

ORDINANCE NO. 16

**AN ORDINANCE APPOINTING CHARLES L. HARWELL
TO FILL THE OFFICE OF CITY ATTORNEY IN THE CITY
OF GOSHEN AND PROVIDING FOR THE
COMPENSATION THEREOF.**

WHEREAS, the City of Goshen is a city of the second class, and pursuant to Ark. Code Ann. 14-42-112 has the power to appoint any regularly licensed attorney of the state of Arkansas to serve as City Attorney; and,

WHEREAS, presently the City of Goshen is without legal representation, due to the resignation of its previous attorney, which resignation was triggered by a certain lawsuit, *Chandler et al. v. Town of Goshen, AR, et al.*, Case No. Civ 2002-261-2, in the Circuit Court of Washington County, Arkansas and which resignation was negotiated as part of the settlement of said lawsuit; and,

WHEREAS, the lack of legal representation creates an emergency for the City of Goshen, its elected representatives and the citizens of Goshen, Arkansas, as well as their health, safety, and welfare; and,

WHEREAS, Ordinance 15, adopted by the City Council on April 25, 2002 provides that the office of City Attorney may be filled by appointment by the Mayor, subject to approval by a majority of the City Council; and,

WHEREAS, the City of Goshen, its Mayor and four of the five City Council members are named as defendants in another lawsuit, *Andy Bethell, et al. v. Town of Goshen, AR, et al.*, Case No. CV-02-621, in the Circuit Court of Washington County, Arkansas; and

WHEREAS, it is necessary and appropriate to defend such lawsuit, requiring that the Office of City Attorney be filled in order that the City and its elected officials be represented by legal counsel in said lawsuit and that the City have legal advice regarding the ongoing business of the City; and

WHEREAS, the timing of the service of the summons by the plaintiffs in the aforementioned lawsuit was calculated to create and does create an emergency for the City and its elected officials in seeking counsel to represent their interests.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GOSHEN:

ARTICLE 1. The office of City Attorney, having been established as an appointive position, should be filled by the appointment of Charles L. Harwell of the firm of Cypert, Crouch, Clark, and Harwell in Springdale, Arkansas, said appointment to be considered an interim appointment, until (a) the conclusion of the lawsuit, *Andy Bethell, et al. v. Town of Goshen, AR, et al.*, Case No. CV-02-621, in the Circuit Court of Washington County, Arkansas and (b) the appointment of a successor by the Mayor and City Council.

ARTICLE 2. The appointment of Charles L. Harwell to the office of City Attorney, includes, in addition to all other duties of the office, the assignment of taking the necessary and appropriate steps to defend all of the defendants named in the lawsuit, *Andy Bethell, et al. v. Town of Goshen, AR, et al.*, Case No. CV-02-621, in the Circuit Court of Washington County, Arkansas, which he shall do in consultation with the defendants named therein.

ARTICLE 3. The City Attorney shall also be empowered to utilize members of his law firm, Cypert, Crouch, Clark, and Harwell, to assist him in the performance of his duties.

ARTICLE 4. The compensation of the City Attorney shall be at the rate of \$150 per hour for the work of Charles L. Harwell. Other members of the firm of Cypert, Crouch, Clark, and Harwell, to the extent that they shall perform any work pursuant to this appointment, shall be compensated at the following hourly rates: James E. Crouch, \$150; James D. Cypert, \$150; William M. Clark, \$150; Stanley W. Ludwig, \$150; R. Jeffrey Reynerson, \$125; Marcus W. Van Pelt, \$125; Chris R. Reed, \$110. The foregoing reflects the rates charged by the attorneys in the law firm for work performed both in court and out of court. No charge shall be made for an attorney's time while in route to Goshen. Other time spent traveling pursuant to this appointment will be charged at the standard hourly rate for the attorney performing that service. Out of town travel shall be charged for time spent traveling, to and from destinations, as well as the time spent actually performing services pursuant to this appointment. The law firm shall be compensated for its expenses, except that no charge for mileage shall be made for travel to Goshen. Photocopies shall be reimbursed as follows (based upon the number of copies made during a trip to the copy machine): 25¢ per page 1-10; 20¢ per page 11-50; 15¢ per page 51-100; and 10¢ over 100. Long distance telephone charges shall be billed at a fixed charge per call. Faxes sent from the law firm shall be billed at a fixed charge per fax. Electronic searches shall be billed at a fixed rate. Billing statements will be provided by the law firm, as often as the law firm in its discretion, determines appropriate but no more often than monthly. The work performed by each attorney will be detailed in chronological order. The hourly rates quoted above will be applied in 1/10 hour increments. The law firm may charge a minimum of 2/10 hours for certain services, in its discretion.

ARTICLE 5. Emergency Clause: It is hereby declared that an emergency exists, and this Ordinance being necessary for the preservation of the health, safety, and welfare of the citizens of Goshen, Arkansas shall be effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 25th day of April, 2002.

Evel E Bower
Mayor

ATTEST:

Sharon Baggett
City Recorder

ROLL CALL

Names of those voting YEA

James Boyd

Jim Northup

Max Poye

Fred Wizer

Absent

Andy Bethell

Names of those voting NAY

None