

**REGULAR MEETING OF THE COMMON COUNCIL  
JANUARY 22, 2008  
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 January 22, 2008 at 7:00 P.M. Presiding Officer was Mayor Kauffman with members of the Council present as follows:

PRESENT: COUNCILMAN LANTZ, RIEGSECKER, STUMP, STUTSMAN, THOMAS  
COUNCILWOMAN GAUTSCHE, ROBINSON

ABSENT: NONE

**PRIVILEGE OF FLOOR**

Glenn Null, 213 Dewey Ave. stated that he had 3 items to discuss:

- To compliment the Street Department on the job they have done keeping the snow cleared and overall felt the city has been covered very well;
- Questioned the use of City property for private gain. He had observed a police vehicle parked in front of a bank running. Mr. Null stated he had called his Councilman about this but had not received a response. He wants to know if this is permitted. He does not appreciate them using his gas and stated the police officer was asleep. Mr. Null further stated he would speak with the Police Chief about this.

Councilman Lantz apologized for not getting back but did follow up on the issue and stated the officer was not asleep inside of the bank. The presence of the police car sitting in front of the bank is a great deterrent to a bank robber and the cost of the fuel used is a lot less than the cost of investigating a bank robbery.

- In October he had asked when the eyesore by the high school would be taken care of. It is still the same eyesore and feels something needs to be done. The city should take care of it or force someone to take care of it.

City Attorney Larry Barkes responded that the owners of the property have hired someone to tear it down and they have been making some progress but agrees it is moving very slowly.

**APPROVAL OF MINUTES**

Council President Stump moved to accept the Minutes of the Council meeting of January 8, 2008 as presented. Motion seconded by Councilman Riegsecker.

Council President Stump moved to approve the change requested by Larry Barkes City Attorney to page 4, paragraph 4 to read:

- Councilman Thomas moved to remove the language in Ordinance 4471 modifying Appendix B, which before Councilman Thomas' amendment called for the deletion of the fee schedule.

Council President Stump moved to accept the Minutes as amended .Motion seconded by Councilman Riegsecker and the minutes passed unanimously as amended.

#### **ORDINANCE NUMBER 4469**

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

Council President Stump asked the First Deputy to read the Ordinance by title only for its second and final reading and moved its passage by roll call vote. Motion seconded by Councilwoman Robinson.

City Attorney Larry Barkes stated the reason for the Ordinance has to do with the change in the downtown parking. The City was controlling the size of the downtown apartments through the parking regulations and by changing those parking regulations this language is being added to accomplish the same type of control.

The Council roll call vote was as follows:

AYES: GAUTSCHE: LANTZ: RIEGSECKER: ROBINSON: STUMP: STUTSMAN:  
THOMAS

NAYS: NONE

(ORDINANCE 4469 DULY PASSED AND ADOPTED THIS DAY 22<sup>ND</sup> DAY OF JANUARY 2008.)

#### **PUBLIC HEARING ON ORDINANCE NUMBER 4473**

Mayor Kauffman opened the Public Hearing on Ordinance Number 4473 entitled “Additional Appropriation Ordinance.” Mayor Kauffman explained the Additional Appropriation is for the Redevelopment District Capitol Fund for the purchase of land in Waterford Commons for the purpose of building the south link road.

Glenn Null, 319 Dewey Ave. stated he has a hard time spending this amount of money for that little amount of land. He also stated he does not feel that it is the right place for a road.

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

#### **ORDINANCE NUMBER 4473**

Council President Stump introduced Ordinance Number 4473 entitled “ADDITIONAL APPROPRIATION ORDINANCE.”

Council President Stump asked the First Deputy to read the Ordinance by title only for its second and final reading and moved its passage by roll call vote. Motion seconded by Councilman Thomas.

The Council roll call vote was as follows:

AYES: GAUTSCHE: LANTZ: RIEGSECKER: ROBINSON: STUMP: STUTSMAN:  
THOMAS

NAYS: NONE

(ORDINANCE 4473 DULY PASSED AND ADOPTED THIS DAY 22<sup>ND</sup> DAY JANUARY OF 2008.)

**ORDINANCE NUMBER 4474**

Council President Stump introduced Ordinance Number 4474 entitled “AN AMENDMENT TO GOSHEN ZONING ORDINANCE 3011 CONCERNING MISCELLANEOUS REGULATIONS.”

