

REGULAR MEETING OF THE COMMON COUNCIL (MARCH 6, 2007)
111 EAST JEFFERSON STREET, GOSHEN, INDIANA

The Common Council of the City of Goshen, Indiana, met in the Council Chambers for a regular session on March 6, 2007 at 7:00 P.M. Presiding Officer was Mayor Kauffman with members of the Council present as follows:

PRESENT: COUNCILMAN LANTZ, PURO, SCOTT, THOMAS
COUNCILWOMAN GAUTSCHE

ABSENT: COUNCILMAN BLOSS, GRIMES

PRIVILEGE OF FLOOR

No items were presented under privilege of the floor.

CHANGES TO AGENDA

Council President Thomas moved to add Resolution 2007-10, entitled A Resolution of the Goshen City Council to Petition for and Support a Comprehensive County Clean Air Ordinance, to the Agenda as Councilman Lantz presented the Resolution to the Council this evening. Second by Councilman Puro and motion passed unanimously.

APPROVAL OF MINUTES

Council President Thomas moved to accept the Minutes of the Council meetings of February 6 and February 20, 2007 as presented. Motion seconded by Councilman Scott and motion carried unanimously.

ORDINANCE NUMBER 4414

Council President Thomas introduced Ordinance Number 4414 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 3011, KNOWN AS THE ZONING AND USE REGULATIONS ORDINANCE FOR THE CITY OF GOSHEN, INDIANA, BY REZONING THE AREA OF REAL ESTATE HEREINAFTER DESCRIBED FROM RESIDENTIAL R-4 TO COMMERCIAL B-3 WITH A PLANNED UNIT DEVELOPMENT (PUD) OVERLAY DISTRICT AND TO AMEND ORDINANCES PC 89-16 AND PC 89-39 TO EXPAND THE MARKET CENTRE PUD BY INCLUDING THE AREA OF REZONED REAL ESTATE."

Council President Thomas asked the Clerk-Treasurer to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilman Scott.

Attorney Gordon Lord, 130 N. Main Street, stated he is representing Jack Tuff and Wal-Mart Stores as Wal-Mart is planning to build a 'Super Store' behind the existing Wal-Mart which will be demolished and turned into additional parking area during the project. Attorney Lord stated the applicants are requesting the rezoning of the 13+ acres of property from Residential R-4 to Commercial B-3 and then to merge the acreage into the current PUD.

Attorney Lord explained the start of the process to the finished product to the Council and the audience by showing the following:

- Vicinity Map;
- Aerial Photo;
- Pre-Rezone Exhibit;
- Post-Rezone Exhibit;
- Existing Conditions Overlay;
- Aerial Photo with Rendering;
- Site Plan with Aerial;
- Site Plan: and
- Landscape Rendering.

Attorney Lord stated the project will be an improvement to Goshen as there will be extensive landscaping added, the installation of sidewalks, additional parking, no additional signs installed and a bigger and better store.

Council President Thomas stated he has recently read an article about Wal-Mart constructing a new store near the by-pass in South Bend in which the building will have green building concepts incorporated into it and questioned if the planned super store in Goshen will have any of these qualities.

Wal-Mart Representative, Jason Wetzell, 7328 Plantation Lane, Avon, Indiana, stated the company does have some prototypes of these buildings that they are experimenting with currently. Mr. Wetzell further stated this planned building will have the latest steps that Wal-Mart takes with environmental issues such as sky-lights, low energy lighting and extensive recycling efforts.

Council President questioned Mr. Wetzell as to if South Bend was receiving this type of store because they requested it or was it chosen as part of the experimenting.

Mr. Wetzell stated he could not answer that question for sure but when Wal-Mart finds positive environmental procedures they do incorporate those into their stores.

Councilman Puro questioned if any residents of The Willows were present as he is concerned about adequate landscaping against the community.

Attorney Lord stated the landscaping planned in that area is considerably denser than the other sides in order to create a full buffer.

David Hochstetler of Y Engineering representing Wal-Mart stated the buffer can be extended as far north as needed and further they tried to focus on full visual screening of the building and truck docks.

City Planner Joseph Hauflaire stated the Plan Commission will have final approval of the PUD and there are City requirements regarding landscaping buffers.

Mayor Kauffman questioned if The Willows residents will still have the ability to drive their golf carts to the stores.

