



BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD
MINUTES OF THE THURSDAY, JANUARY 4, 2024 REGULAR MEETING
Convened in the Goshen Police & Court Building, 111 East Jefferson St., Goshen, Indiana

Present: Mayor Gina Leichty, Mike Landis, Orv Myers, Barb Swartley and Mary Nichols

Absent: None

CALL TO ORDER: Mayor Gina Leichty called the meeting to order at 4:00 p.m.

REVIEW/APPROVE MINUTES: Mayor Leichty presented the minutes of the Dec. 18, 2023, Regular Meeting as prepared by Clerk-Treasurer Aguirre. Board Member Mike Landis moved to approve the minutes as presented and the motion was seconded by Board Member Mary Nichols. Motion passed 5-0.

REVIEW/APPROVE AGENDA: Mayor Leichty presented the agenda as submitted by the Clerk-Treasurer. Board member Landis moved to accept the agenda as presented. Board member Nichols seconded the motion. Motion passed 5-0.

1) Mayor/Clerk-Treasurer request: Approve 2024 Board meeting calendar

Mayor Leichty told the Board that in 2024, the meetings of the Board of Public Works and Safety will be moved from Mondays at 2 p.m. to Thursdays at 4 p.m., except there won't be meetings on the third Thursdays of the month. She said Clerk-Treasurer Richard R. Aguirre wanted to comment on the resulting impact on City staff deadlines.

Clerk-Treasurer Aguirre said the Clerk-Treasurer's Office communicated to all City Department heads and administrators about how this change would affect their workflows because everyone was accustomed to the Monday Board meetings with claims processed the previous Thursday and Friday, approval on Monday and then payment later in the week. This year, he said claims will be due by 5 p.m. Monday, processed Tuesday and Wednesday and then approved by the Board on Thursday. He said there will be weeks when the deadline will be the previous Friday, when Monday is a City holiday.

Aguirre said claim payments will be processed the day after the Board meeting and paid on the Monday following the Board's Thursday meeting. He said this change will work out well even though it will change workflows. He added that City Department heads and administrators have proven to be very resilient and said things should work as well as before with just some different timing.

Mayor Leichty thanked Board members for their flexibility and willingness to allow the move to Thursday meetings. Landis/Nichols made a motion to approve the 2024 Board meeting calendar. Motion passed 5-0.

2) Police Department request: Conditional Offer of Employment to David Michael Stump

On behalf of the Police Department, Shannon Marks, the Legal Compliance Administrator for the City Legal Department, recommended that the Board extend a conditional offer of employment to David Michael Stump, as well as approve a Conditional Offer of Employment Agreement and authorize the Mayor to execute the agreement on behalf of the City and the Board.

Marks said the agreement sets forth the conditions that Stump must meet prior to beginning employment with the Police Department as a probationary patrol officer, which includes being approved by the board of trustees of the Indiana Public Retirement System for membership to the 1977 Police Officers' and Firefighters' Pension and Disability Fund.



Marks said Stump has an active certification with the Indiana Law Enforcement Training Board and was previously employed with the Goshen Police Department. The Police Department will request that the Board confirm the offer of employment when a position becomes available.

Landis/Nichols made a motion to extend and approve a conditional offer of employment to David Michael Stump as a probationary patrol officer and authorize the Mayor to execute the agreement. Motion passed 5-0.

3) Legal Department request: Pass Resolution 2024-02, Documenting the Submission of the 2023 Annual Certifications by City of Goshen Elected Officers

Shannon Marks, the Legal Compliance Administrator for the City Legal Department, told the Board that Resolution 2024-02, which was attached to the Board's agenda packet, would document the submission of the annual Certifications by all City of Goshen elected officers related to the state statutes and City policies regarding the employment of relatives by the City and contracting with the City.

