4.7 is preempted by federal law.

- C. Investment Activity. Pursuant to Indiana Code §5-22-16.5, Contractor certifies that Contractor is not engaged in investment activities in Iran.

- D. E-Verify Program. Pursuant to Indiana code §22-5-1.7-11 Contractor agrees to and shall enroll in and verify the work eligibility status of all newly hired employees of the Contractor after the date of the Agreement through the E-Verify Program as defined in Indiana Code §22-5-1.7-3; provided, however, Contractor is not required to verify the work eligibility status of all newly hired employees after the date of this Agreement through the E-Verify Program if the E-Verify Program no longer exists. Contractor further represents and certifies subject to pain and penalties of perjury that it does not knowingly employ an unauthorized alien.

VII. TAX REQUIREMENTS

By executing this Contract, the Contractor agrees to comply with the laws, regulations, and rulings of the United States Internal Revenue Service related to the requirements for filing information statements, including IRS Form 1099.

VIII. DEFAULT

- A. Upon Contractor's failure to cure a default (i.e., non-performance or violation of contract terms) within fifteen (15) days of written notice of such default from the County to the Contractor (provided, if such default cannot be cured within such 15 day period, and the Contractor commences the cure within such 15 day period, the cure period shall be extended to 30 days after the initial written notice of such default), this Contract may be canceled or annulled by the County or its designee in whole or in part by written notice of default to the Contractor. Upon default, an award may be made to another contractor and the Contractor shall be liable to the County for costs incurred in excess of the costs provided for in this Contract.
- B. Rights, obligations, or liabilities of both parties, which arise prior to the suspension or termination of this Contract shall survive the suspension or termination of this Contract.

IX. ASSIGNMENT

Contractor shall not assign, transfer, convey or otherwise dispose of any or all of its right, title or interest in this Contract, without the prior written consent of County.

X. GOVERNING LAW

This Contract shall be governed in all respects by the laws of the State of Indiana and the County of Elkhart.

XI. INDEMNIFICATION, LIMITATION OF LIABILITY AND NOTICE

- A. Contractor shall be responsible for, shall defend against, and shall indemnify and hold the County harmless from any and all suits, claims, demands, losses or actions made against the County based upon, arising from, or incident to the provision of services by the Contractor under this Contract. This indemnification does not include indemnification for claims based upon the alleged unconstitutionality or invalidity of any provision of the state or county codes pursuant to which the Contractor acts or an alleged invalidity of the delegation, if any, to the Contractor under this Contract or the authority to enforce the state and county animal control laws and animal cruelty laws.
- B. The County shall notify the Contractor of any suit, claim, demand, loss or action made or filed against the County within ten days after the County's receipt or learning of it.

XII. WARRANTIES

Each party to this Contract warrants the following:

- ~~A.~~ This Contract constitutes a valid, binding and enforceable agreement of the party;
- B. The execution of this Contract and the performance of its obligations are within the party's powers; have been authorized by all necessary action on behalf of the party; do not constitute a breach by the party of any agreement with another party; and will not cause a breach by the party of any duty arising at law or in equity; and
- C. The party possesses the financial capacity to perform all of its obligations under this Contract.

The parties agree that the failure of any of the above representations and warranties to be true during the term of this Contract shall constitute a material breach of this Contract, and the non-breaching party shall have the right, upon notice to the breaching party, to immediately terminate this Contract. All amounts outstanding hereunder shall be immediately due and payable. Court costs and other costs and expenses, including reasonable attorney's fees incurred in the collection of any amounts due hereunder, may also be recovered by the non-breaching party.

XIII. SEVERABILITY

Should any provision of this Contract be declared invalid for any reason, such decision shall not affect the validity of any provisions, which other provisions shall remain in force and effect as if this Contract had been executed with the invalid provision(s) eliminated, and it is hereby declared the intention of the parties that they would have executed the other provisions of this Contract without including therein such provision(s) which may for any reason be hereafter declared invalid.

XIV. NON-WAIVER

The failure of the Contractor or the County to exercise any right, power or option arising under this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract with respect to any other or subsequent breach thereof, nor a waiver by Contractor or the County of their rights at any time thereafter to require exact and strict compliance with all the terms hereof

XV. SURVIVABILITY OF PAYMENT OBLIGATIONS, RIGHTS AND REMEDIES

Provided the Contractor has not defaulted in the performance of its obligations under this Contract, the obligation of the County to make payments as herein set forth shall continue until fully performed. Any rights and remedies the County or Contractor may have with respect to each other arising out of either party's performance of services or obligations hereunder shall survive the expiration or termination of this Contract.

