

**REGULAR MEETING OF THE COMMON COUNCIL (JULY 1, 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 July 1, 2008 at 7:00 P.M. Presiding Officer was Council President Stump with members of the Council present as follows:

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

ABSENT: NONE

**PRIVILEGE OF FLOOR**

No items were presented under privilege of the floor.

**APPROVAL OF MINUTES**

Councilman Thomas moved to accept the Minutes of the Council meeting of June 17, 2008 as presented. Motion seconded by Councilwoman Robinson and motion carried unanimously.

**SPECIAL PRESENTATIONS**

City Planner Joseph Hauflaire personally thanked Jay Rounds for his sixteen years of service on the Board of Zoning Appeals and the Plan Commission. Mr. Hauflaire presented Mr. Rounds with a plaque as a small recognition on behalf of the community.

Mr. Rounds stated he appreciated the opportunity to help the City by serving.

**ORDINANCE NUMBER 4495**

Council President Stump introduced Ordinance Number 4495 entitled "AN ORDINANCE VACATING PUBLIC WAYS IN THE CITY OF GOSHEN, INDIANA."

Council President Stump asked the Clerk-Treasurer 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 applicant is requesting the vacation of the south 14' of C Street which has a current right-of-way of 33'. There is a home built at 202 S. 27<sup>th</sup> Street that encroaches into the right of way. Mr. Hauflaire suggests the Council vacate the south 14' of right-of-way which will eliminate the encroachment. The balance of 19' is sufficient and will still allow driveway access to the homeowner and alley way access.

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

Council President Stump 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 Robinson.

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

(ORDINANCE 4495 DULY PASSED AND ADOPTED THIS 1<sup>ST</sup> DAY OF JULY 2008.)

**ORDINANCE NUMBER 4496**

Council President Stump introduced Ordinance Number 4496 entitled “AN AMENDMENT TO GOSHEN ZONING ORDINANCE 3011 CONCERNING THE OFFICIAL ZONING MAP.”

Council President Stump asked the Clerk-Treasurer 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 a clerical matter and he believes this amendment to the Goshen Zoning Ordinance 3011 will bring the City in full compliance with Indiana State Statute. The amendment basically states where the Official Zoning Map is located and who is responsible.

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

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

Council President Stump 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.

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

(ORDINANCE 4496 DULY PASSED AND ADOPTED THIS 1<sup>ST</sup> DAY OF JULY 2008.)

**ORDINANCE NUMBER 4497**

Council President Stump introduced Ordinance Number 4497 entitled “ESTABLISH AN ANNUAL TAX RATE FOR THE CUMULATIVE CAPITAL DEVELOPMENT FUND.”

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

City Attorney Larry Barkes explained the Ordinance is to re-establish the fund at the maximum rate of \$0.05 per \$100.00 of assessed valuation. Attorney Barkes stated the Mayor urges the Council to pass the Ordinance at the maximum rate as the State may later lower the rate during the budget process. Further the fund is outside of the controlled levy.

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

(ORDINANCE NUMBER 4497 DULY PASSED ON FIRST READING ONLY THIS 1<sup>ST</sup> DAY OF JULY 2008.)

**ORDINANCE NUMBER 4498**

Council President Stump introduced Ordinance Number 4498 entitled “ESTABLISH AN ANNUAL TAX RATE FOR THE CUMULATIVE BUILDING OR REMODELING FIREFIGHTING AND POLICE RADIO EQUIPMENT FUND.”

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

City Attorney Larry Barkes stated this fund is inside the controlled levy. The Ordinance will re-establish the fund at the maximum rate of \$0.0333 per \$100.00 of assessed valuation. Attorney Barkes stated the Mayor requests the Council pass the Ordinance at the maximum rate to allow flexibility during the budget process.

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

(ORDINANCE NUMBER 4498 DULY PASSED ON FIRST READING ONLY THIS 1<sup>ST</sup> DAY OF JULY 2008.)

**ORDINANCE NUMBER 4499**

Council President Stump introduced Ordinance Number 4499 entitled “ESTABLISH AN ANNUAL TAX RATE FOR THE CUMULATIVE BUILDING AND SINKING FUND FOR MUNICIPAL SEWERS.”

