



GOSHEN COMMON COUNCIL

Minutes of the July 17, 2023 Regular Meeting

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

Mayor Gina M. Leichty called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

Mayor Leichty 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)
Youth Adviser Jessica Velazquez Valdes (Non-voting)

Absent: None

Approval of Minutes:

Mayor Leichty asked the Council's wishes regarding the minutes of the June 26, 2023 Regular Meeting. Councilor Nisley made a motion to accept the June 26, 2023 minutes as presented. Councilor Pérez seconded the motion. The motion passed 7-0 on a voice vote.

Approval of Meeting Agenda:

Mayor Leichty presented the agenda as submitted by the Clerk-Treasurer. Councilor King moved to approve the agenda as suggested. Councilor Eichorn seconded the motion. The motion passed 7-0 on a voice vote.

Privilege of the Floor:

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

Mike Burk of Goshen said the City was supposed to replace the drain near his home. He asked for a timeline on the work. City Director of Public Works & Utilities Dustin Sailor said an agreement was approved with Abonmarche Consultants for surveying and design services for a drywell at 1327 and 1329 East Reynolds Street. After the design is completed, Sailor said the City will follow up with construction. Burk said he had understood that the old dry well was being installed. Sailor said that there will be new design work, which Burk said was satisfactory.

Burk also asked about a hole in the asphalt pavement on the south side of Reynolds Street. He said City staff keeps filling the hole with sand and dirt and it keeps being displaced. He said he wishes it could be fixed with asphalt.

Sailor said he didn't know anything about that. Burk said he just wanted to bring this to the City's attention.

Mayor Leichty thanked Burk for his comments and for raising the street issue.

There were no further comments, so Mayor Leichty closed Privilege of the Floor at 6:04 p.m.

1) Resolution 2023-13 – Interlocal Agreement with the County of Elkhart for Public Drainage Infrastructure Project

Mayor Leichty called for the introduction of Resolution 2023-10, *Interlocal Agreement with the County of Elkhart for Public Drainage Infrastructure Project*. Council President Weddell asked the Clerk-Treasurer to read Resolution 2023-13 by title only, which was done.

Weddell/Schrock moved to approve Resolution 2023-13.



BACKGROUND:

Resolution 2023-13, would approve the terms and conditions of a negotiated Interlocal Agreement with the County of Elkhart for improvements to a public drainage infrastructure project along College Avenue on the east side of the City of Goshen.

The 10-page **Interlocal Agreement**, which was attached to the Council agenda packet, set forth the terms and conditions of the agreement for the project between the City Common Council, the Board of Works & Safety and Redevelopment Commission and the Elkhart County Board of Commissioners, County Council and Drainage Board. **The agreement established that a “substantial industrial construction project is underway along College Avenue on the east side of the City of Goshen that requires initial improvements to public drainage infrastructure in the area of the construction project.”**

The City plans to undertake a reconstruction of College Avenue in 2027. The City and the County plan to cooperate while each makes further improvements to public drainage infrastructure as part of the current industrial development and planned road reconstruction project in 2027. And the City and County will memorialize their agreement for initial and future improvements to the public drainage infrastructure necessitated by the industrial construction project along College Avenue.

Scope of the project: The purpose of this agreement is to coordinate the construction of public drainage infrastructure along College Avenue and County Road 36. The obligations of the City and County were outlined in Exhibit A, which was attached to the agreement. Exhibit A also contained the current details of the public drainage infrastructure project.

JULY 17, 2023 COUNCIL DISCUSSION AND APPROVAL OF RESOLUTION 2023-13:

Mayor Leichty asked if there were any Council questions or comments. **Council President Weddell** asked for an explanation of Resolution 2023-13.

City Redevelopment Director Becky Hutsell provided the background and context of Resolution 2023-13.

Hutsell explained that when work began on the East College Avenue Industrial Project, the city anticipated widening the roadway at the same time. As the project was designed and evolved, Hutsell said the City decided to apply to the Michiana Area Council of Governments (MACOG) for funding to extend the roadway to the City limits. She said the City was awarded MACOG funding and design work has begun, but construction won't begin until 2027.