XVI. RELATION TO COUNTY

In performing services under this Contract, the Contractor shall be an independent contractor for the County, and neither the Contractor nor its employees, shall under any circumstances be considered employees, servants or agents of the County. The County shall not be legally responsible for any negligence or other wrongdoing by the Contractor, its employees, servants or agents while performing under this Contract.

XVII. SIGNATORIES

Please type or print the following information, with the exception of the signature.

COUNTY
County of Elkhart, Indiana

CONTRACTOR
Humane Society of Elkhart County, Inc.

By: 

By: 

Printed: Suzanne M. Weirich

Printed: Rosemary LaRoy

Title: President

Title: EXECUTIVE DIRECTOR

Date: 1-4-2022

Date: 12/16/21



Jeremy P. Stutsman, Mayor
CITY OF GOSHEN

202 South Fifth Street, Suite 1 • Goshen, IN 46528-3714

Phone (574) 533-9322 • Fax (574) 533-9740 • TDD (574) 534-3185
mayor@goshencity.com • www.goshenindiana.org

January 31, 2022

Council President Weddell and Council Members,

As you are all aware, it is time to look at our Council District lines and redraw our boundaries. As we move forward with this process, I would like to suggest the Council consider supporting the passage of Ordinance 5116.

This ordinance is being presented in order to set up a non-partisan committee to help ensure that we redistrict without considering how it affects any of our political parties. Rather, we would redistrict in a way that ensured districts were laid out in a way that kept their boundaries reasonably compact and contiguous, with equal populations and with the lowest possible deviations, while accounting for expected future growth, and looked at options with the fewest number of split precincts and neighborhoods as possible.

We must come together as Republicans and Democrats to make sure that Goshen leaves politics out of our redistricting process. This is something that has eluded our State and Federal representatives for many of the past redistricting maps they have created. We can stand together to show our State and Federal governments the value of redistricting for the people and not for one party or the other. We can show them it is possible to lead in this way and that our constituents not only support this approach, they want it.

As a first step, I (a Democrat elected Mayor), reached out to City Attorney Bodie Stegelmann (past elected Republican judge) to work with me on drafting a bipartisan approach to redistricting in Goshen. We talked about our ideas and discussed other ordinances that we found in regards to this topic. Together, we feel we have found a way to remove politics from the redistricting process and represent our community as we are elected to do.

Originally, we wanted to get a copy of this ordinance to Council members before it hit the agenda for a Council meeting. After considering the limitations of distributing this ordinance to the Council while meeting the requirements of the Open-Door Law, we decided to wait to distribute until a time in which all Council members could equally receive the ordinance and have the same amount of time contemplating it. The easiest way to achieve this is to place it on the Council agenda. The Council will now be able to have a discussion in public at our meeting to decide if changes are appropriate, what dates and deadlines should be set within the ordinance, and, finally, to decide if it is tabled for further discussion or voted on at our February 7th meeting.

Sincerely,

A handwritten signature in blue ink, appearing to read "JPM", is written over a horizontal line.

Jeremy P. Stutsman

ORDINANCE 5116

TO ESTABLISH A REDISTRICTING ADVISORY COMMISSION

WHEREAS, Indiana Code § 36-4-6-4 requires that the City of Goshen, Indiana (“City”) be divided into five (5) council districts during the second year after a year in which a federal decennial census is conducted; and

WHEREAS, I.C. § 36-4-6-4 also requires that these districts be contiguous, reasonably compact, and, as nearly as possible, of equal population, and, with some specific exceptions, not cross precinct boundaries; and

WHEREAS, an independent redistricting commission would lend public legitimacy to the redistricting process and minimize conflicts of interest that might be present in the redistricting process; and

WHEREAS, the Goshen Common Council wishes to conduct the process of redistricting in an open manner with meaningful opportunities for public feedback and engagement.