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

City Attorney Larry Barkes stated this fund is also inside of the controlled levy and the Ordinance will re-establish the fund at the maximum rate of \$0.0333 per \$100.00 of assessed valuation.

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

(ORDINANCE NUMBER 4499 DULY PASSED ON FIRST READING ONLY THIS 1<sup>ST</sup> DAY OF JULY 2008.)

**ORDINANCE NUMBER 4500**

Council President Stump introduced Ordinance Number 4500 entitled “DETERMINATION OF COMPLIANCE WITH STATEMENT OF BENEFITS FOR REAL ESTATE IMPROVEMENTS OR PERSONAL PROPERTY.”

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

City Attorney Larry Barkes stated this Ordinance will give the Community Development Director the authority to review the annual report, Compliance with Statement of Benefits Form(s), and any other materials filed by the property owners receiving a tax phase-in and to

certify compliance to the Elkhart County Auditor and/or State of Indiana on behalf of the Council without action or further review by the Council..

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

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

Council President Stump 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 Robinson.

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

(ORDINANCE 4500 DULY PASSED AND ADOPTED THIS 1<sup>ST</sup> DAY OF JULY 2008.)

**RESOLUTION NUMBER 2008-25**

Council President Stump introduced Resolution Number 2008-25 entitled “RESOLUTION OF THE GOSHEN COMMON COUNCIL APPROVING THE BORROWING OF FUNDS FOR REAL ESTATE ACQUISITION.”

Council President Stump asked the Clerk-Treasurer to read the Resolution by title only and moved its passage. Motion seconded by Councilman Thomas.

Patty Morgan, Board of Aviation Treasurer, stated in accordance with state statute the Board of Aviation Commissioners is requesting the Council approve the Resolution to allow the Board to borrow funds to purchase real estate. In 2007 the 1000 foot extension of runway was completed with a grant from the FAA and the Board is planning to build four additional hangars this year. The total purchase price of the property is \$145,000 but the Board is asking to borrow up to \$100,000 at an interest rate not to exceed five percent per annum for a period not to exceed ten years. Ms. Morgan further stated the aviation department is pretty much self sufficient with the revenue collected from hangar leases and the fuel base operation.

By 7-0 unanimous vote of the Council, Resolution Number 2008-25 was passed.

**RESOLUTION NUMBER 2008-26**

Council President Stump introduced Resolution Number 2008-26 entitled “DOCUMENTING THE FILING OF A PETITION FOR ANNEXATION OF PRIVATE LANDS INTO THE CITY OF GOSHEN, INDIANA BY ROBERT J. HEPLER JR AND MELISSA D. HEPLER.”

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

City Attorney Larry Barkes explained the only action needed from the Council on the Resolution is to acknowledge the receipt of the application to be annexed.

By 7-0 unanimous vote of the Council, Resolution Number 2008-26 was passed.

**PUBLIC HEARING ON ORDINANCE NUMBER 4501**

Council President Stump opened the Public Hearing on Ordinance Number 4501 entitled Annexation of Real Estate into the City of Goshen, Indiana Identified as the County Road 27-Regent Street Annexation Area.

Glenn Null, 319 Dewey Ave, questioned if the land in the annexation request is undeveloped.

City Attorney Larry Barkes stated almost 100%, if not 100%, is undeveloped.

Mr. Null stated he thought the City waited to annex property until it is developed to receive more tax revenue.

Attorney Barkes confirmed that is the usual practice but the long term plan is to request a TIF district be established on the property.

Mr. Null questioned why the City would be placing a TIF district in an area zoned R-1.

Attorney Barkes stated the intent is to request rezoning of the area before requesting the establishment of the TIF district.

Attorney Gordon Lord, 103 N. Main St, stated he is representing Waterford Development Corporation and the Hoogenboom family as the owners of the bulk of the property. Attorney Lord stated the Waterford Development property is under the City's zoning jurisdiction as it is included in a PUD.

Council President Stump closed the Public Hearing as no further person wished to speak.