Attorney Lord confirmed the use of the golf carts to the shopping areas will not be diminished.

Evan Bontrager, 111 S. 8th St, stated Wal-Mart has been given a lot of national press on their environmental concerns and feels if South Bend deserves a more environmentally friendly store than so does Goshen.

Council President Thomas questioned if the green building issues were raised by the Plan Commission.

Mr. Hauflaire stated he did not believe so.

Councilwoman Gautsche stated she is planning to vote in opposition of the Ordinance due to such issues as the improvements are to Wal-Mart's sales not to Goshen and Wal-Mart places considerable pressure on their competition and further she is concerned with conserving small businesses.

Council President Thomas questioned Mr. Hauflaire as to if there is any way to look closer at sustainability on green building issues at this decision time hour.

Mr. Hauflaire stated the issues are not in the Ordinance but the Council has the final say.

Council President Thomas stated if the Council wants to get serious on dictating environmental requirements then the Ordinances would need to be codified.

Councilwoman Gautsche stated the Council can send the Ordinance back to the Plan Commission.

Councilman Scott questioned what the Council would suggest to the Plan Commission if returned as they did their job with the current recommendation.

Mayor Kauffman stated the requirements the Council is discussing are not mentioned in the Ordinance but are part of the tax phase-in applications and further it would be tough to add the requirements at this hour on this project.

Mr. Jack Tuff, owner of the 13+ acres and The Willows Community stated the development of the super store is not restricting his further development on the community. Mr. Tuff also stated the area behind the current store looks bad now and during the expansion development it will be cleaned up including adding pine trees to form a visual screening and a green area with an attractive retention pond. Mr. Tuff

further stated the residents in the community are in favor of the super store and the current store is busy and crowded.

Evan Bontrager 111 S. 8th St, stated the Council needs to hold Wal-Mart to the standards of the positive press regarding their environmental concerns.

Attorney Lord stated Wal-Mart has complied with every standard in the City's Ordinance and further it would be unfair to change now as Wal-Mart could not come prepared to address requirement changes in the Ordinance.

Mr. Wetzell pointed out the following about Wal-Mart in the community:

- They currently employ 736 people in Goshen with an average wage of \$10.37 per hour;
- Since 2001 they have donated \$327,000 to local organizations;
- They are a huge advocate of saving the environment with a lot of initiatives in the making; and
- The planned super store will be an improvement over the store that is currently there.

Councilwoman Gautsche stated she would like to see a permeable surface installed.

By a 4-1 (NAY-GAUTSCHE) vote of the Council the motion passed.

Council President Thomas asked the Clerk-Treasurer to read the Ordinance by title only for second final reading and moved its passage by roll call vote. Motion seconded by Councilman Scott.

The Council roll call vote was as follows:

AYES: LANTZ: PURO: SCOTT: THOMAS

NAYS: GAUTSCHE

(ORDINANCE 4414 DULY PASSED AND ADOPTED THIS 6TH DAY OF MARCH 2007.)

ORDINANCE NUMBER 4415

Council President Thomas introduced Ordinance Number 4415 entitled "AN ORDINANCE TO AMEND ORDINANCE NUMBER 3896 KNOWN AS THE KEYSTONE SQUARE PLANNED UNIT DEVELOPMENT ORDINANCE."

Council President Thomas asked the Clerk-Treasurer to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilwoman Gautsche.

Attorney Gordon Lord, 103 N. Main St. representing Windshire Corporation and Adlai Schrock stated Windshire is partnering with Paragon to begin one of many phases toward evolving an attractive PUD. Attorney Lord stated the developer is requesting a

major change to the PUD to allow a right-in only access and further the curb cut will serve more than just the proposed Walgreen store. Attorney Lord also stated a traffic study was completed showing the right-in access will have no negative impact and the developer is willing to assist with traffic improvements.

Adlai Schrock, 2523 Messick Dr, stated the access is important as it will give customers easy access, will allow delivery trucks to access the store without going through the front lot and it will cause less impact on the intersection with the signal. Mr. Schrock further stated the plan is to purchase more properties north of this property on U.S. 33.

Councilman Scott questioned if the plans also included purchasing properties along College Ave.

Mr. Schrock stated he would hope to add those properties in time also.

