

**BOARD OF PUBLIC WORKS AND SAFETY AND STORM WATER BOARD
MEETING HELD AUGUST 1, 2016 GOSHEN, INDIANA**

The Board of Public Works and Safety and Storm Water Board of the City of Goshen met in the Council Chambers, 111 East Jefferson Street on August 1, 2016, at 2:00 P.M. for their weekly Board meeting. Mayor Stutsman was the presiding officer with members of the Board present or absent as follows:

PRESENT: Mayor Stutsman, Board Member Day, Board Member Landis

ABSENT:

OTHERS: Clerk-Treasurer Office Assistants, City Attorney, City Planner, Fire Chief, Police Chief, Building Inspector Grise, Street Commissioner, Legal Contracts and Claims Manager, Mayor's Administrative Assistant Lung, Superintendent and Asst. Superintendent of Waste Water, Superintendent of Water and Sewer, Utilities 1st Deputy, Administrative Utilities Engineer, Central Garage Fleet Manager..

REQUEST TO APPROVE SIDEWALK & CURB 50/50 PROGRAM – JN: 2016-0001
AGREEMENT WITH THE HARTSOUGHS – 305 YORKTOWN DRIVE

Administrative Utilities Engineer Dustin Sailor requested Board approval of the Sidewalk & Curb 50/50 Program Agreement with Larry & Virginia Hartsough to replace the sidewalk at 305 Yorktown Drive. The total cost is \$1,230.00, so the City's portion would be \$615.00. The Hartsoughs have already submitted their payment of \$615.00.

Board Member Landis moved to approve the request. Second by Board Member Day and motion passed unanimously.

REQUEST TO APPROVE SIDEWALK & CURB 50/50 PROGRAM – JN: 2016-0001
AGREEMENT WITH E. GRAY – 106 W. DOUGLAS STREET

Administrative Utilities Engineer Dustin Sailor requested Board approval of the Sidewalk & Curb 50/50 Program Agreement with Edith Gray to replace the sidewalk at 106 W. Douglas Street. The total cost is \$1,080.00, so the City's portion would be \$540.00. Ms. Gray has already submitted her payment of \$540.00.

Board Member Day moved to approve the request. Second by Board Member Landis and motion passed unanimously.

REQUEST TO APPROVE BORNTRAGER, INC. VARIANCE REQUEST
FOR SEWER TAP & WATER TAP IN ACCORDANCE WITH
SEWER ORDINANCE 4333 SECTION 3.03(M) & WATER
ORDINANCE 4290 SECTION 1(F) & 1(H)(1) – JN: 2015-2032

Administrative Utilities Engineer Dustin Sailor requested Board approval of a Borntrager, Inc. Variance Request for Sewer Tap & Water Tap in accordance with Sewer Ordinance 4333 Section 3.03(M) and Water Ordinance 4290 Section 1(F) & 1(H)(1).

Borntrager, Inc. (Levi D. and Lorraine M. Borntrager property owners) is now ready to rebuild the warehouse building damaged by fire on February 15, 2015. When the warehouse was built in 1995, the water and sewer lines were connected to the existing office structure at 1715 E. Monroe Street. Based upon the location of existing offsite infrastructure, a public sewer main is not as easily accessible from Blackport Drive as it would be from the existing structure.

Borntrager, Inc. understands Ordinance 4333 Section 3.03(M) and Ordinance 4290 Section 1(F) covers a subordinate sewer tap and water tap to a primary structure's sewer tap. Although Borntrager, Inc. understand the determination of the subordinate structure on this property may be difficult, it is the opinion the office structure at 1715 Monroe Street is the primary structure and all other structures are subordinate. Per the ordinances, approval from the Board of Works and Safety is required. Borntrager, Inc. is requesting the Board's permission for the proposed warehouse, an accessory structure, be allowed to remain connected to the primary structure's sewer and water services.

As a condition of approval, Borntrager, Inc. understands that warehouse at 425 Blackport Drive will be required to connect to a public sewer main and a public water main (or formal legal easements for used and maintenance of utilities would be executed) should the structure be sold to another entity separately from the office property. A representative for Borntrager, Inc. present at the board meeting to answer questions as necessary.