So, **Hutsell** said the City is entering into an interlocal agreement with Elkhart County to memorialize the drainage measures being taken now to ensure that the site adequately drains between now and 2027 as well as the improvements that will come as a result of the MACOG-funded project.

There were no additional Council comments, so at 6:05 p.m., Mayor Leichty invited public comments on Resolution 2023-13. There were none.

Council President Weddell indicated that Councilors were ready to vote.

On a voice vote, Councilors approved Resolution 2023-13, *Interlocal Agreement with the County of Elkhart for Public Drainage Infrastructure Project*, by a 7-0 margin, with all Councilors present voting “yes” at 6:06 p.m.



2) Resolution 2023-14 – Adoption of Statute Authorizing Use of Public-Private Agreements

Mayor Leichty called for the introduction of Resolution 2023-14, *Adoption of Statute Authorizing Use of Public-Private Agreements*. Council President Weddell asked the Clerk-Treasurer to read Resolution 2023-14 by title only, which was done.

Weddell/Eichorn moved to approve Resolution 2023-14.

BACKGROUND:

Resolution 2023-14 would allow the City of Goshen to *authorize the use of public-private agreements*. It set forth the following:

- Indiana Code § 5-23 permits a political subdivision to enter into a **public-private agreement with an operator** pursuant to the terms of Indiana Code § 5-23;
- A **public-private agreement includes an agreement for the operation, maintenance, repair or management of a public facility (commonly referred to as an “Operating agreement”), or an agreement to construct, operate and maintain a public facility and to transfer the public facility back to the governmental entity at an established future date (commonly referred to as a “Build Operate Transfer (BOT) Agreement”);**
- In order for any governmental body in the City to enter into a public-private agreement, Indiana Code § 5-23-1-1 **requires that the legislative body for the City, i.e., the Common Council, adopt the provisions of Indiana Code § 5-23 by ordinance or resolution, and;**
- **The City finds that it is in the best interests of the City to make available the option to use public-private agreements in future projects involving a public facility** pursuant to Indiana Code § 5-23.

By adopting the provisions of Indiana Code § 5-23, the **Common Council would be authorizing governmental bodies of the City of Goshen to enter into public-private agreements with operators for projects involving public facilities** upon the terms provided in such agreements.

JULY 17, 2023 COUNCIL DISCUSSION AND APPROVAL OF RESOLUTION 2023-14:

Mayor Leichty invited **City Attorney Bodie Stegelmann** to present Resolution 2023-14.

City Attorney Stegelmann provided the background and context of Resolution 2023-14.

Stegelmann explained that public works projects typically involve a design, a bid and build procedure; typically the City contracts for the design of a project, whether a road or building, it goes through the legal requirements for a bidding, and the City is required to go with the lowest responsible and responsive bidder.

Stegelmann said there now are options in state statutes for these public works projects that are relatively new – perhaps 20 years ago – where the City can issues Requests for Proposals (RFPs), have different operators submit proposals to the City for a building or renovation or a road where the City gives the operator the criteria the City is looking for. He said the operator then makes proposals to the City with a definite cost and the City can award the job to the operator. **Stegelmann** said the operator finishes the design, hires contractors to bid, they complete the project and when they are done, they turn it over to the City.

Stegelmann said City staff is considering this option for the renovation of the City Annex Building, a new Fire station and a few other projects. However, he said in order to use this process, the City must adopt this statute, adding, “It’s as simple as that. We’re not saying we’ll actually use it. But we’re just saying it’s something that we’re going to look at, study, investigate and maybe use it in the future.”



Councilor King asked if any such possible partnerships would come before Council for review. **City Attorney Stegelmann** said they would.

Councilor Riegsecker asked if this was like a design-build project. **Stegelmann** said it was similar. **Councilor Riegsecker** asked if a single developer would be involved. **Stegelmann** said the City would seek proposals from multiple developers. They would submit proposals and a City committee would select the best one based on the City's criteria.