Mayor Kauffman questioned if Mr. Schrock would confirm that no further curb cuts would be requested on U.S. 33.

Mr. Schrock confirmed he would not request any further curb cuts between this property on U.S. 33 and College Ave.

Attorney Lord stated Mr. Schrock has full architectural control of the project.

Councilman Scott questioned Public Works Director Robert McCoige as to the letter attached to the Ordinance from City Administrative Engineer Mary Cripe. Mrs. Cripe's letter indicates concerns for safety along the U.S. 33 corridor, especially near the intersection of College Ave. due to the significant number of accidents at the intersection.

Director of Public Works Robert McCoige stated the Engineering Department has opposition to the plan and further a letter from INDOT indicates they cannot support the right-in only drive. Mr. McCoige also stated INDOT has final say on the curb cut and the planned widening of the highway in 2013 will include a 5-lane road.

Attorney Lord questioned if the developer should have to wait for what INDOT might do and further the property owner is obligated to move the curb cut as INDOT requires. Attorney Lord stated the developer has allowed extra property space for the proposed widening.

Barry Pharis, Brads-ko Engineering, 1009 S. 9th St, stated the design of the right-in only drive including high curbs will prevent traffic coming in from the south and further the design has additional property to keep the right-in access out of the traffic flow if the highway is widened. Mr. Pharis explained engineering drawings to the Council showing the current lanes with an approved right turn lane being constructed.

Council President Thomas questioned if the Council were to pass the Ordinance tonight, how long before construction and completion of the pharmacy.

Mr. Schrock stated hopefully construction will begin April 1 to be completed by November, 2007.

Councilwoman Gautsche stated the Council has a tough decision as the Engineering Department is concerned with traffic safety.

Council President Thomas stated the Plan Commission voted 5-2 in favor of the request and further the area residents need a pharmacy in the neighborhood again.

Glenn Null, 319 Dewey Ave, reminded the Council how long it took to have a traffic light installed in the Meijer area on U.S. 33 during development and he would like to see some teeth in the Ordinance as to a due date the light has to be installed.

Mr. Pharis stated the permit for the signal has already been obtained.

Council President Thomas questioned if under any circumstance would Walgreen's open and the light not be installed and activated.

Mr. Pharis and Mr. Schrock stated the opening of the store and the activation of the signal will be simultaneous.

After discussion City Planner Joseph Hauflaire and Attorney Lord agreed the word developer in paragraph 4 and paragraph 6 of the Ordinance should be property owner.

Council President Thomas moved to replace the word 'developer' with 'property owner' in paragraph 4 and paragraph 6 of the Ordinance. Second by Councilman Scott and motion passed unanimously.

By a 5-0 vote of the Council the motion passed.

Council President Thomas asked the Clerk-Treasurer to read the Ordinance by title only for second final reading and moved its passage by roll call vote. Motion seconded by Councilman Scott.

The Council roll call vote was as follows:

AYES: GAUTSCHE: LANTZ: PURO: SCOTT: THOMAS

NAYS: NONE

(ORDINANCE 4415 DULY PASSED AND ADOPTED THIS 6TH DAY OF MARCH 2007.)

SEWER CONNECTION FEE AT 2600 ELKHART ROAD

Legal Compliance Administrator Shannon Marks stated the City received a letter from property owner Scott D. Welsh requesting the Council's consideration to waive the sewer connection fee for the property as the Council entered into an agreement with

Duewaine and Faye Welsh owners of the property at that time. The agreement included a term which waived a portion of the sewer connection fee in excess of \$600.00 which was apportioned to the real estate as it was currently developed. SamSon Automotive, a new tenant is leasing the property and was planning to use the existing manufactured house at the location as their sales office. However, the Indiana State Fire and Building Code will not permit the present structure to be used as an office. Mrs. Marks further stated the item is on the agenda in response to Mr. Welsh's request.

Mr. Scott Welsh, 4242 Hampton Circle, stated the owner of SamSon Automotive, Sam Sweeden, has already invested in the current structure and now needs to construct a different structure for the sales office. Mr. Welsh stated Mr. Sweeden received a letter from the Engineering Department stating due to the transferring of the sewer and water connection from a temporary structure to a permanent structure he will be responsible for \$.05 per square foot sewer assessment due to the site's redevelopment and additional sewer and water connection fees. Mr. Welsh requested the Council extend the waiver to his parents of a portion of the sewer connection fee in excess of \$600.00 as it was currently developed until such a time as the property would be sold.