Council President Stump asked the First Deputy to read the Ordinance by title only for its first reading and moved its passage. Motion seconded by Councilman Riegsecker.

City Planner Joseph Hauflaire stated the Ordinance is the culmination of 2007 Plan Commission meetings and Planning Office work and is part of making changes to the Zoning Ordinance to administer more effectively and to clarify language. Mr. Hauflaire highlighted the substance of changes as follows:

- Firearm, Firearms Dealer and Gun Sales definitions. Propose to delete gun sales from B2 zoning areas. Take gun sales out of the downtown zoning district.
- Outside display merchandise. Still allowed in B-3 district but limits this in other districts.
- Outside storage definition.
- Hotel/Motel combined under single definition.
- Monument signs maximum height change as the language conflicted with the current Sign Ordinance.
- Front yards-property line definition clarifications.
- Barbed wire limited to industrial districts only.

This Ordinance was passed to the City Council with a favorable recommendation, by a vote of 7-0 of the Plan Commission.

Councilman Lantz questioned if the Ordinance limits gun sales only in the downtown area and not the entire City.

Joe Hauflaire stated this is correct. It would still allow businesses that gun sales are not the primary business into the B-2 district. He stated the Planning Office has received several calls with the consensus being that the resident did not feel gun sales were appropriate downtown.

Mayor Kauffman questioned if then a full line sporting goods store could operate downtown, which Mr. Hauflaire confirmed under these regulations they would be allowed.

Council President Stump questioned Mr. Hauflaire as to why the Plan Commission and the few callers feel this use is not appropriate downtown.

Mr. Hauflaire responded that the Plan Commission has the right to pick and choose what uses belong in each zoning district and he believes this use is more appropriate in a B-3 area.

Council President Stump stated that the right to own a gun is guaranteed with the proper conditions in the constitution and believes this is an honorable profession in any commercial location. Council President Stump further stated he does not feel it is appropriate to ban a gun store in a B2 district.

Councilwoman Robinson stated she has had a couple of people contact her that were upset about the restrictions as they did not understand why there could not be a gun store in the downtown area. It is not something that is unsightly.

Chad Howley, 230 S. 3<sup>rd</sup> St., owner of ZX gun presented the Council and City Attorney with paperwork regarding the requirements for buying a firearm, and reports which show that crime has dropped substantially in the last 10 of years. He also presented Indiana legislative codes, which he feels makes it illegal for the Council to limit gun sales in a B-2 area. He also stated he feels it is unconstitutional to tell a gun shop owner where he can or cannot own a gun shop. Mr. Howley further stated that at least 80% of his business comes from more than 15 miles away and 60% of his business comes from more than 40 miles away. These people do not just spend money at the gun shop; they also spend money at the gas stations, restaurants, and stores. He wanted to be in this location because of the proximity to the City Police Station for safety reasons. There has not been a gun sold in his store that has been traced to a crime. In 1962 there were 11 stores in the City of Goshen that had federal firearms licenses.

City Attorney Larry Barkes responded that he believes the Council can limit firearm sales in a zoning district such as a residential district. He stated he would need to look at the statue further, but felt the Council does have the ability to prohibit firearm sales in a residential district if they so choose. Attorney Barkes confirmed the Ordinance would put limitations on Mr. Howley's ability to expand his store in the future at the current location.

Harold Boyer, 1120 Harvest Drive, spoke in opposition of the Ordinance and feels we do not need more infringements on our guaranteed rights because 3 or 4 people are concerned about a gun store downtown. There are not many regulations put on other businesses that detract from the downtown that have been there for years. Also he is offended to hear the clientele of gun shops likened to the clientele of tattoo parlors and pawn shops.

Kent Cory, 820 Conner Dr. Mishawaka, spoke in opposition of the Ordinance as he does not understand why the gun shop is not appropriate when there is a night club downtown that was previously closed down in the Peddlers Village shopping area for violence. He stated gun shops are regulated by the state and federal governments.

Steve Mack, Syracuse, spoke in opposition of the Ordinance and questioned why do we have to listen to the complaints of a few when the majority is supposed to rule?

