

**BOARD OF PUBLIC WORKS AND SAFETY AND STORM WATER BOARD
MEETING HELD JANUARY 26, 2015 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 January 26, 2015, at 2:00 P.M. for their weekly Board meeting. Mayor Kauffman was the presiding officer with members of the Board present or absent as follows:

PRESENT: Mayor Kauffman, Board Member Stegelmann, Board Member Landis

ABSENT:

OTHERS: Clerk-Treasurer, Clerk-Treasurer Office Assistants, City Attorney, Assistant City Planner, Fire Chief Ramer, Assistant Police Chief Miller, Building Inspector Haney, Street Commissioner, Assistant Street Commissioner, Legal Contracts and Claims Manager, Legal Administrative Assistant, Legal Compliance Administrator, Mayor's Administrative Assistant Lung, Superintendent of Waste Water, Superintendent of Water and Sewer, Administrative Utilities Engineer, Administrative City Engineer, Central Garage Fleet Manager, Wastewater Maintenance Technician.

Minutes of the meeting of December 16th, 2014 were presented. On motion of Board Member Stegelmann and second by Board Member Landis, the minutes were approved as presented.

**REQUEST TO APPROVE UNIFORM CONFLICT OF INTEREST
DISCLOSURE STATEMENT**

Legal Compliance Administrator Shannon Mark requested Board approval of a Uniform Conflict of Interest Statement. Fire Department employee Matt Whitford is submitting an attached statement to the Board of Public Works and Safety for acceptance and approval in accordance with Indiana Code 35-44.1-1-4. Mr. Whitford's business, Infinitus Computer, LLC sells the city various computer equipment and accessories.

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

REQUEST TO APPROVE AGREEMENT AMENDMENT WITH ESO SOLUTIONS

Legal Contracts and Claims Manager Keitha Windsor requested Board approval and authorize the Mayor to execute an agreement amendment with ESO Solutions. The City entered into agreements with AccuMed on August 14th, 2014 to provide emergency medical services ambulance billing, reporting and collection services for the Goshen Fire Department and with ESO Solutions dated August 11th, 2014 for software solutions products. Attached for the Board's approval is the amendment to the ESO solutions agreement's Exhibit C – Business Associates Agreement concerning the collection, use and disclosure of protected health information.

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

**REQUEST TO APPROVE AGREEMENT FOR RIVERSIDE BOULEVARD
INTERSECTION IMPROVEMENT – JN: 2014-0077 –
TOPOGRAPHIC SURVEY AGREEMENT**

Administrative Utilities Engineer Dustin Sailor requested Board approval to enter into an agreement with DLZ Indiana, LLC for a topographical survey for the Riverside Boulevard Intersection Improvement. The agreement is not to exceed \$1,990.00.

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

**REQUEST TO APPROVE RIGHT-OF-ENTRY: STATE ROAD 15 AND KERCHER
ROAD INTERSECTION IMPROVEMENT - PROJECT NO. 2012-0017**

Administrative City Engineer Mary Cripe requested Board approval of the following Right of Entry. Elkhart County and the City of Goshen Engineering Departments have been working closely on this intersection improvement project at State Road 15 and Kercher Road on the right-of-way acquisition. On the parcel in the northeast corner of the intersection, there will be some clearing and grubbing, re-grading of the landscaped mounds and driveway construction will be required on private property. This construction work will require a right-of-entry agreement for the City to enter upon their property to complete this work.

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

**REQUEST TO APPROVE CLOSURE: NORFOLK SOUTHERN MARION BRANCH
CURVE REALIGNMENT – PROJECT NO. 2009-0046**

Administrative City Engineer Mary Cripe requested Board approval of the Norfolk Southern closure for the Marion Branch Curve Realignment project. Last week, representatives from Norfolk Southern contracted the City regarding their schedule to realign the Marion Branch Curve, which Norfolk Southern is now scheduling the project to be complete by February 16th, 2015, because they have scheduled a 24-hour closure of the Marion Branch for February 16th, 2015.

Norfolk Southern has requested that Washington be closed by February 12th, 2015. Tomorrow, the Street Department will be installing notification signs to notify residents/motorists that the crossing will be closed permanently on February 11th, 2015. The Street Department will also be installing barricades at 10th Street and Jefferson Street for when the actual closure occurs, in order to direct the motorists to turn onto Jefferson Street to get across the railroad tracks. We are coordinating the installation of guardrails on both sides of Washington Street, as a safety measure (and Norfolk Southern will reimburse the City as a part of their agreement).

