

**REGULAR MEETING OF THE COMMON COUNCIL  
DECEMBER 18, 2007  
111 EAST JEFFERSON STREET  
GOSHEN, INDIANA**

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The Common Council of the City of Goshen, Indiana, met in the Council Chambers for a regular session on December 18, 2007 at 7:00 P.M. Presiding Officer was Mayor Kauffman with members of the Council present as follows:

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

ABSENT: NONE

**PRIVILEGE OF FLOOR**

There were no items presented under privilege of the floor.

**CHANGES TO AGENDA**

Council President Thomas moved to amend the agenda by moving item number five to the beginning as item number one. Motion seconded by Councilwoman Gautsche and motion carried unanimously.

**APPROVAL OF MINUTES**

Council President Thomas moved to accept the Minutes of the Council meeting of November 20, 2007 as amended to read as follows:

1. Page 16 – Council President Thomas stated he cannot support the motion as he feels it is overreaching by the Council and questioned if such a requirement would be legal.

Motion seconded by Councilman Puro and motion carried unanimously.

Council President Thomas moved to accept the Minutes of the Council meeting of December 4, 2007 as presented. Motion seconded by Councilman Grimes and motion carried unanimously.

**RESOLUTION NUMBER 2007-58**

Council President Thomas introduced Resolution Number 2007-58 entitled “OPPOSING THE GRANTING OF ALCOHOL BEVERAGE LICENSE TO CONVENIENCE STORES.”

Council President Thomas asked the Clerk-Treasurer to read the Resolution in its entirety and moved its passage by roll call vote. Motion seconded by Councilman Lantz.

Mayor Kauffman gave the history of the community’s long opposition to the expansion of liquor sales to convenience stores and stated the following:

- In the past the ministerial board would appear in front of the Alcohol and Beverage Commission when licenses were requested and express the community's opinion that it did not want to expand the sales and felt the current access was already convenient from liquor stores, bars, grocery stores and drug stores, therefore the requests were consistently denied at the local level and upheld at the state level;
- Recently one convenience store applied and with the Mayor's appointment to the ABC board he was aware of the application and wrote a letter stating the community's opposition to the expansion. The local board denied the application and the state agreed and upheld the decision: and
- Unbeknownst to the community, the convenience store filed an appeal and an administrative judge overturned the local decision. During the hearing the judge made a statement that no one appeared in opposition to the appeal.

Mayor Kauffman stated the Resolution is to show a stronger voice of the local opinion about the expansion and further, the local representative to the ABC board will have the documentation to express the opinion of the community. Mayor Kauffman also stated a primary concern of the expansion is convenience stores tend to have younger employees who are not properly trained in alcohol sales and therefore underage sales increase in the community.

Cyneatha Millsap, President of Family Services/Youth Services Bureau of Elkhart County, requested the Council pass the Resolution to show responsibility to the youth in the community. Ms. Millsap stated Family Services employees constantly see alcohol use among youth as a major problem and it is extremely easy for a teen working in a convenience store to allow other teens to purchase alcohol as the supervision is not near as tight as in other types of stores that sell alcohol. Ms. Millsap further stated our youth are not always happy with the decisions their peers decide for them but this Resolution will show the state how the community feels and it will show responsibility is being expressed for the youth in the community.

Bill Greene representing the Goshen Boys & Girls Club expressed his appreciation to the Council and Mayor for taking the issue seriously and further expressed the support of the Resolution by the Boys & Girls Club. Mr. Greene stated he is concerned about sending mixed messages to the youth in the community as working in these convenience stores allows the opportunity for them to receive peer pressure from others. By taking away the supervision of the sales the community is putting lives at risk which is not in line with the values of the City of Goshen. Mr. Greene further stated resistance factors among the youth in the community are slim and he is disappointed the state did not give the community the option to object to the appeal.

Jim Killan former director of Indiana Youth Services Association stated this issue is very important to youth advocates throughout the state and related to this a matter of great urgency is alcohol related accidents among youth. Mr. Killan further stated he urges the Council to adopt the Resolution and send a clear message that this decision should be determined at the local level.