Jason Bryant, 1619 Locust, Elkhart, spoke in opposition of the Ordinance stating he lived in Goshen for a while, he helped Chad open the gun shop and he has watched the town grow. Mr. Bryant feels this gun shop gives quality products and services and customers come from different areas to shop at this store and the people who come may have dinner or shop while in Goshen. He feels the spirit of the downtown is to have specialty shops to bring people in and give them something they cannot find at Wal-Mart.

Glenn Null, 319 Dewey Ave., questioned the definition of outside display; would sidewalk days not fall under this? Mr. Null stated there is no set back in the Ordinance when merchandise is placed on the street. There is a loop hole in this system. He also questioned if barbed wire fence currently exists is it grandfathered in?

Mr. Hauflaire confirmed the business would be grandfathered in.

Glenn Null also spoke in opposition of limiting guns sales the downtown and stated this business is bringing money into the City and creating employment.

Dan Taylor, 113 Blackport Drive, spoke in opposition of the Ordinance as he feels gun stores should be allowed due to the rights of citizens of the U.S.

Ryan Stoya, 316 S. 5<sup>th</sup> Street, spoke in opposition of the Ordinance as he feels that it brings diversity to the downtown that other businesses would not. It is a destination store for people from Indianapolis, Fort Wayne, Peru, and Crown Point. Mr. Stoya stated he graduated from Goshen College and works part-time at the ZX gun shop downtown. He further stated when customers are here they ask where restaurants, stores, and gas stations are located. Customers would be missing out on the expertise and knowledge of people who do this as a profession and would not receive the same expertise from Wal-Mart.

Karen Boyer, 1120 Harvest Dr., spoke in opposition of the Ordinance and stated she has a personal protection permit. She enjoys the right to choose the place to purchase a gun. The majority of crimes committed as vandalism are done with BB guns sold at Wal-Mart stores. She feels offended that some would suggest that gun carrying people are lower class citizens.

Sam Blosser, 2801 Toledo Rd, Elkhart, spoke in opposition to the Ordinance and stated he was born and raised in Goshen. He goes to ZX gun shop because he is treated with respect. Further he has 7 years of experience in corrections and does carry personal protection.

Jeff Drummond, Bristol, spoke in opposition of the Ordinance and stated the gun shop in the town of Bristol is owned by the Fire Chief. He suggested to the Council that before they make a decision on this they should go ZX gun shop and look around to see what it is all about.

Ryan Green, 58867 CR 105, Elkhart, spoke in opposition of the Ordinance and wants to let everyone know that people do go out of their way to visit gun shops.

Jamie Kalan, 37 E. Perry Rd., Ligonier, spoke in opposition of the Ordinance and stated she travels to ZX gun shop because they try to give you what you want not just sell you anything and she is always treated with respect.

Brad Hooper, South Bend, spoke in opposition of the Ordinance and stated what the Council really needs to decide is if Goshen is going to discriminate against the firearms industry and gun shops?

Jeff Tinsley, 1820 Berkey Ave., spoke in opposition of the Ordinance and stated he would challenge anyone to prove to him that a gun shop raises crime and increases police presence. He feels that bars invariably lead to an increase in crime but they are allowed in the downtown area. He disagrees with the City Attorney on the definition of the State laws regarding this issue.

Jason Lehman, 401 S. Riverside, spoke in opposition of the Ordinance and stated for him this is an economic issue. He believes in encouraging business to come downtown and not to try to regulate them out of the downtown

Mayor Kauffman questioned if there are regulations in other cities.

Chad Howley stated that there is not one city in the state of Indiana that has any Ordinance against gun shops in the downtown He further stated the owner does have to get a special permit for a residential area.

Council President Stump questioned why you would want to regulate gun shops out of downtown as they should be considered an asset to the area. Further it should not to be compared to a tattoo parlor and also pointed out that good people own guns.

Councilman Thomas stated he understands why some people would be asking for the discretionary change. The real issue is the tussle over who decides what kind of downtown we have. Councilman Thomas also stated he is concerned that this issue has not been presented to the EID Board and he feels there is a problem with the process if EID has not been asked their opinion on the issue.

Councilwoman Gautsche stated this is an issue that has a lot of controversy and she would like to have more time to have discussion with her constituents.

Councilwoman Gautche motioned to postpone the entire Ordinance for 2 weeks.