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

SECTION 1. Redistricting Advisory Commission

- (a) Establishment and Purpose. There is hereby established a five-member Redistricting Advisory Commission "Commission" whose purpose shall be to make recommendations to the Goshen Common Council regarding its decennial redistricting ordinance, which will divide the City into the five council districts from which councilmembers shall be elected.
- (b) Term. The Commission shall form as of the adoption of this Ordinance, and appointment of all members. All Commission members shall serve until district boundaries are adopted by the Common Council. The Commission shall be reformed in the event that the City is required, due to annexation or other legal procedures, to redraw council district lines after the adoption of district boundaries by the Common Council. The same membership selection process shall be followed in the event the Commission is reformed.
- (c) Membership Qualifications. The Commission shall consist of nine members (five (5) voting members and four (4) non-voting members), subject to the following qualifications and limitations.
 - (1) Registered Voters - Each member must be a registered voter residing within the municipal boundaries of the City.
 - (2) Voting Record – To be eligible for appointment to the Commission, each Commission member shall have voted as a resident of the City in at least one of

the last two general elections immediately preceding the formation of the Commission.

- (3) Limitations - The following individuals are excluded from serving as a voting member on the Commission:
 - (A) Anyone who currently, or during the ten years prior to the Commission's formation, holds a public office or was a candidate for public office in the City or Elkhart County;
 - (B) An appointed public official;
 - (C) Anyone who is currently an officer of any federal, state, county, or city-level political party, or who has been an officer or active member during the 10 years prior to the Commission's formation;
 - (D) A precinct committeeman;
 - (E) A member of a candidate's committee;
 - (F) Anyone who has contributed a cumulative total of \$2,000 or more to any political candidate(s) within the five years prior to the Commission's formation;
 - (G) Anyone registered as a lobbyist under I.C. 2-7; and
 - (H) Immediate family members of any excluded person.
- (d) Membership Selection Process. Commissioners shall be selected as follows:
 - (1) Current City Common Council at-Large Members shall serve as non-voting members of the Commission; however, if at-Large Members are of the same political party, then the Common Council shall pick one at-Large Member and one Common Council member representing a district, of the opposite party, to serve as the non-voting Council Members on the Commission;
 - (2) The five (5) current Goshen Common Council members elected from a district shall each appoint a voting member of the Commission;
 - (3) The City of Goshen Mayor and City Attorney shall serve as non-voting members of the Commission, and the Clerk-Treasurer shall serve as the clerk of the Commission;
 - (4) The Commission may seek consultation from City's Legal Compliance Administrator and other individuals who may provide helpful insight to the Commissions;

- (5) The voting members of the Commission shall select as its chair one of the voting members.

Persons appointed to the Commission must attest that they are eligible to serve per the conditions of this Ordinance, and be approved by the Mayor.

(e) Redistricting Criteria.

The Commission shall recommend council district boundaries that comply with the United States Constitution, the Indiana Constitution, and applicable federal and state laws, including the federal Voting Rights Act and I.C. § 36-4-6-4.

(f) Commission Processes and Transparency.

- (1) The Commission shall hold public meetings at least every month, but may choose to meet more often.
- (2) The Commission shall provide to the Common Council recommended council districts, an accompanying map depicting the recommended districts, and a report that explains the basis of the recommended districts.
- (3) Approval of the Commission's final recommendation requires an affirmative vote from at least four of the voting commissioners. All other actions of the Commission require a simple majority vote to pass.
- (4) The Commission shall be subject to the Indiana Open Door Law and the Access to Public Records Act.

(g) Legislative Approval.

- (1) The Commission shall provide the recommended council districts, along with the accompanying map and report, to the Common Council no later than _____, 2022.
- (2) The Common Council shall act on the Commission's recommended districts before _____, and adopt an Ordinance by November 8, 2022.
- (3) After considering the Commission's final recommendations, or if the Commission fails to provide recommended council districts by _____, the Common Council shall perform its duties under I.C. § 36-4-6-4. If the Common Council rejects the Commission's final recommendations, it shall provide a written statement of the reasons for the rejection.

SECTION 2. Severability Clause

If any provision of this ordinance shall be held invalid, such provision shall be deemed severable and the invalidity thereof shall not affect the remaining provisions of this ordinance.

SECTION 3. 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.

PASSED by the Goshen Common Council on February _____, 2022.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on February _____, 2022, at the hour of _____:_____ __.m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on February _____, 2022.

Jeremy P. Stutsman, Mayor