Board Member Landis moved to approve the request. Second by Board Member Day and motion passed unanimously.

REQUEST TO APPROVE LOS PRIMOS OPERATING A NON-PERMANENT FOOD VENDOR (NPFV) IN PARKING LOCATED IN THE RIGHT OF WAY NORTH OF 124 W. JEFFERSON (ZONED COMMERCIAL B-2)

Planning and Zoning Administrator Rhonda Yoder requested Board approval to allow Los Primos Catering, a non-permanent food vendor, to operate from a public parking space in the City's right of way to the North of 124 W. Jefferson St. The hours of operation of the parked food truck will be Fridays 5 p.m. – 1 a.m.; 5 p.m. – 7 p.m. for prep work, open and selling from 7 p.m. – 1 a.m., Saturdays 5 p.m. – 2 a.m.; 5 p.m. – 7 p.m. to prep, open and selling from 7 p.m. – 2 a.m.

Non-permanent food vendors (NPFV) are a conditional use in the Commercial B-3 and B-4 zoning districts. The use is not permitted in the Commercial B-2 (Central Business District) and would require a use variance approved by the Board of Zoning Appeals, in addition to Board of Works approval for operating the right of way, and an annual permit, \$150.00, to do business within the right of way, per Ordinance 4580.

Per Section 4200.7.A of the Goshen Zoning Ordinance, "Any building or part of any building used for commercial (non-residential) purpose shall be exempt from the off-street parking requirement". Commercial uses in the B-2 are not required to provide onsite parking, as City-owned parking serves all commercial uses in the Central Business District.

Approval of a non-permanent food vendor using City-owned parking that is designed to serve all commercial uses in the Central Business District could potentially set a precedent for future approvals, with a long-term impact of displacing parking needed to serve all commercial uses within the downtown area. On Tuesday, July 26, 2016, the Board of Zoning Appeals approved a petition (16-14 UV) for a non-permanent food vendor at 211 S. 5th Street (zoned Commercial B-2). In this case, the non-permanent food vendor will be parked on private property and will not displace any public parking.

A representative for Los Primos Catering was present and explained to the Board about what they want to do with their food truck and brought a map of the area where they would like to park. City Planner Rhonda Yoder stated to Board Members that there are three things that are needed for Los Primos to acquire the space they want: Approval from the Board of Works for location in the right of way; A use variance from the Board of Zoning Appeals, and if those two are approved then they would need an annual permit to do business in the right of way.

Board Member Landis moved to approve the request for the use of one parking space in Lot 120, the closest space to Jefferson Street for Los Primos's food truck from now until April 1st, 2017 with the time stated contingent upon the Board of Zoning Appeals approval and permit to do business in the right of way. Second by Board Member Day and motion passed unanimously.

REQUEST TO APPROVE FIFTH STREET RECONSTRUCTION FROM CLINTON STREET TO ROCK RUN CREEK – JN: 2015-0022

Administrative Utilities Engineer Dustin Sailor requested Board approval of Change Order No.3 for the Fifth Street Reconstruction project. This change order extends the project completion date from August 5, 2016 to September 23, 2016. The time extension is needed in order to plant landscaping items and trees during the optimum planting season. There are no additional costs associated with this change order.

The Engineering Department is requesting the Board of Public Works & Safety to review and consider approval for this change order.

Board Member Day moved to approve the request. Second by Board Member Landis and motion passed unanimously.

**REQUEST TO APPROVE SOUTH LINK ROAD FROM SR 15
TO REGENT STREET CONTRACT NO. R-34132
CHANGE ORDER #4 – CHANGE IN PAVEMENT REMOVAL**

Administrative Utilities Engineer Dustin Sailor requested Board approval of Change Order #4 submitted by Phend & Brown, Inc. submitted Change Order #4 for the South Link Road project. The original contract was in the amount of \$5,179,821.96.

Change Order #4 is due to the change in the existing site conditions along SR 15 between Station 108+08 and 127+42, which was found during the asphalt milling process. The depth of the existing SR 15 pavement was anticipated to be asphalt over concrete. However, the pavement depth was found to be completely asphalt pavement, which is less expensive to remove.