The Council and Mayor discussed the following:

- Dan Ecklebarger is the City’s local representative to the ABC board and he can take this Resolution to the board to show the Council’s objection to the expansion sales;
- The Resolution is a physical presence to place the objection on record: and
- A representative of the City needs to appear at the local hearing also when one of these applications is requested then if an appeal is filed the representative may receive notice of an appeal hearing.

Cyneatha Millsap stated they are a statewide organization working with lobbyists and they may be able to assist with notification to the City if an appeal hearing is set.

Mayor Kauffman stated he would like to see the lobbyists work on sending notification to the local ABC board and their appointing authorities if an appeal is filed.

By 7-0 unanimous vote of the Council, Resolution Number 2007-58 was passed.

The Council roll call vote was as follows:

AYES: BLOSS: GAUTSCHE: GRIMES: LANTZ: PURO: SCOTT: THOMAS

NAYS: NONE

#### **ORDINANCE NUMBER 4457**

Council President Thomas introduced Ordinance Number 4457 entitled “PROHIBITING SIGNS IN RIGHT-OF-WAY OR ON REAL ESTATE WITHOUT PERMISSION.”

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 Grimes.

Mayor Kauffman stated this Ordinance is an irritation in the community as it relates to signs such as pillow top mattresses for sale, bookkeeping, dating web sites, etc. and therefore he requested attorney Larry Barkes streamline an Ordinance. The Ordinance is not as streamlined as the Mayor would want but it will give the City an easier mechanism to use in these situations. Mayor Kauffman further stated the Ordinance does not relate to political yard signs.

By a 7-0 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 and final reading and moved its passage by roll call vote. Motion seconded by Councilman Scott.

The Council roll call vote was as follows:

AYES: BLOSS: GAUTSCHE: GRIMES: LANTZ: PURO: SCOTT: THOMAS

NAYS: NONE

(ORDINANCE NUMBER 4457 DULY PASSED AND ADOPTED THIS 18<sup>TH</sup> DAY OF DECEMBER 2007.)

**ORDINANCE NUMBER 4467**

Council President Thomas introduced Ordinance Number 4467 entitled “CUSTOMER/VISITOR PARKING.”

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 Grimes.

Mayor Kauffman stated the Council has a copy of a letter from Downtown Goshen, Inc. and the Economic Improvement District Board showing support for this and the following two Ordinances. The letter explains the parking downtown is working but the parking passes that are required for downtown residents are now to be purchased voluntarily as some residents do not own a vehicle. Mayor Kauffman further stated this Ordinance adds Washington and Jefferson Streets for parking but still prohibits parking on Main Street and Lincoln Avenue in the customer/visitor parking spaces.

Council President Thomas stated the parking Ordinances are a good example of two groups meeting and coming up with a compromise for the Council that is pliable for everyone.

Larry Gautsche, LaCasa President, stated LaCasa is the largest landlord downtown with twenty eight apartments and he favors both this Ordinance and the next which allows flexibility. Mr. Gautsche continued stating currently they have twenty four tenants in one building with twelve vehicles and he appreciates the flexibility to purchase only the number of parking passes needed.

Councilman Grimes stated making the parking passes a voluntary purchase corrects a misguided incentive as the intent of the Ordinance was not to imply that all downtown residents should own a vehicle.

By a 7-0 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 and final reading and moved its passage by roll call vote. Motion seconded by Councilwoman Gautsche.

The Council roll call vote was as follows:

AYES: BLOSS: GAUTSCHE: GRIMES: LANTZ: PURO: SCOTT: THOMAS

NAYS: NONE

(ORDINANCE NUMBER 4467 DULY PASSED AND ADOPTED THIS 18<sup>TH</sup> DAY OF DECEMBER 2007.)

**ORDINANCE NUMBER 4468**

Council President Thomas introduced Ordinance Number 4468 entitled “ANNUAL PARKING PASS IN CENTRAL RETAIL DISTRICT.”

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 Grimes.

Mayor Kauffman pointed out that in the Ordinance it states in the case of a residential unit downtown it is not the tenant that buys the parking pass but the owner of the building.