Council President Thomas questioned what action was expected of the Council as the Council does not have a written Resolution to act upon.

City Attorney Larry Barkes stated the Legal Department needs direction from the Council as to the direction of the Resolution.

Mayor Kauffman questioned if the Council would consider the extension of the waiver if the Legal Department was to present a reasonable Resolution to the Council.

Council President Thomas moved to postpone the request. Second by Councilwoman Gautsche and motion passed unanimously.

ORDINANCE NUMBER 4417

Council President Thomas introduced Ordinance Number 4417 entitled "Prohibiting Smoking."

Council President Thomas asked the Clerk-Treasurer to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilwoman Gautsche.

Dr. Don Minter, 1716 Coventry Drive, stated he began working on the Ordinance when he was still a Council Member and stated his appreciation of the encouragement he has received. Dr. Minter further stated a broad research was conducted including looking at other communities. Dr. Minter stated the major objection to the Ordinance is that the City not go alone in the adoption of such an Ordinance. Dr. Minter explained that during past meetings with Elkhart County Commissioners they have stated they do not plan to place such an Ordinance on their agenda in 2007.

Dr. Minter continued that Goshen is used to leadership for example when the City was the first to adopt an open container law, other communities followed and eventually the State Legislature. Dr. Minter further stated the Chamber of Commerce should be commended for their actions regarding the Ordinance including requesting the county to adopt a countywide Ordinance prohibiting smoking.

Dr. Douglas Schwartzenruber, 58811 Forest Dr, Director of Center for Cancer Center in Goshen, presented the Council with the latest Surgeon General report on secondhand smoke. Dr. Schwartzenruber stated the following:

- Heart Disease and Cancer are the top two causes of death;
- There is no safe amount of secondhand smoke;
- The rate of death from Cancer is decreasing: and
- Elkhart County is expecting 1000 residents to develop cancer – 300 of those could be prevented without smoking.

Dr. Max Mertz, 1511 S. 8th St, President of Elkhart County Health Board, stated the following:

- The Health Board unanimously supports the Ordinance;
- He would personally rather see the issue be adopted countywide and applauds the efforts of those involved who have requested the county adopt a similar ordinance;
- His father died of lung cancer at the age of 52: and
- The Council is helping to ensure the safety of residents by reducing their exposure to secondhand smoke.

Mark Potuck, 810 S. 7th St, Elkhart County Health Educator, stated the following:

- He is a 19 year resident of Goshen and is proud to see Goshen taking a leadership role to help protect workers;
- As a health educator, there is nothing better for a smoker to do but to quit;
- Ample resources, including cessation programs, are offered for those wanting to quit: and
- Kids model good behavior and this is a positive for kids to see adults having the courage to deal with the issue.

Attorney Patty Mulvihill, Assistant City Attorney for Bloomington IN, stated the following:

- Bloomington passed a similar Ordinance with the effective dates occurring in stages as new businesses were effected immediately, an 18 month exception for bars and private clubs and then all businesses;
- Most complaints received have been resolved by sending a letter issuing a notice of violation, others were resolved with a citation issued and fine paid and 10 cases went to court;

- Numerous problems and complaints the first few months then complaint numbers diminished;
- Have not seen much of a negative economic impact; two bars closed but new businesses have come to the City: and
- Monroe County did not join in the ban when Bloomington adopted the Ordinance, but did follow later.

Evan Bontrager, 111 S. 8th St, stated Goshen has the best downtown in the county and this Ordinance will help to support the community. Mr. Bontrager requested the Council pass the Ordinance.

Glenn Null, 319 Dewey Ave, stated concerns on the following:

- Prohibiting smoking in the parks, which is an open area;
- Questioned how the City can include another governmental unit in the ban, such as the school system;
- Questioned if the vehicles stated in the Ordinance is referring to City vehicles: and
- Due to the Ordinance stating smoking is prohibited within 15 feet of any entrance: will the smoker and officer have to carry a measuring tape to be sure of the distance.