The removal of the asphalt pavement along SR 15 (instead of the asphalt over concrete pavement) results in a savings of approximately \$33,286.00. The construction of this project is being funded with 80% Surface Transportation Project funds and 20% Local funds (which is actually being paid with State Supplemental Federal Match Resource (SFMR)).

The Engineering Department is requesting the Board of Public Works & Safety to review and consider for Change Order #4.

Board Member Landis moved to approve the request. Second by Board Member Day and motion passed unanimously.

**REQUEST TO APPROVE PARKWEST 8TH – REQUEST
FOR ROAD CLOSURE (JN: 2015-2046)**

Administrative Utilities Engineer Dustin Sailor requested Board approval of the road closure of Park West Drive from Pringle Drive to Janewood Court starting August 1, 2016 at 12:00 PM until August 3, 2016, for the replacement of concrete panels that were removed during the utility work that took place in June and July.

Goshen Engineering is requesting the Board of Public Works & Safety to review and consider approval for the temporary road closure.

Board Member Day moved to approve the request. Second by Board Member Landis and motion passed unanimously.

REQUEST TO APPROVE ROAD CLOSURE OF SOUTH 8TH STREET

Superintendent of Goshen Water Department Kent Holdren requested Board approval for permission to close the North bound lane of South 8th Street between Lincoln Ave and Washington Street on Tuesday August 2, 2016 until Wednesday August 3, 2016 morning. The Water and Sewer Department will be disconnecting services to houses that are demolished due to the U.S 33 Project. Traffic will be detoured to 7th Street.

Board Member Landis moved to approve the request. Second by Board Member Day and motion passed unanimously.

**REQUEST TO APPROVE RESOLUTION 2016-O: AUTHORIZING
THE TRANSFER OF JEFFERSON STREET REAL ESTATE**

Legal Compliance Administrator Shannon Marks requested Board approval of Resolution 2016-O, Authorizing the transfer of Jefferson Street real estate. The City of Goshen, Indiana acquired title to the real estate located at 401/403 East Jefferson Street from Elkhart County through the tax sale process under the authority of Indiana Code 6-1.1-24 and Indiana Code 6-1.1-25; the Civil City funded the demolition of the structures on the real estate. The Tax Deed transferring the Jefferson Street real estate was dated the 7th day of June, 2016 and was recorded by the Elkhart County Recorder on the 24th day of June, 2016 as instrument number 2016-12044.

The City desires to transfer the Jefferson Street real estate to the Goshen Redevelopment Commission to be held and disposed of under Indiana code 36-7-14-22.5. Therefore, be it resolved that the Goshen Board of Public Works and Safety authorizes the transfer of the

Jefferson Street real estate more particularly described below to the Goshen Redevelopment Commission provided Redevelopment agrees to reimburse Civil City for the demolition costs from the sale proceeds.

A rectangular tract of land 42 feet wide and 87 feet long in the Southwest corner of Lot 21 and the said Lot is known and designated on the recorded Plat of Barnes First South Addition; said Plat being recorded in Plat Book 15, page 274, in the Office of the Recorder of Elkhart County, Indiana; more particularly described as follows:

Commencing at the Southwest corner of said Lot 21; thence North 42 feet; thence East 87 feet; thence South 42 feet; thence West 87 feet to the place of beginning.

Parcel No. 20-11-09-435-009.000-015

Further resolved that Mayor Stutsman is authorized to execute any and all documents on behalf of the City of Goshen, Indiana related to the transfer the Jefferson Street real estate to the Goshen Redevelopment Commission.

Board Member Landis moved to approve the request. Second by Board Member Day and motion passed unanimously.

**REQUEST TO APPROVE RESOLUTION 2016-P: AUTHORIZING
THE TRANSFER OF SEVENTH STREET REAL ESTATE**

Legal Compliance Administrator Shannon Marks requested Board approval of Resolution 2016-P, Authorizing the transfer of Seventh Street real estate. The City of Goshen, Indiana acquired title to the real estate located at 307 South Seventh Street from Elkhart County through the tax sale process under the authority of Indiana Code 6-1.1-24 and Indiana Code 6-1.1-25; the Civil City funded the demolition of the structures on the real estate. The Tax Deed transferring the Seventh Street real estate was dated the 7th day of June, 2016 and was recorded by the Elkhart County Recorder on the 24th day of June, 2016 as instrument number 2016-12045.