Councilor Riegsecker asked if the developer essentially would "own" the project until it was completed and it would then be turned over to the City after passing required inspections. **Stegelmann** said that was correct. **Councilor Pérez** said using this system, the City could ensure oversight by City staff.

Stegelmann said supporters of this approach argue that one benefit is that the City would know early on the maximum price of a project and whomever was selected to oversee the project would need to stay under that price. The developer would hire the subcontractors; the City would not need to go through the bidding process. He said the developer would have more control over costs and could commit to the cost early on.

Councilor Riegsecker asked how many City team members would make the determination which developer would get a project. **Stegelmann** said it would be a committee made up of City staff, but he didn't know the number.

Council President Weddell said there are often change orders that increase the cost for Redevelopment Commission projects. He asked if this new process would no longer prompt change orders and higher costs.

City Redevelopment Director Becky Hutsell answered "yes." She added this approach ensures that the designer and contractor work as a team from the beginning so they can identify cost savings and issues earlier. She said City staff believes this approach will ensure more people are working together to prevent cost overruns in the future.

Mayor Leichty said these type of agreements often have a contingency threshold that is built into the agreement because there may be unanticipated issues and costs. **Hutsell** said that was correct.

Council President Weddell described a past trail project that had higher costs because an engineering firm was unfamiliar with a local site and designed a project that could not be built for the amount budgeted. Under this system, Council President Weddell said, there would be fewer such problems. **Hutsell** agreed.

Councilor King said using this approach, the developer would be motivated "to get it right."

Councilor Pérez said liked the idea of public-private partnerships. He commended City staff for bringing forth this proposal.

There were no further Council comments or questions, so at 6:13 p.m., Mayor Leichty invited public comments on Resolution 2023-114, *Adoption of Statute Authorizing Use of Public-Private Agreements*, from members of the public. There were none.

There were no further questions or comments from Councilors. Council President Weddell indicated that Councilors were ready to vote.

On a voice vote, Councilors approved Resolution 2023-14, *Adoption of Statute Authorizing Use of Public-Private Agreements*, by a 7-0 margin, with all Councilors present voting "yes" at 6:14 p.m.



3) Ordinance 5161 – Ordinance Authorizing the City of Goshen, Indiana to issue its “[Taxable} Economic Development Revenue Bonds, Series 2023 (Ariel Project)” and Approving Other Actions in Respect Thereto (First Reading)

Mayor Leichty called for the introduction of Ordinance 5161, *Ordinance Authorizing the City of Goshen, Indiana to issue its “[Taxable} Economic Development Revenue Bonds, Series 2023 (Ariel Project)” and Approving Other Actions in Respect Thereto* on First Reading. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5161 by title only, which was done.

Weddell/Pérez moved to approve Ordinance 5161 on First Reading.

BACKGROUND:

Ordinance 5161, which was before the Common Council for approval, would authorize the Council and Mayor to authorize the City of Goshen to issue “[Taxable} Economic Development Revenue Bonds, Series 2023 (Ariel Project)” and approve other actions in respect thereto.

In a memorandum to the Common Council, City Redevelopment Director Becky Hutsell wrote that Ordinance 5161 was being presented to the City Council on July 17, 2023 for first reading. A copy of the ordinance, along with all of the draft financing documents as exhibits, was included in the Council's meeting packet.

Hutsell wrote that this ordinance would authorize the City to issue a taxable Economic Development Revenue bond specifically for the Ariel Cycleworks Apartment Project and the issued bonds would be purchased by the developer, or their bank, to fund infrastructure components for their project.

Hutsell indicated that an Economic Development Commission (EDC) meeting was being planned for Monday, Aug.7, 2023. She said she intended to then bring Ordinance 5161 back to the Council that same evening for the second reading. Between now and then, she said the City would be working with the City's bond counsel, Ice Miller, the City's financial advisors, Baker Tilly, and the developer to finalize the financing documents.