Denny Yoder, 62122 Zollinger Rd, owner of The Oasis stated the following:

- He is extremely surprised by the private clubs being listed as exemptions especially if the reasoning behind the Ordinance is to protect employees and patrons;
- He invested several thousands of dollars last year installing electronic filters;
- He disagrees with the community trying to pass the ban without Elkhart County passing a similar Ordinance and further feels the City should first try harder to influence the county officials: and
- He has no doubt that a lot of customers will take their business to other communities.

Dennis McCarthy, owner of Double D's Hometown Bar & Grill, stated the following:

- He feels it is totally wrong to only exempt private clubs and further the City should exempt businesses where the customers have to be 21 years of age to enter;
- A city should not impose on people's rights;
- Smoking customers of his will go elsewhere out of the City limits: and
- This will cause an economic drain on businesses in Goshen.

Angie McKee, 2359 Redspire, owner of McKee's Irish Pub, stated the following:

- Read a letter addressed to the Council signed by 5 local bar owners stating their opposition to bars that require a customer to be 21 years old being included in the ban and further the bars should be exempt like the private clubs;

- Dr. Don Minter is to be commended for his efforts to improve the health of the community: and
- This ban will hurt the small bar owner's business which she pointed out that earlier she heard Councilwoman Gautsche try to protect the small businesses.

Jim Hoover, owner of Maple City Bowl stated the following:

- When Goshen has ten smokeless bars rather than one will all of them survive?;
- Is Bloomington the largest city in Monroe County as to why the county followed the city because Goshen is not the largest city in Elkhart County: and
- This ban will hurt his business tremendously.

John Huber, 19862 Bluff Dr, stated the following:

- He smoked for 17 years;
- He would love to see Goshen take the lead on the ban: and
- Urged the Council to listen to the medical community representatives.

Kim Swinehart, 1401 Hickory Place, stated her and her high school friends are willing to drive to a different bowling alley outside of town where they offer non-smoking nights.

Barb Swartley, 119 Canal Street, stated she cannot breathe in smoke filled establishments and feels the filters just do not work. Ms. Swartley further stated she would be far more likely to go to a non-smoking establishment and requested the Council pass the Ordinance.

Michael Bailey, 1625 Windsong Dr., Elkhart, requested the Council pass the Ordinance and stated hopefully Elkhart County will be next to pass such an Ordinance. Mr. Bailey further stated this gives non-smokers a choice to visit certain businesses.

David Daughterty, Goshen Chamber of Commerce President, stated the following:

- The Chamber Board is not taking a position on the ban as they are concerned the Ordinance is just for Goshen;
- The Chamber appreciates the hard work that went into the Ordinance and believes the issue of a no smoking Ordinance is an excellent idea on a county wide basis;
- The Chamber suggests the Council work with the county and other city chambers to have them join in the ban as Goshen's population is only 30,000 of the 190,000 in Elkhart County;
- The Chamber feels the City is putting businesses in Goshen at risk;
- The Chamber feels the county is making progress and shifting toward such a ban and the City needs to further appeal to the county to put a similar Ordinance in place so the ban is not on Goshen businesses only: and
- His mother died of emphysema.

Richard Peddler, 22995 Larkspur Ct, Elkhart, Chairman of Tobacco Control in Elkhart County, stated the following:

- He is looking for Goshen to be the leader in Elkhart County;
- Their intent is to have all of Elkhart County eventually be smoke free;
- Their efforts will not be confined to Goshen: and
- The Governor has talked about cities and towns enacting smoke free Ordinances in order to start a coalition moving to other area entities.

Allan Griffin, 309 Colorado Dr, stated the following:

- This Ordinance offers a freedom of choice for non smokers to not have to breathe smoke;
- Does not feel the City will see an economic loss, in fact it will be an opportunity for new businesses: and
- This is an opportunity to save lives and other issues can be dealt with in profound ways.

Dennis McCarthy stated he knows that Woodland Bowl in Indianapolis went smoke free and lost 40% of their revenue.

Glenn Null, 319 Dewey Ave, again questioned what vehicles are included in the Ordinance.

City Attorney Larry Barkes stated an employer vehicle owned by the business.