Accompanying the resolution were signed and notarized certifications from the following elected officers: Mayor Gina Leichty, Clerk-Treasurer Richard R. Aguirre, City Judge Richard L. Mehl, Councilor Donald E. Riegsecker (District 1), Councilor Douglas L. Nisley (District 2), Councilor Matthew P. Schrock (District 3), Councilor Megan Peel (District 4), Councilor Gilberto Pérez Jr. (District 5), Councilor Julia King (At-Large), and Councilor Brett F. Weddell (At-Large). Each certified, under the penalties for perjury, that:

- (1) The elected officer has not violated Indiana Code § 36-1-20.2 et seq. entitled, "Nepotism";
- (2) The elected officer has not violated Goshen Common Council Resolution 2012-14 entitled, "Adopting a Policy Regulating Employment of Relatives by the City," passed May 15, 2012 and adopted May 29, 2012;
- (3) The elected officer has not violated Goshen Board of Public Works and Safety policy entitled, "Employment of Relatives by City," adopted January 24, 2022;
- (4) The elected officer is in compliance with Indiana Code § 36-1-21 et seq. entitled, "Contracting with a Unit";
- (5) The elected officer is in compliance with Goshen Common Council Resolution 2012-15 entitled, "Adopting a Policy Regulating Contracting with the City," passed May 15, 2012 and adopted May 29, 2012; and
- (6) The elected officer is in compliance with Goshen Board of Public Works and Safety policy entitled, "Contracting with the City," adopted January 24, 2022.

Landis/Nichols made a motion to pass Resolution 2024-02, *Documenting the Submission of the 2023 Annual Certifications by City of Goshen Elected Officers* Motion passed 5-0.

4) Legal Department request: Approve the terms and conditions of the agreement and addendum with Flock Group, Inc. for Flock Services, and ratify the Deputy Mayor's execution of the Agreement and Addendum on behalf of the City of Goshen and Goshen Police Department

Shannon Marks, the Legal Compliance Administrator for the City Legal Department, told the Board that the City of Goshen and Flock Group, Inc. entered into prior agreements on Nov. 16, 2021, and August 15, 2022 for Flock Services which includes law enforcement investigation hardware, software and services.

Marks said the attached Agreement and Addendum co-terms and consolidates the 2021 and 2022 agreements under a single agreement with an initial term of 60 months commencing Jan. 1, 2024. There is no price increase under the new agreement. The annual fee for Flock Services is \$45,000, and a credit of \$3,027.40 will be applied toward the 2024 annual fees for amounts prepaid under the prior agreements.

Marks said that in order for the City to take advantage of the \$45,000 annual fee for the next five years, it was necessary for the Deputy Mayor to execute and return the agreement and addendum by Dec. 31, 2023.



Landis/Nichols made a motion to approve the terms and conditions of the agreement and addendum with Flock Group, Inc. for Flock Services, and ratify Deputy Mayor Mark Brinson's execution of the agreement and addendum on behalf of the City of Goshen and the Police Department. Motion passed 5-0.

5) Legal Department request: Award the bid for the purchase of a mini excavator to Bobcat of Michiana as the only responsive and responsible bidder and approve and authorize Mayor Leichthy to execute the purchase agreement at a cost to the City of \$58,489.92

Brandy Toms, a paralegal with the City Legal Department, told the Board that the City solicited sealed bids for the purchase of a mini excavator for the Cemeteries Department.

Toms said the single bid submitted by Bobcat of Michiana was opened by this Board on Dec. 11, 2023. Bobcat of Michiana's bid was \$70,489.92. The bid also included an option for a trade-in allowance for a John Deere, Model #310D, the City current owns. She said the trade-in allowance offered by Bobcat of Michiana is \$12,000, would reduce the cost of the purchase of the mini excavator to \$58,489.92.

Toms recommended that Bobcat of Michiana be awarded the bid, declare the John Deere Model #310D as surplus and allow for it to be used as a trade-in and authorize Mayor Leichthy to execute the attached purchase agreement at a final cost of \$58,489.92.

Landis/Nichols made a motion to award the bid for the purchase of a mini excavator to Bobcat of Michiana as the only responsive and responsible bidder and approve and authorize Mayor Leichthy to execute the purchase agreement regarding the same at a cost to the City of \$58,489.92, which includes the trade-in allowance of \$12,000 for the John Deere Model #310D. Motion passed 5-0.

6) Legal Department request: Approve and authorize Mayor Leichthy to execute the agreement with Comcast regarding property damage the City sustained at Crescent Street and North 5th Street

Brandy Toms, a paralegal with the City Legal Department, recommended that the Board accept, and authorize Mayor Leichthy to execute, the attached release and settlement agreement with Comcast regarding property damage the City sustained at Crescent Street and North 5th Street. The repairs have been completed.