The City desires to transfer the Seventh Street real estate to the Goshen Redevelopment Commission to be held and disposed of under Indiana code 36-7-14-22.5. Therefore, be it resolved that the Goshen Board of Public Works and Safety authorizes the transfer of the Seventh Street real estate more particularly described below to the Goshen Redevelopment Commission provided Redevelopment agrees to reimburse Civil City for the demolition costs from the sale proceeds.

Commencing at the Northeast corner of Lot 59 in Barn's First South Addition to the Town, now the City, of Goshen; thence running South 15 feet; thence West to the West line of said Lot No. 59; thence North 15 feet to the Northwest corner of said lot; thence East on the North line of said lot to the place of beginning.

Also, the South part of Lot No. 42 is said Addition to the Town, now City, of Goshen, being more particularly described as follows:

All that portion of Lot No. 42 aforesaid, lying South of the line running East and West which line is 35 feet, more or less, North of the South line of said Lot 42 and 31 feet, more or less, South of the North line of said Lot No. 42.

Parcel No. 20-11-09-477-013.000-015

Further resolved that Mayor Stutsman is authorized to execute any and all documents on behalf of the City of Goshen, Indiana related to the transfer of Seventh Street real estate to the Goshen Redevelopment Commission.

Board Member Day moved to approve the request. Second by Board Member Landis and motion passed unanimously.

**PUBLIC HEARING ON ORDER OF THE GOSHEN BOARD OF PUBLIC WORKS AND
SAFETY: 213 & 213 ½ QUEEN STREET**

Mayor Stutsman opened the public hearing:

City Attorney Larry Barkes stated that owner Ronald Davidhizar is present for the hearing. City Attorney Larry Barkes stated to Mr. Davidhizar that they had scheduled two hearings for August 8th, regarding 123 North 6th Street and the Clinton Street property adjacent to that for the purpose of having them boarded up. It was based on the understanding that the funding for the acquisition of demolition might take several months, but information recently was received that the funding is now in place and therefore the hearings seem unnecessary as they are planning to close in the next four to six weeks and this will terminate those two hearings next week.

Mayor Stutsman stated that he would like to start with 213 & 213 ½ Queen Street as they had given him extra time to bring the violations into compliance. Building Inspector Myron Grise stated that he went to inspect the property with Mr. Davidhizar to determine the extent of the repairs that were outlined in the Notice of Hearing to Review Compliance. Mr. Grise stated the following items listed under the Unsafe Violations in the Notice of Hearing have not been completed:

1. Violation of Section 6.3.1.1(2) & 6.3.1.1(3). Several of the areas of the roof fascia and soffits are still open.
2. Violation of Section 6.3.1.1(3) & 6.3.1.1(16). The basement is filled with mud and water that is coming in from under the unfinished foundation walls.
3. Violations of Section 6.3.1.1(5) and Section 6.3.1.1(16):
 - a. The stairs to the second floor apartment are rotted and coming loose at all of the connections.
 - b. The steps are loose and lag bolts are withdrawn from the side rails.
 - e. The basement steps have come loose from the house frame and are severely out of level – the steps have been repaired but still are not level.
 - g. The porch floor supports have been patched in to take out the spring of the floor surface; some not long enough to reach the footers.
4. Violation of Section 6.3.1.1(16). The steps are constructed of cinder blocks that have come apart at the joints and caused the walking surface to sink, creating a trip hazard.
5. Violation of Section 6.3.1.1(1). The first floor water heater is not functional.
6. Violation of Section 6.3.1.1(1) & 6.3.1.3(8). The furnace in the basement is not functional.
7. Violations of Sections 6.3.1.1(1), Section 6.3.1.2(2), Section 6.3.1.2(3) and Section 6.3.1.4(2).
 - a. The first floor plumbing drains and supply pipes have been removed.
 - b. The first floor bathroom fixtures have been removed – not finished.

The following items listed under the Additional Violation in the Notice of Hearing have not been completed:

1. Violation of Section 6.3.1.1(7). There is chipping and peeling paint throughout the structure – the areas have been scraped but are not painted.