Mr. Null spoke on the following issues and sections of the Ordinance:

- Vehicles – Theoretically an individual driving through the City in a company truck and smoking is in violation;
- Section 1.06 – Questioned enforcement that each new employee shall be given and discussed with a written policy within 10 days of the hiring of such new employee by each employer;
- Section 1.08 – No person or entity shall discharge, refuse to hire or retaliate in any manner against an employee, applicant for employment, or customer because of any attempt to enforce the provision of this ordinance by such employee, applicant or customer. Mr. Null stated as a worker your rights are limited and this would be hard for the City to prove this as a violation;
- Section 3 – Enforcement; Penalty. Mr. Null stated this section has a lot of loop holes: and
- Section 5.01 – This Ordinance shall be construed broadly to effectuate the purposes of the Ordinance. Mr. Null questioned why the Ordinance is to be broadly enforced.

Mr. Null stated he has concerns regarding the entire Ordinance.

Marcia Prenguber 414 E. Purl St, director at Goshen Health System, stated she supports the Ordinance and further she is the daughter of a man who died of lung cancer.

Attorney Bill Davis, 19714 River Dr, Chairman of Public Policy Committee with the Chamber of Commerce, stated the following:

- The committee is concerned with the geographic area the Ordinance covers;
- If the Council passes the Ordinance he wants to encourage them to also pass Resolution 2007-10 to petition for and support a Comprehensive County Clean Air Ordinance;
- The committee suggests the Council pass the Resolution first: and
- The committee further suggests the Ordinance should be universal and should not exempt private clubs or family-owned and operated and self employed businesses as there are children in those facilities also.

Rhonda Griffin, 309 Colorado Dr, nurse at Goshen Health Systems, requested the Council pass the Ordinance and then join the Chamber in convincing other entities.

Angie McKee stated the current non-smoking bar on Main Street has customers standing outside smoking and questioned the attractiveness of every bar on Main Street having customers standing outside smoking after the passage of this Ordinance when the City is currently revitalizing Main Street.

Council President Thomas suggested the Council adopt both the Ordinance and the Resolution with an effective date on the Ordinance out 14 or 15 months from the date of passage. Council President Thomas stated the county officials have said they are not interested in passing such an Ordinance this year further it is reasonable to say Goshen is taking the lead but also giving a reasonable amount of time to join in the ban. Council President Thomas moved to amend Section 5.03 to change the effective to July 1, 2008 to give Elkhart County, Elkhart City and Nappanee City time to decide to follow in the ban. Motion seconded by Councilman Puro.

Councilman Lantz stated a lot of time and hard work has been invested in the Ordinance and the City has approached the county to request they join in the ban.

Evan Bontrager, 111 S. 8th St, stated he feels this is a stall tactic and further he requested the Council pass the Ordinance to allow the County prove that the ban will work.

Glenn Null, 319 Dewey Ave, stated he is pleased with the amendment as it allows more time for opponents of the ordinance to elect other people to the Council and oppose the ordinance.

John Huber, 19862 Bluff Dr, questioned what price is placed on life and urged the Council to not change the effective date.

Councilwoman Gautsche recalled a letter she received from 10 year old Jesse Valdez asking for City laws to protect children. Councilwoman Gautsche further stated many of her constituents feel it is time to take action and she does not favor the amendment.

The Council roll call vote was as follows:

AYES: LANTZ: PURO: THOMAS

NAYS: GAUTSCHE: SCOTT

The amendment failed for lack of votes.

Councilman Puro moved to amend the Ordinance to add bars as an exemption in the Ordinance.

The motion failed for lack of a second.

The Council roll call vote on the Ordinance was as follows:

AYES: GAUTSCHE: LANTZ: PURO: SCOTT: THOMAS

NAYS: NONE

By a 5-0 vote of the Council the motion passed.

Council President Thomas moved to postpone the Ordinance to the March 20, 2007 meeting of the Council. Second by Councilman Scott and motion passed unanimously.

RESOLUTION NUMBER 2007-10

Council President Thomas introduced Resolution Number 2007-10 entitled "A RESOLUTION OF THE GOSHEN CITY COUNCIL TO PETITION FOR AND SUPPORT A COMPREHENSIVE COUNTY CLEAN AIR ORDINANCE."

Council President Thomas asked the Clerk-Treasurer to read the Resolution by title only and moved its passage by roll call vote. Motion seconded by Councilwoman Gautsche.

Glenn Null, 319 Dewey Ave, requested the Council table the Resolution to give the public a chance to view the Resolution.