For the payment of \$7,214.66, the City of Goshen will release Comcast Cable communications, LLC from any and all claims, demands, suits and actions and any consequence relating to or arising from the incident and property damage that occurred on or about Nov. 29, 2023, at Crescent Street and North 5th Street.

Board member Landis asked if the City made the repairs and if Comcast would pay for them. Toms said based on the invoices that were attached to the agreement, it appeared an outside company made some of the repairs under the direction of City staff. She said the invoices were submitted to Comcast's insurance company, which agreed to pay them. City Director of Public Works & Utilities Dustin Sailor confirmed the repairs were made.

Landis/Nichols made a motion to approve and authorize Mayor Leichthy to execute the release and settlement agreement with Comcast regarding property damage the City sustained at Crescent Street and North 5th Street. Motion passed 5-0.

7) Legal Department request: Approve the loan agreement with LaCasa of Goshen Inc. for up to \$250,000.00

City Attorney Bodie Stegelmann informed the Board that on Feb. 6, 2023, the Goshen Common Council passed Resolution 2023-2, which authorized a loan from the City's Local Major Moves Construction Fund to LaCasa of Goshen, Inc. to help pay for water and sewer utility infrastructure improvements on real property owned by Oaklawn at 302 Lakeview Drive, necessitated by LaCasa's construction of up to 6, 8-unit buildings for permanent supportive housing in an amount up to \$250,000.



Stegelmann said the Council authorized the Board of Public Works and Safety and City staff to negotiate the terms of a final agreement with LaCasa and authorized the Board to enter into a formal loan agreement with LaCasa, consistent with the terms of Common Council Resolution 2023-2.

Stegelmann said City staff members negotiated the terms of a loan to LaCasa and were submitting the agreement now provided to the Board for consideration. Consistent with Resolution 2023-2, the loan will be forgivable. Interest will accrue at the rate of 1% per annum, starting two years after initial withdrawal of funds. Internally, the City will be using funds from its Opioid Settlement Fund to replenish the Local Major Moves Construction Fund as principal amounts of the loan are forgiven, and that could be done more quickly.

Stegelmann added that the loan will be subject to Council appropriation of the funds from the Opioid Settlement Fund and the Local Major Moves Construction Fund.

Board member Landis asked who will decide if it will be appropriate to reimburse the Local Major Moves Construction Fund earlier than specified in the agreement.

Stegelmann responded that the money will be appropriated from the two funds and City staff would coordinate with the Clerk-Treasurer's Office to transfer money from the Opioid Settlement Fund and the Major Moves Construction Fund. He said about the time the loan to LaCasa was being discussed, money started coming into the City from the settlement fund and this use is consistent with the required use of those funds. So, he said once the Council approved the loan, internal discussions began to use settlement funds, instead of the general fund, to repay the loan.

Mayor Leichty that it has turned out that the settlement fund payout will be larger than originally anticipated, which will be very helpful. She invited a LaCasa representative to describe the housing project.

Brad Hunsberger, the Vice President of Real Estate Development for LaCasa, said LaCasa is developing the project in partnership with the Indiana Housing Community Development Authority and Oaklawn. He said an agreement with LaCasa to lease property from Oaklawn, on its north Goshen campus, necessitates the extension of infrastructure for utilities.

Hunsberger said LaCasa worked with City staff about a year ago to reach this point in the process. He said this will be the last step in the funding package to move forward with the project. Hunsberger said he hopes the first claims for the funding will be made in May and that eventually 48 units will be constructed.

After Board members Landis and Nichols made a motion to approve the agreement, Mayor Leichty invited public comments.

Clerk-Treasurer Richard R. Aguirre said the forgivable loan to LaCasa originally was scheduled to be before the Board on Dec. 18, but the Mayor and City Attorney agreed to a delay to allow for some research and clarification of the agreement by the Clerk-Treasurer's Office. He said he wanted to add some background and context so that the record would reflect why this loan was a good investment for the City of Goshen.

As stated by the City Attorney, **Aguirre** said the loan to pay for the water and sewer infrastructure improvements will come from the City's Local Major Moves Construction Fund, and this usage is authorized by state statutes. Although there was some Council discussion about the rate of the loan, Aguirre said it was left to the Board and City staff to negotiate the terms of the agreement.