Hutsell wrote that the issuance of this bond, and all terms associated with it, are in line with the Development Agreement that was approved by the City Redevelopment Commission, the City Council and Board of Works & Safety last summer, including the agreement to provide 100% TIF reimbursement for 25 years.

JULY 17, 2023 COUNCIL DISCUSSION AND APPROVAL OF ORDINANCE 5161:

Mayor Leichty invited a staff presentation on Ordinance 5160.

City Redevelopment Director Becky Hutsell provided an overview of Ordinance 5161; which she noted was before the Common Council for approval on First Reading. She summarized the 98 pages of material she had provided to the Council, and which was part of the meeting agenda packet, and included a memorandum (dated July 17, 2023), draft Ordinance 5161 and the financing document (trust indenture) and numerous exhibits.

In summarizing her memorandum, Hutsell said Ordinance 5161 would authorize the City's issuance of a taxable Economic Development Revenue bond specifically for the Ariel Cycleworks Apartment Project and the issued bonds would be purchased by the developer, or their bank, to fund infrastructure components for their project.

Assuming Ordinance 5161 was approved tonight by the Council tonight, Hutsell said that she would be bringing the ordinance back to the Council for final approval on Aug. 7 following approval by the City Economic Development Commission.

Hutsell said that in the meantime, City staff would be working with the City's bond counsel, Ice Miller, the City's financial advisors, Baker Tilly, and the developer to finalize the financing documents.



Hutsell concluded by stating that the issuance of this bond and all the terms associated with it are in line with the Development Agreement that was approved by the Goshen Redevelopment Commission, City Council and Board of Works & Safety last summer, including the agreement to provide 100% TIF reimbursement for 25 years.

Mayor Leichty invited questions or comments from the Council.

Noting that the ordinance and agreement were almost 100 pages, **Councilor Riegsecker** asked if it was "standard boilerplate" language or if there was anything that the Council needed to know or that it had not come across before. **Hutsell** said, no, and that the provisions were similar to those approved for other projects, including the Indiana Avenue apartments, the East College Avenue industrial project or what the Council will see for the Cherry Creek housing project. **Councilor Riegsecker** said he had skimmed through the document and "assumed it was just legalese."

Councilor King said she appreciated the question.

Mayor Leichty asked if **City Attorney Bodie Stegelmann** wanted to add anything. Stegelmann said the ordinance was "substantially the same as ones we saw before."

Councilor Eichorn asked about the expected groundbreaking of the project. **Hutsell** said the developer is working with the U.S. Department of Housing and Urban Development (HUD), which will provide financing. She said HUD officials are concerned about the train quiet zone proceeding and want it to be in place prior to occupancy.

Hutsell said the City recently reached a contract with American Structurepoint, Inc. to help keep the project moving forward. She said there was a recent meeting concerning Madison Street and work is continuing with federal railroad officials to keep the project moving forward. While continuing with the bond, **Hutsell** said the developer also is advancing the closing so that when HUD is satisfied that all the pieces are in place for the quiet zone, the developer can close with the funding.

Asked by **Councilor King** if there was a timetable for the quiet zone, **Hutsell** said the Madison Street improvements are due to be completed by May 2024. She said the goal is to have the other improvements completed so the City can submit its final report in hopes of action soon afterward.

Councilor Schrock asked if the 10th Street improvements will be completed before the project starts. **Hutsell** said it's a complicated situation because the gas line between Plymouth and Douglas streets is very shallow, so the City is working with NIPSCO and Niblock Excavating to address the issue this fall and winter.

Asked by **Councilor Riegsecker** to clarify the purpose of the bond and the tracking of expenditures, **Hutsell** said the developer will purchase the bond said will have to submit claims to the Bank of New York Mellon, which is similar to the process for the Indiana Avenue apartments, where expenses were documented. She said claims will need to be submitted prior to disbursement. She added the developer will buy the bond, but it will remain with a trustee and funds will be drawn down as claims are paid. **Hutsell** said City staff will review claims before payment for infrastructure costs.

