

**BOARD OF PUBLIC WORKS AND SAFETY AND STORM WATER BOARD
MEETING HELD DECEMBER 14, 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 December 14, 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 Landis

ABSENT: Board Member Day

OTHERS: Clerk-Treasurer Office Assistants, City Attorney, Assistant City Planner, Fire Chief, Police Chief, Building Inspector Bice, Street Commissioner, Assistant Street Commissioner, Legal Compliance Administrator, Mayor's Administrative Assistant Lung, Park & Recreation Coordinator, Superintendent of Waste Water, Utilities 1st Deputy, Administrative Utilities Engineer, Administrative City Engineer, Central Garage Fleet Manager, Wastewater Maintenance Technician, Councilman Weddell.

Minutes of the meeting of November 2nd and November 9th, 2015 were presented. On motion of Mayor Kauffman and second by Board Member Landis, the minutes were approved as presented.

**REQUEST TO APPROVE PROMOTION OF C. SNYDER TO
PARAMEDIC LIEUTENANT**

Fire Chief Danny Sink requested Board approval for the Promotion of Paramedic Sergeant Courtney Snyder to the rank of Paramedic Lieutenant effective January 1st, 2016.

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

Mayor Kauffman swore in Courtney Snyder to the rank of Paramedic Lieutenant.

**REQUEST TO APPROVE PROMOTION OF S. MCKERCHIE TO
PARAMEDIC SERGEANT**

Fire Chief Danny Sink requested Board approval for the Promotion of Private Shane McKerchie to the rank of Paramedic Sergeant effective January 1st, 2016.

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

Mayor Kauffman swore in Shane McKerchie to the rank of Paramedic Sergeant.

REQUEST TO AWARD PURCHASE OF 410 WEST WILKINSON STREET

Legal Compliance Administrator Shannon Marks requested Board approval to award the purchase of 410 West Wilkinson Street. On December 7th, 2015, the Board of Public Works and Safety opened the only bid received for the purchase of the property at 410 West Wilkinson

Street. It is recommended that the Board award the purchase of the property at 410 West Wilkinson Street to Belva K. Moles and Freddy A. Moles as the lowest responsible and responsive bidders for a total price of \$1,000.00 and permission is requested to authorize execution of the purchase agreement.

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

REQUEST TO APPROVE OCCUPANCY PERMIT AGREEMENT WITH JOY RABER

Legal Compliance Administrator Shannon Marks requested Board approval and authorization for Mayor Kauffman to execute is an Occupancy Permit Agreement with Joy Raber. Under this agreement, the City agrees to issue a certificate of occupancy for the new residence constructed at 1905 Carina Circle once all requirements of the building code have been met and upon the property owner's delivery to the City the executed agreement and surety in the amount of \$800.00. The surety is to insure the timely completion of the yard stabilization landscaping to complete compliance with the City of Goshen Stormwater Construction Ordinance and Zoning Ordinance. All work must be completed by June 15th, 2016.

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

**REQUEST TO APPROVE CHANGE ORDER NO. 1 FOR THE MURRAY STREET
BRIDGE ABUTMENT REPAIRS – 2010-0007**

Administrative City Engineer Mary Cripe requested Board approval of Change Order No. 1 for the Murray Street Bridge Abutment Repairs project. This change order is for the painting of the pony truss structure and increases the original contract amount by \$24,900.00, making the total contract price \$133,595.90. This change order also extends the completion date to January 15th, 2016.

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

**REQUEST TO APPROVE CHANGE ORDER NO. 1 FOR THE WASTEWATER LIFT
STATION CONTROLS UPGRADE – PHASE 1 (JN: 2015-0014)**

Administrative Utilities Engineer Dustin Sailor requested Board approval of Change Order No. 1 for the Wastewater Lift Station Controls Upgrade. The wastewater lift station controls replacement project is proceeding with only a few setbacks. The adjustments are as follows:

1. Transducers: Installation of a DPSI Model 750 level transducer, which was a contractor offered substitution. The contract savings for this substitution is \$8,300.00.
2. Radio System: Reduction in the scope of work for J&K Communications by deleting the radio propagation study and associated services, and by limiting startups to 3 service trips. The contract savings for this service adjustment is \$24,471.00.

Goshen Engineering is requesting the Board of Works and Safety accept Change Order No. 1 for project cost reduction of \$32,771.00, which adjusts the current contract price from \$670,922.00 to \$638,151.00.