**ORDINANCE NUMBER 4501**

Council President Stump introduced Ordinance Number 4501 entitled "ANNEXATION OF REAL ESTATE INTO THE CITY OF GOSHEN, INDIANA IDENTIFIED AS THE COUNTY ROAD 27-REGENT STREET ANNEXATION AREA."

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

Attorney Gordon Lord stated in general the property owners have agreed to be part of a TIF district. The advent of the south link road changes the characteristics of the property use. At this time the property owners are unsure of what type of zoning changes will be requested. Sections 1, 4 and 5 will most likely be zoned to capture TIF revenue.

The Council discussed the following:

- The usual practice in a TIF district is for the developer to pay the expenses of the infrastructure and utilities and then the City reimburses with TIF dollars over a period of time;
- The Park Department was given a piece of land included in the annexation and the City is proposing the construction of a bike path in the area;
- The TIF revenues alone will most likely not be enough to construct the south link road and the City is looking at multiple sources to build the road;
- Councilwoman Gautsche stated the City does not have much land set aside for a technology park and stated her hopes that one could be developed in this area. The south link road and the available land could be an incentive for this type of development: and
- This Ordinance is for the annexation of the property only and does not include any zoning change requests.

Glenn Null, 319 Dewey Ave, urged the Council not to pass the Ordinance and stated he remembers sitting through meetings where residents voiced many problems with manufacturing companies in the same neighborhood with residential properties.

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

(ORDINANCE 4501 DULY PASSED AND ADOPTED ON FIRST READING ONLY THIS 1<sup>ST</sup> DAY OF JULY 2008.)

### **RESOLUTION NUMBER**

Council President Stump introduced Resolution Number 2008-27 entitled “ADOPTION OF THE FISCAL PLAN FOR THE COUNTY ROAD 27-REGENT STREET ANNEXATION AREA.”

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

City Attorney Larry Barkes stated this fiscal plan is one of the more difficult the Legal Department has prepared as assumptions had to be made as to how the land will be developed.

Glenn Null, 319 Dewey Ave, urged the Council not to pass the Resolution as he has concerns about sections 4 and 5 border the school so if they are zoned as M-1 the manufacturing that is in place could be noisy and disruptive to the school. Mr. Null stated he does not like the assumptions made in the fiscal plan.

Councilman Thomas stated this fiscal plan is a little complicated but feels the Legal Department is being as transparent and forthright as possible.

Councilwoman Gautsche stated she understands Mr. Null’s concerns and feels the City has more safeguards in place to protect residents such as landscaping barrier requirements.

Councilman Thomas stated after the 2010 census, the Council needs to put forth effort to rebalance the districts in the City.

After questioned by Councilwoman Gautsche, Attorney Barkes stated sidewalk requirements will be addressed when zoning requests are made.

By 7-0 unanimous vote of the Council, Resolution Number 2008-27 was passed.

**RESOLUTION NUMBER 2008-28**

Council President Stump introduced Resolution Number 2008-28/ entitled "TEMPORARY TRANSFER OF FUNDS BETWEEN BUDGET ACCOUNTS."

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

Clerk-Treasurer Tina Bontrager explained that the Resolution is to provide for the transfer of funds to cover shortfalls in the General Fund and the Park and Recreation Fund due to the City not receiving a June 30, 2008 property tax settlement.

Councilman Thomas questioned if we were to receive the June 30 distribution in August, would the funds be paid back at that time.

Clerk-Treasurer Bontrager explained that it will be impossible to receive the funds before December other than advance draws of funds as Elkhart County is only processing one tax billing this year in November rather than in May and November as usual. Ms. Bontrager explained that she is hoping these transfers will be enough to refrain from borrowing funds from an outside source and in turn avoid paying interest.

By 7-0 unanimous vote of the Council, Resolution Number 2008-28 was passed.

The Council roll call vote was as follows:

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

NAYS: NONE

Councilman moved to adjourn. Motion seconded by Councilman and the meeting adjourned at 8:20 P.M.

APPROVED: \_\_\_\_\_  
Mayor, Allan Kauffman  
Goshen, Indiana

ATTEST: \_\_\_\_\_  
Tina M. Bontrager  
City Clerk-Treasurer