Aguirre said the Major Moves fund was created with the proceeds of the sale of the Indiana Toll Road. He said communities in seven counties received funds. Some communities have used all those funds, but the City of Goshen has continued to have funds because the Common Council required the repayment of loans from the fund. As of Dec. 20, 2023, the fund had a balance of \$4,687,602.41.

Aguirre said that over the years LaCasa has received loans from the City with interest rates paid on those loans ranging from a low of 1% to 5% as well as the rate the City was receiving on its investments, plus 1 percent. So, he said there was a precedent for a 1% loan to LaCasa.

Former Mayor Jeremy Stutsman proposed repaying the LaCasa loan with money from the Opioid Settlement Fund. The City is receiving funds over 18 years as part of a nationwide settlement with pharmaceutical distributors.



At the time of LaCasa loan approval in February by the Council, Aguirre said the City expected to receive about \$600,000 over 18 years – \$424,000 for restricted uses and about \$181,000 for unrestricted uses. However, on Dec. 21, 2023, Aguirre said he was notified by the Indiana Attorney General's Office that additional payments would be going to Goshen and other cities, towns and counties. As a result, Goshen will receive much more than had been anticipated – \$1.1 million with \$773,076.11 in restricted funds and \$327,543.32 in restricted funds.

Aguirre said the City has received \$155,098.64 – \$109,783.17 restricted and \$45,315.47 unrestricted. And the City will get \$137,668.69 later this year, which Aguirre said would allow a quicker repayment of the LaCasa loan.

While it would be unusual for the City to provide a 1% loan, Aguirre said he believed it was a safe, prudent, and necessary investment in the community for the following reasons:

- The Common Council approved a forgivable loan to LaCasa;
- LaCasa has been provided prior loans at 1% and has repaid them as required;
- This is a worthwhile project that will greatly benefit our community;
- The City has dedicated funds from the Opioid Settlement that are specifically designated for exactly this kind of project;
- The City will be receiving more Opioid Settlement funds than previously anticipated;
- The Major Moves funds has more than adequate reserves to make this loan;
- The City can and will be able to reimburse the Major Moves fund from the Opioid Settlement Fund without suffering any financial losses to the fund;
- Any lost interest income to Major Moves from making the loan will not be significant.
- And the agreement provides financial protection for the City if the project isn't completed.

Aguirre said he wanted to provide this summary in case questions are asked about why the City authorized a 1% loan to LaCasa and why City staff and the Clerk-Treasurer believe this is a good investment for the City.

There were no further comments from the Board or audience.

UNDER THE TERMS OF THE AGREEMENT, THE FOLLOWING APPLIES:

Loan amount: The City agrees to provide to LaCasa as a loan, up to \$250,000, subject to proper appropriation of funds by the City of Goshen Common Council. Funds shall be disbursed to LaCasa upon presentment to the City of qualifying invoices from the construction of the water and sewer infrastructure facilities.

Purpose of loan: LaCasa shall use the loan proceeds to pay towards water and sewer utility infrastructure improvements on real property owned by Oaklawn at 302 Lakeview Drive necessitated by LaCasa's construction of 6, 8-unit buildings for permanent supportive housing.

Interest rate: Interest on the loan proceeds will begin to accrue two years from the date the first disbursement of funds is made pursuant to Paragraph 1, above, at the rate of one percent (1%) per annum. Loan interest payments shall begin at the completion of the second 8-unit building pursuant to Paragraph 2(b) of Goshen Common Council Resolution 2023-02. LaCasa shall pay the interest accruing each year that interest accrues on or before December 31 of the year in which interest accrues.

Repayment of Loan Proceeds. The outstanding loan principal shall be repaid by LaCasa to City in full on or before December 31, 2033, if not forgiven pursuant to Paragraph 5 prior to such date.

Forgiveness of Loan. Upon completion of the first 8-unit permanent supportive housing building at the Oaklawn campus, the City shall forgive a principal portion of the loan to LaCasa in the amount of \$100,000. An additional \$100,000 of principal shall be forgiven at the completion of the third 8-unit permanent supportive housing building at the Oaklawn campus. Upon completion of the 6th and final 8-unit permanent supportive housing building at the Oaklawn campus, the City shall forgive the remaining principal amount borrowed \$50,000, assuming the full \$250,000 is borrowed. A building will be considered complete when the City issues an occupancy permit for the building. This schedule for forgiving loan principal assumes a completion date on or before Dec. 31, 2033.