In addition, under the items that have been repaired, item 3(a) – the stairs to the second floor apartment are broken. It was previously stated that they had been repaired.

Building Inspector Myron Grise went over pictures taken from the inspection with the Board Members and with owner Ronald Davidhizar. Ronald Davidhizar came forward and explained about the violations and what will be fixed today and why they weren't done before the hearing date. Mayor Stutsman stated that this has been going on for a while and the Board did give him another 14 days so he wants to know why it wasn't done. Mr. Davidhizar stated that that it will be done by today and also stated that he had an equipment problem beforehand which is why it wasn't done earlier.

Board Member Landis moved to find the property at 213 & 213 ½ is still in violation of the Neighborhood Preservation Ordinance numbered 1 through 7 as these violations are still unfinished. Second by Board Member Day and motion passed unanimously.

Mayor Stutsman moved to refer this to the Legal Department for court proceedings. Second by Board Member Day and motion passed unanimously.

PUBLIC HEARING ON ORDER OF THE BOARD OF PUBLIC WORKS AND SAFETY:
1109 EGBERT AVENUE

Mayor Stutsman opened the public hearing:

Owner Ronald Davidhizar is present for the hearing.

Building Inspector Myron Grise stated that he had inspected the property at 1109 Egbert Avenue with owner Ronald Davidhizar. This was to determine the extent of the repairs that were outlined in the Notice of Hearing to Review Compliance. The three items listed under the Unsafe Violations in the Notice of Hearing have not been completed:

1. Violation of Section 6.3.1.1(4)
 - a. Basement window frame broken.
 - b. A large window sill in the living room has rotted and the glass has fallen away from the frame.
2. Violation of Section 6.3.1.2(2)
 - a. The bathroom plumbing fixtures have been removed.

The one item listed under Additional Violation in the Notice of Hearing has not been completed:

1. Violation of Section 6.3.1.1(3)
 - a. Garage room shingles have deteriorated, retain moisture and are covered with moss.

Building Inspector Myron Grise stated that nothing has been completed. No permits have been pulled and since Mr. Davidhizar's workers are not qualified plumbers or electricians and they need to pull permits before the work is done. Mr. Davidhizar stated to Board Members about the work that will be done to the property and what work has been done already.

Mayor Stutsman moved to delay this property until September 12th, 2016 to review and see if the violations are complete. Second by Board Member Day and motion passed unanimously.

PUBLIC HEARING ON ORDER OF THE BOARD OF PUBLIC WORKS AND SAFETY:
217 QUEEN STREET

Mayor Stutsman opened the public hearing:

Owner Ronald Davidhizar is present for the hearing.

Building Inspector Myron Grise stated to Board Members that he inspected the property at 217 Queen Street with owner Ronald Davidhizar to determine the extent of the repairs that were outlined in the Notice of Hearing to Review Compliance. The following items listed under the Unsafe Violations in the Notice of Hearing have not been completed:

1. Violation of Section 6.3.1.1(5)
 - b. The front porch floorboards are rotten and buckled.

Item "C" listed under the Unsafe Violations in the Notice of Hearing has been completed; however the repairs are not to code:

- The rear porch is not secured and is missing steps.

Item 1(a) listed under the Additional Violations in the Notice of Hearing has been started but is not complete in that not all of the windows are properly installed.

Item 2 listed under the Additional Violations in the Notice of Hearing – some bracing of the front porch has been done, but the outside boards are deteriorated.

Building Inspector Myron Grise talked with Board Members about the pictures of the property and what has and has not been done to bring the property into compliance. Mr. Davidhizar also came forward to tell Board Members what he will be doing to fix the remaining violations.

Mayor Stutsman moved to delay this property until September 12th, 2016 to review and see if the violations are complete. Second by Board Member Day and motion passed unanimously.

There being no further business Mayor Stutsman moved to process claims and then to adjourn. Second by Board Member Day and motion passed unanimously.

BOARD OF PUBLIC WORKS AND SAFETY AND STORM WATER BOARD:

MAYOR JEREMY STUTSMAN _____

BOARD MEMBER MITCHELL DAY _____

BOARD MEMBER MICHAEL A. LANDIS _____

ATTEST _____
CLERK-TREASURER TINA M. BONTRAGER