Attorney Bill Davis stated the Chamber's Public Policy Committee recommends the Council pass this Resolution.

Council President Thomas moved to postpone the Resolution to the March 20, 2007 meeting of the Council. Second by Councilwoman Gautsche and motion passed unanimously.

RESOLUTION NUMBER 2007-08

Council President Thomas introduced Resolution Number 2007-08 entitled "ACKNOWLEDGEMENT OF A PETITION TO ANNEX."

Council President Thomas asked the Clerk-Treasurer to read the Resolution by title only and moved its passage by roll call vote. Motion seconded by Councilwoman Gautsche.

City Attorney Larry Barkes stated this is the first step in the annexation process and further it is just an acknowledgement that the Council received the petition.

By 5-0 vote of the Council, Resolution Number 2007-08 was passed.

The Council roll call vote was as follows:

AYES: GAUTSCHE: LANTZ: PURO: SCOTT: THOMAS

NAYS: NONE

ORDINANCE NUMBER 4416

Council President Thomas introduced Ordinance Number entitled "AN ORDINANCE VACATING PUBLIC WAYS IN THE CITY OF GOSHEN, INDIANA."

Council President Thomas asked the Clerk-Treasurer to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilman Scott.

City Planner Joseph Hauflaire stated the Park Department is requesting the vacation of a portion of the north/south alley between 5th and 6th Streets, extending south from Oakridge Ave. to its intersection with the first east/west alley, and the vacation of a portion of the east/west alley between 5th and 6th Streets, extending west from 6th Street to its intersection with the first north/south alley.

Park Superintendent Sheri Howland stated the alleys currently create unsafe conditions for children at the park and further the Park Department will be installing a splash park which will require the vacations. Mrs. Howland further stated the area residents were contacted and are in favor of the vacations. Mrs. Howland also stated BFI has been contacted to confirm they will be able to still collect the trash.

Councilwoman Gautsche questioned if any of the neighbors spoke in opposition of the vacations.

Mr. Hauflaire stated there was no opposition received.

By a 5-0 vote of the Council the motion passed.

Council President Thomas asked the Clerk-Treasurer to read the Ordinance by title only for second final reading and moved its passage by roll call vote. Motion seconded by Councilwoman Gautsche.

The Council roll call vote was as follows:

AYES: GAUTSCHE: LANTZ: PURO: SCOTT: THOMAS

NAYS: NONE

(ORDINANCE 4416 DULY PASSED AND ADOPTED THIS 6TH DAY OF MARCH 2007.)

PUBLIC HEARING ON ORDINANCE NUMBER 4418

Mayor Kauffman opened the Public Hearing on Ordinance Number 4418, An Additional Appropriation Ordinance.

Glenn Null, 319 Dewey Ave, questioned if any of the funds in the Ordinance have been encumbered from prior years.

Mayor Kauffman stated none of the listed funds have been encumbered.

Mayor Kauffman closed the Public Hearing as no further person wished to speak.

ORDINANCE NUMBER 4418

Council President Thomas introduced Ordinance Number 4418 entitled "ADDITIONAL APPROPRIATION ORDINANCE."

Council President Thomas asked the Clerk-Treasurer to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilman Puro.

The Council discussed and confirmed the interest rate on the loan to the Fire Department from the Electric Utility Fund is set at 5%.

By a 5-0 unanimous vote of the Council the motion passed.

Mayor Kauffman asked for unanimous Council consent to consider the Ordinance for passage during one meeting. As there were no objections, the Mayor declared that the Ordinance would be heard on second reading.

Council President Thomas asked the Clerk-Treasurer to read the Ordinance by title only for second final reading and moved its passage by roll call vote. Motion seconded by Councilman Scott.

The Council roll call vote was as follows:

AYES: GAUTSCHE: LANTZ: PURO: SCOTT: THOMAS

NAYS: NONE

(ORDINANCE 4418 DULY PASSED AND ADOPTED THIS 6TH DAY OF MARCH 2007.)

Council President Thomas moved to adjourn. Motion seconded by Councilwoman Gautsche and the meeting adjourned at 10:10 P.M.

APPROVED: _____
Mayor, Allan Kauffman
Goshen, Indiana

ATTEST: _____
Tina M. Bontrager
City Clerk-Treasurer