In response to another question from **Councilor Riegsecker**, **Hutsell** said the developer will only be paid for documented expenses and will only be reimbursed for expenses up to the maximum amount of the bond.

There were no other questions or comments from Councilors, so at 6:21 p.m., Mayor Leichty opened the public hearing on Ordinance 5161. There were no public comments.

There were no further Council comments or questions. Councilors also indicated that they were ready to vote.



On a voice vote, Councilors unanimously approved Ordinance 5161, *Ordinance Authorizing the City of Goshen, Indiana to issue its “[Taxable} Economic Development Revenue Bonds, Series 2023 (Ariel Project)” and Approving Other Actions in Respect Thereto on First Reading, by a 7-0 margin, with all Councilors present voting “yes” at 6:21 p.m.*

Council President Weddell asked if the second reading of Ordinance 5161 was needed immediately or if the Council needed to wait. Hutsell said the Council needed to wait until after the (Aug. 7) meeting of the City Economic Development Commission.

Elected Official Reports:

Councilor Schrock thanked the Parks & Recreation employees responsible for the Abshire Park water slide. He said it “was a great thing for that side of town, to bring people out who wouldn’t normally go to that side of town.” He said he visited the park Friday, Saturday and Sunday and everyone appeared to be having a good time. He added that he was already looking forward to the return of the water slide next year. **Mayor Leichty** said she could confirm that it was amazing. She also indicated she went down the slide.

Councilor King reported that today’s meeting of the City Parks and Recreation Board was cancelled due to the lack of a quorum. Council President Weddell said the same happened with the Traffic Commission. Councilor King said maybe that happened because it’s July.

Council President Weddell said that at its last meeting, the City Redevelopment Commission approved an agreement for about \$47,000 with American Structurepoint for the Marion Line Railroad Quiet Zone. He said the company will initiate a series of meetings and work to finish that process.

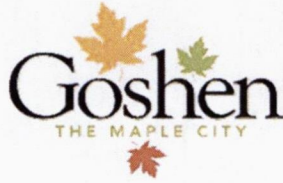
Council President Weddell said the Aerial Cycleworks project had a court challenge that had been pending, but that hurdle has now been cleared with the dismissal of the case. He said that will allow the developer to move forward.

Council President Weddell complimented organizers for the successful 4th of July firework show at the Black Squirrel Golf Club. He said there was huge community involvement and he appreciated those who made the event possible as well as the first responders who handled the traffic afterward.

Council President Weddell asked Clerk-Treasurer Aguirre to give Councilors a report on the annual state audit that began last week.

Clerk-Treasurer Aguirre explained this is an annual process; the City of Goshen’s financial records and federal grant awards are audited by the State Board of Accounts (SBOA). As the audit began, the Mayor, the Council President, the City Attorney, the Water & Sewer Office Manager and the Deputy Clerk-Treasurer were invited to attend an “entrance conference” with four SBOA staff members.

Aguirre said as many as four auditors will work four days a week in the basement of City Hall to review the City’s Annual Financial Report and grant records. He said auditors can review anything from personnel and payroll records to claims as well as minutes of Council and Board of Works meetings. He noted that auditors have not asked for clarification of the Clerk-Treasurer’s detailed minutes, which was good.



Clerk-Treasurer Aguirre said that over the past few years, there have not been any significant audit findings, and the Clerk-Treasurer doesn't anticipate that there will be any this year.

However, **Aguirre** said the City won't know for sure until the audit is concluded, perhaps in November. He said the City has no control over the cost of the audit. **Aguirre** said the SBOA indicated the cost of the audit is expected to double this year due to action by the Indiana Legislative Assembly, which decided local government entities should pay more. He said the SBOA takes the funds directly from City accounts, but will inform the City

Aguirre said the annual audit is a time-consuming process with as many as six detailed requests for certain types of records per day, with many follow-up questions. **Aguirre** concluded, "It's just something we have to grin and bear. They are here to make sure we're following the law, and obviously we would always want to do that."

Council President Weddell thanked **Aguirre** for the report. **Aguirre** thanked the Council President for asking.