Default and Remedies.

- a. A default will occur if any of the following events occur:
 - i. LaCasa fails to pay the full amount of any interest or loan repayment when such payment is due;
 - ii. LaCasa fails to use the loan proceeds for the purposes described in this agreement;
 - iii. LaCasa fails to observe or perform any material provision of this agreement;
 - iv. LaCasa declares bankruptcy; or
 - v. A receiver is appointed for LaCasa to allocate LaCasa's assets and income for the benefit of LaCasa's creditors.
- b. If a default occurs under the terms of this agreement and such default continues for thirty (30) days after written notice to the defaulting party, the non-defaulting party may assert any of the following remedies:
 - i. Declare all remaining payments of loan proceeds and interest immediately due and payable;
 - ii. Use any lawful means to collect all loan proceeds and interest that remains unpaid; and
 - iii. Seek reimbursement for any collection fees incurred including reasonable attorneys' fees.

Landis/Nichols made a motion to approve the loan agreement with LaCasa of Goshen Inc. for up to Two Hundred and Fifty Thousand Dollars (\$250,000.00). Motion passed 5-0.

8) Engineering Department request: Approve Director of Public Works to sign the Indiana Finance Authority's LSLI Project Completion Certification form for closeout of the LSLI Type I and Type II projects
City Director of Public Works & Utilities Dustin Sailor said that at the Board's meeting on May 22, 2023, authorization was provided to the Director of Public Works to sign the Indiana Finance Authorities Scope of Work Certification form to access Type I and Type II funds for lead service line investigation. The funding was provided through the end of 2023, and distributed directly to the City's selected consultant, Abonmarche Consulting, per the grant requirements.

In the past seven months, **Sailor** said there has been significant work completed including mailings to customers about the lead service inventory program, door hanger design and printing, door to door surveys, and the development of educational material for future use.

Sailor said to close out this segment of work, the Indiana Finance Authority has a Project Completion Certification form that needs to be signed, which formally closes the funding grant and allows for the final distribution of funding to our consultant, Abonmarche Consulting.

Sailor asked the Board to authorize Director of Public Works Dustin Sailor to sign the Indiana Finance Authority's LSLI Project Completion Certification form to close out the Type I and Type II project.

Landis/Nichols made a motion to approve Director of Public Works Dustin Sailor to sign the Indiana Finance Authority's LSLI Project Completion Certification form for closeout of the LSLI Type I and Type II projects. Motion passed 5-0.

Privilege of the Floor (opportunity for public comment for matters not on the agenda):

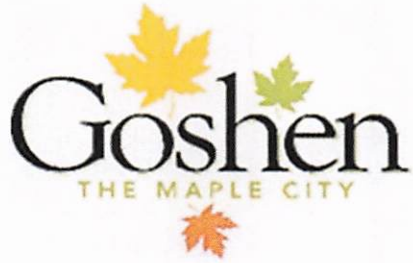
Mayor Leichty opened Privilege of the Floor at 4:25 p.m. There were no comments.

Approval of Civil City and Utility Claims

As all matters before the Board of Public Works & Safety were concluded, Mayor Leichty/Board member Landis moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 5-0.

Adjournment

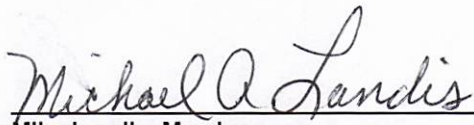
Mayor Leichty adjourned the Board of Works meeting at 4:26 p.m.




APPROVED:



Mayor Gina Leichy



Mike Landis, Member



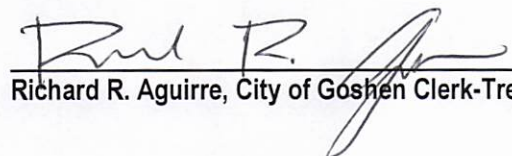
Orv Myers, Member



Mary Nichols, Member

Barb Swartley, Member

ATTEST:



Richard R. Aguirre, City of Goshen Clerk-Treasurer