Access will remain to the three residences along South 9th Street just north of Washington Street until the properties have been acquired and the residents are relocated. The Engineering Department is currently working on the 9th Street modifications project, which includes the improvements shown on the attachment labelled “Ninth Street”, and are planning to bid this out in mid to late February, with construction to be complete by early to mid-June 2015.

It is requested the Board review and approve of the Washington Street/Railroad crossing closure on February 11th, 2015, and the installation of the notification signs on Tuesday, January 27th, 2015.

The Engineering Department will notify the residents within this corridor of the closure and various modifications.

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

CONTINUATION OF DISCIPLINARY ACTION PROCEEDINGS

City Attorney Larry Barks stated the issues that are in front of the Board is that the evidence has been presented relating to the violations and the Board now needs to determine if there has been any violations that have occurred and if so, what are they and what facts support the Board's determination.

Mayor Kauffman read the following violations:

1. A violation of rules (Indiana Code 36-8-3-4(b)(2)(B) and Goshen Police Department Rules and Regulations, Section 18.38), more specifically a violation of the following rules and regulations:
 - a. Section 18.14 – Inattention to duty.
 - b. Section 18.15 – Incapacity or inefficiency in the performance of duty.
 - c. Section 18.41 – Any act which brings or tends to bring the individual or the department into disrepute.
2. Neglect of duty (Indiana Code 36-8-3-4(b)(2)(A) and Goshen Police Department Rules and Regulations, Section 18.12).
3. Neglect or disobedience of orders (Indiana Code 36-8-3-4(b)(2)(C) and Goshen Police Department Rules and Regulations, Section 18.16 and Section 2.1).
4. Incapacity (Indiana Code 36-8-3-4(b)(2)(D) and Goshen Police Department Rules and Regulations, Section 18-15 (incapacity or inefficiency in the performance of duty).
5. Another breach of discipline (Indiana Code 36-8-3-4(b)(2)(I). Specifically, Goshen Police Department Rules and Regulations, Section 13.12 states, in part,

“Any officer...who shall, in the performance of his/her official duties, display reluctance to perform his/her assigned duties properly, or who acts in a manner tending to bring discredit upon himself/herself or the Department, or who fails to assume responsibility or exercise diligence, intelligence, and interest in the pursuit of his/her duties or whose actions or performance in a position, rank, or assignments are below acceptable standards, may be deemed incompetent and shall be...reassigned, transferred, or reduced in rank.

Board Members then discussed and voted on the violations stated above. Following are the votes on the following violations:

1. Board Members Kauffman, Stegelmann and Landis voted yes unanimously on violation number 1 and also on items A and B. Board Member Landis voted no on item C and Board Members Kauffman and Stegelmann voted yes on item C.
2. Board Members Kauffman, Stegelmann and Landis voted yes unanimously on violation number 2.
3. Board Members Kauffman, Stegelmann and Landis voted yes unanimously on violation number 3.
4. Board Members Kauffman, Stegelmann and Landis voted yes unanimously on violation number 4.
5. Board Members Kauffman, Stegelmann and Landis voted yes unanimously on violation number 5.

Mayor Kauffman then read through the findings of fact that led to the Board Members decisions.

Board Member Landis moved to accept the findings as presented. Second by Board Member Stegelmann and motion passed unanimously.

City Attorney Larry Barkes stated that the first step is to prepare a formal order and there are a couple of approaches to take, one is to authorize the Mayor to sign the order on behalf of the Board or two, they can bring it back the next Monday for the Board to review prior to issuance. The next step would be, as when they last met, there is nothing in any of this having to do with what sanction is to be imposed, there was some discussion at the end of the last hearing that once a decision has been made, he would contact the attorneys involved and see if there was a request for additional testimony or would want to proceed with the sanction based on the documentation that has been submitted. City Attorney Larry Barkes stated he would have that discussion sometime this week with the attorneys involved. Board Members discussed what sanctions can be imposed with City Attorney Larry Barkes.

Board Members decided to have the hearing come back the next week.

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

BOARD OF PUBLIC WORKS AND SAFETY AND STORM WATER BOARD:

MAYOR ALLAN KAUFFMAN _____

BOARD MEMBER RUDY STEGELMANN _____

BOARD MEMBER MICHAEL A. LANDIS _____

ATTEST _____
CLERK-TREASURER TINA M. BONTRAGER