Councilwoman Gautsche questioned why in Section 1, Letter A of the Ordinance it refers to a dwelling unit of at least nine hundred fifty square feet and in Ordinance 4469 it refers to a unit of at least seven hundred and twenty square feet.

City Attorney Larry Barkes stated there is an intentional inconsistency between the two Ordinances and as written Ordinance 4468 states the owner of a unit with less than 950 square feet would not be eligible to buy a parking pass. Attorney Barkes further stated in the original versions both minimum requirements were 950 square feet but after discussion with individuals with units smaller than the 950 square feet, the compromise was to lower the requirement in Ordinance 4469. At that time a temporary decision was made to leave the 950 square feet in this Ordinance. Attorney Barkes also stated the purpose of a minimum square feet requirement is to have some control from single dormitory residential operations downtown.

Jeremy Stutsman, 212 W. Jackson, stated he is representing the EID board and the board is not trying to exclude anyone from getting a parking pass with the square footage requirement but is trying to protect the minimum square footage of what an apartment can be downtown. Further he does not feel the EID board would oppose changing the requirement to 720 square feet in this Ordinance.

Councilman Grimes moved to amend the Ordinance Section 1, Letter A to read 720 square feet rather than 950 square feet. Motion seconded by Councilwoman Gautsche.

By a 7-0 unanimous vote of the Council the motion to amend the Ordinance passed.

The Council discussed the passes are now in the form of a window sticker that is not transferable from a tenant’s car that moves out during the calendar year to the next tenant’s car.

By a 7-0 unanimous vote of the Council the motion to pass the Ordinance on first reading 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 and final reading and moved its passage by roll call vote. Motion seconded by Councilman Grimes.

The Council roll call vote was as follows:

AYES: BLOSS: GAUTSCHE: GRIMES: LANTZ: PURO: SCOTT: THOMAS

NAYS: NONE

(ORDINANCE NUMBER 4468 DULY PASSED AND ADOPTED THIS 18<sup>TH</sup> DAY OF DECEMBER 2007.)

**ORDINANCE NUMBER 4469**

Council President Thomas introduced Ordinance Number 4469 entitled "AMENDING THE ZONING AND USE REGULATION ORDINANCE SECTION 4200.7, OFF-STREET PARKING REGULATIONS AND SECTION 5200, CONDITIONAL USES, DWELLING UNITS."

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 Grimes.

City Attorney Larry Barkes stated the Ordinance is a mechanism to control the minimum size of apartments downtown. Further the Ordinance can only be heard on first reading tonight as a public hearing will be held at the next Plan Commission meeting for the commission's consideration.

By a 7-0 unanimous vote of the Council the motion passed.

(ORDINANCE NUMBER 4469 DULY PASSED ON FIRST READING ONLY THIS 18<sup>TH</sup> DAY OF DECEMBER 2007.)

**RESOLUTION NUMBER 2007-68**

Council President Thomas introduced Resolution Number 2007-68 entitled "AN EMERGENCY RESOLUTION PROVIDING FOR THE TRANSFER OF FUNDS."

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 Councilman Grimes.

By 7-0 unanimous vote of the Council, Resolution Number 2007-68 was passed.

The Council roll call vote was as follows:

AYES: BLOSS: GAUTSCHE: GRIMES: LANTZ: PURO: SCOTT: THOMAS

NAYS: NONE

**RESOLUTION NUMBER 2007-68**

Council President Thomas moved to add Resolution 2007-69 to the agenda. Motion seconded by Councilwoman Gautsche and motion passed.

Council President Thomas introduced Resolution Number 2007-69 entitled "A RESOLUTION HONORING THE LONG SERVICE OF PAUL D. SCOTT AND WILLIAM J. BLOSS."

Council President Thomas read the Resolution in its entirety and requested its passage by acclamation.

Mayor Kauffman determined Resolution 2007-69 is passed by acclamation.

Mayor Kauffman expressed his appreciation to Councilmen Scott, Bloss, Grimes and Puro for their service and assistance with decisions affecting the City.

Council President Thomas moved to adjourn. Motion seconded by Councilman Bloss and the meeting adjourned at 8:15 P.M.