Councilor Nisley said the **City Board of Aviation met earlier today**. He reported that the recent "**Rotors 'n Ribs Fly-in,**" on **July 15 and 16, went well**. He said it was well attended, there was a great drone show and the fireworks were good. He said there also will be a drone show for three nights at the Elkhart County 4H Fair. Councilor Nisley also said an attempt to set a new world record for the number of hovering helicopters fell short, but that 16 helicopters participated.

Councilor Nisley also noted that a **few of the airport hangers are old (one was built in 1947) and will need repairs**. So, he wanted to notify Councilors about an **upcoming appropriation request for that repair work**.

Councilor Eichorn said the **City Community Relations Commission met July 11 and heard a report from Goshen Police Officer James Ballard about Ordinance 5158**, which the Common Council passed on May 15 and which prohibits camping and the storage of personal property on public property. She said Officer Ballard explained the rationale for the ordinance and his presentation was well received by Commissioners. She added that she appreciated Officer Ballard's presence at the meeting.

Councilor Pérez said earlier in the day he attended the Board of Works & Safety meeting and two things stood out. He said **Fire Chief Danny Sink** presented the retirement of **Sergeant Jason Miller**, which was approved by the Board. He also said **Police Chief Jose Miller** presented the resignation of **Officer Matthew Whelchel**. In his letter of resignation, Officer Whelchel said he was resigning because of the high stress of the job.

Councilor Pérez said he knows the Indiana Legislative Assembly has allocated more money for mental health treatment. **He asked Chief Miller or Mayor Leichty what the Council can do to help police officers better handle the stress and complexity of their jobs as the next budget process begins**.

Chief Miller said in the next budget, he plans to request more funding for the **New Avenues mental health counseling program**. The program was funded last year for the first time. He said he has received a preliminary report on the outcomes. He said the services will cost more than anticipated, but "it's a minor expense for a big benefit." Chief Miller thanked the City and Councilors for their support.

Councilor Pérez said he wants to make sure the City is doing all it can to support police and other staff members.

Clerk-Treasurer Aguirre said that perhaps **Chief Miller** could discuss the **new peer counseling program**.

Chief Miller said the Police Department began a program to respond to critical response incidents. A team made up of mentor officers, chaplains and mental health professionals come in and have a discussion with officers involved in high-stress incidents to debrief the situation. Chief Miller said this program has already been utilized once this year successfully. He added that in the past "officers were so used to holding everything in and now they've got this opportunity to discuss it with people who were there and people who can discuss what they're feeling."



Councilor Nisley said that during the upcoming budget process for the Police and Fire departments, he wants to “make sure that we have enough personnel hired to cover the positions that we have so we don’t have to have our officers, either Fire or Police, working so much overtime because I think that adds to the stress on them and I think we need to look at that make and sure we have enough manpower to take care of that.” **Councilor Schrock** and there also needs to be “competitive wages” for the Police and Fire departments. **Mayor Leichty** thanked the two **Councilors** for their comments.

Councilor Riegsecker said the **Elkhart County 4H Fair** begins Friday and will continue through next week to the following Saturday. He said everyone can expect an uptick in traffic. **Councilor Riegsecker** also expressed appreciation to City staff for all they do to the help the fair run smoothly every year. **Mayor Leichty** thanked **Councilor Riegsecker** for his comment.

There were no further comments by elected officials.

Adjournment:

Councilor Nisley made a motion to adjourn the meeting. **Councilor Pérez** seconded the motion. **Councilors** unanimously approved the motion to adjourn the meeting.

Mayor Leichty adjourned the meeting at 6:34 p.m.

APPROVED:

A blue ink signature of Gina Leichty, Mayor of Goshen, written over a horizontal line.

Gina Leichty, Mayor of Goshen

ATTEST:

A blue ink signature of Richard R. Aguirre, City of Goshen Clerk-Treasurer, written over a horizontal line.

Richard R. Aguirre, City of Goshen Clerk-Treasurer