Councilman Stutsman seconded the motion.

The Council roll call vote was as follows:

AYES: GAUTSCHE: STUTSMAN: THOMAS

NAYS: LANTZ: RIEGSECKER: ROBINSON: STUMP:

By 3-4 vote of the Council the motion to postpone failed.

Council President Stump motioned to amend the Ordinance to unstrike the P in Article V, Appendix E, under B-2 Gun Sales on page 6.

Motioned seconded by Councilman Riegsecker.

The Council roll call vote was as follows:

AYES: LANTZ: RIEGSECKER: ROBINSON: STUMP: THOMAS

NAYS: GAUTSCHE: STUTSMAN

By 5-2 vote of the Council the motion to amend the Ordinance passed.

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

AYES: LANTZ: RIEGSECKER: ROBINSON: STUMP: STUTSMAN: THOMAS

NAYS: GAUTSCHE

By 6-1 vote of the Council the motion passed.

Glenn Null 319 Dewey Ave, stated since the Ordinance is amended he would like to see the definitions of Firearm, Firearms Dealer and Gun Sales removed from page 1 of the Ordinance.

Councilman Lantz moved to remove the above referenced definitions from the Ordinance. Motion seconded by Council President Stump.

After discussion regarding the fact that the definitions were placed in the Ordinance to clarify the language and to align it with other City Ordinances; Councilman Lantz and Council President withdrew their motion and second for the amendment..

Council President Stump asked the First Deputy to read the Ordinance 4474 by title only for its second and final reading and moved its passage by roll call vote. Motion seconded by Councilman Riegsecker.

The Council roll call vote was as follows:

AYES: LANTZ: RIEGSECKER: ROBINSON: STUMP: STUTSMAN: THOMAS

NAYS: GAUTSCHE

(ORDINANCE 4474 DULY PASSED AND ADOPTED AS AMENDED THIS 22<sup>ND</sup> DAY OF JANUARY 2008.)

**RESOLUTION NUMBER 2008-01**

Council President Stump introduced Resolution Number 2008-01 entitled “AN EMERGENCY RESOLUTION PROVIDING FOR THE TRANSFER OF FUNDS.”

Council President Stump asked the First Deputy to read the Resolution by title only and moved its passage by roll call vote. Motion seconded by Councilman Thomas.

Glenn Null, 319 Dewey Ave. stated he has a hard time spending this kind of money for something he does not feel the City needs.

By 7-0 unanimous vote of the Council, Resolution Number 2008-01 was passed.

**RESOLUTION NUMBER 2008-02**

Council President Stump introduced Resolution Number 2008-02 entitled “A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF THE AMENDMENT OF INTERLOCAL AGREEMENT BETWEEN THE COUNTY OF ELKHART AND THE CITY OF GOSHEN FOR ANIMAL SHELTER MANAGEMENT AND ANIMAL CONTROL SERVICES .”

Council President Stump asked the First Deputy to read the Resolution by title only and moved its passage by roll call vote. Motion seconded by Councilwoman Robinson.

Mayor Kauffman stated this is the same agreement that the City has had in the past for animal control, and Goshen and Elkhart County will have the same per capita cost.

Glenn Null, 319 Dewey Ave. questioned how many calls did the animal shelter make to the City of Goshen. He feels that the City has no animal control and as a taxpayer he feels he is not getting his money’s worth. He stated this organization is very arrogant and is in it for the money not the animals. He would like the Council to provide the number by next year to be able to evaluate their performance.

Mayor Kauffman responded that the call records are available for Goshen and Elkhart County.

Council President Stump also responded that they are doing the best they can; no one is getting rich and if you and your friends have a better idea for animal control, start a new program.

By 7-0 unanimous vote of the Council, Resolution Number 2008-02 was passed.

**COUNCIL DISCUSSION**

Councilwoman Gautsche questioned if she and Councilman Lantz were to draft a dangerous animal ordinance would they be interested in looking at it. The County has an ordinance but it is very bare bones.

Mayor Kauffman stated that the Humane Society is working on one for the County but he is aware that it does not address the animal by breed.

Councilman Thomas requested that they wait to see the County Ordinance before any more time is put into it.

Councilman Thomas moved to adjourn. Motion seconded by Council President Stump and the meeting adjourned at 8:45 P.M.