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

REQUEST TO APPROVE CHANGE ORDER NO. 3 FOR THE WILSON AVENUE STORM SEWER PHASE 1 & HARTZLER CANAL BANK STABILIZATION – PROJECT NO. 2014-0076

Administrative Utilities Engineer Dustin Sailor requested Board approval of Change Order No. 3 for the Wilson Avenue Storm Sewer Phase 1 and Hartzler Canal Bank Stabilization project. This change order addresses the 22 day extension to the original contract. The City of Goshen, HIS Constructors, Inc. and the Hartzlers agreed the restoration of the yard area would best be accomplished in the spring of 2016. The contractor will be provided 22 days beginning May 2nd, 2016 to complete the project with no penalties. HIS Constructors, Inc. officially stopped work on the project November 30th, 2015, the original completion date of the contract.

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

REQUEST TO APPROVE CHANGE ORDER NO. 6 – RIVER RACE DRIVE CONSTRUCTION – JN: 2011-0036

Administrative City Engineer Mary Cripe requested Board approval of a Revised Change Order No. 6 for the River Race Drive Construction. Line 2 of the “Adjustments in Amount of Contract” was incorrect. The approved change order number was \$147,433.33. The correct number should have been \$150,821.52. The error was corrected prior to Change Order No. 7 and 8 being processed.

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

REQUEST TO APPROVE KERCHER ROAD RECONSTRUCTION FROM THE RAILROAD TO DIERDORFF ROAD – DES. NO. 1400713

Administrative City Engineer Mary Cripe requested Board approval of the Kercher Road Reconstruction from the Railroad to Dierdorff Road project. American Structurepoint has submitted a LPA-Consulting contract for professional right of way acquisition services for the Kercher Road Reconstruction from the Railroad to Dierdorff Road with the following associated costs.

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|--|---------------------|
| Appraisals for 50 parcels | \$105,400.00 |
| Review Appraisals for 50 parcels | \$ 53,415.00 |
| Buying Services for 50 parcels | \$ 81,250.00 |
| Recording of 50 parcels | \$ 5,000.00 |
| Relocation of 1 parcel | \$ 3,150.00 |
| Right of way management for 51 parcels | \$ 51,000.00 |
| Total fee not to exceed | \$299,215.00 |

This contract is a lump sum basis per each itemized service for each parcel, and details are found in Appendix “D”. The design fees will be 80% federally funded with Transportation Enhancement (TE) grant and 20% locally funded. At this time, it is requested the Board approve the American Structurepoint contract in the not to exceed fee of \$299,215.00.

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

**REQUEST TO APPROVE POST-CONSTRUCTION PLAN AMENDMENT APPROVAL
GREENCROFT CARE CENTER (JN: 2011-2007)**

Administrative Utilities Engineer Dustin Sailor requested Board approval of the Post-Construction Plan Amendment for Greencroft Care Center. On October 15th, 2012, the Stormwater Board accepted the Post-Construction Stormwater Management Plan (the Plan) for the Greencroft Care Center project. Earlier this year, the Plan needed to be altered and at this time the developer of Greencroft Care Center has submitted a sufficient post-construction plan amendment that is compliant with Ordinance 4329, “Uniform Requirements for Post-Construction Stormwater Management”.

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

**REQUEST TO APPROVE VIOLETT ROAD
EMBANKMENT STABILIZATION – JN: 2011-0014**

Administrative City Engineer Mary Cripe requested Board approval of the Violet Road Embankment Stabilization project. Elkhart County is assisting the City with an erosion control concern along Violet Road just south of Kercher Road. During the construction of the Kercher Road Bridge over the Elkhart River, the City will be stabilizing the embankment along the Elkhart River to protect Violet Road from potential future undermining. Elkhart County is requesting permission to perform two soil borings on Violet Road between Martin Manor Drive and Kercher Road on either December 16th or December 23rd, 2015. The purpose of the borings is to obtain soil information for the design of the embankment stabilization measure. Since - Violet Road is a lightly traveled road, they are planning to put up traffic cones around the drilling rig, and allowing for one lane of traffic flow.

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

NOTIFICATION OF EXECUTIVE ORDER 2015-1

Mayor Kauffman stated the following for Executive Order 2015-1:

Whereas, men and women of all faiths and passions should be treated with respect, compassion and kindness. Government at all levels must look past the colors of their citizens’ skins, the differences of their citizens’ particular faiths and the choices their citizens make in the privacy of their lives and treat everyone with respect and dignity.

Fears of insecurity and safety for Lesbian, Gay Bisexual and Transgender (LGBT) people due to lack of civil rights protection are real fears that should be reduced by the City of Goshen by treating discrimination on the basis of sexual orientation and gender identity as sex discrimination.

The Indiana Civil Rights Law, Indiana Code 22-9-1-1 et. seq. states it is the public policy of the state to provide all of its citizens equal opportunity for education, employment, access to public conveniences and accommodations, and acquisition through purchase or rent of real property, including but not limited to housing, and to eliminate segregation or separation based solely on race, religion, color, sex, disability, national origin, or ancestry, since such segregation is an impediment to equal opportunity. Equal education and employment opportunities and equal access to and use of public accommodations and equal opportunity for acquisition of real property are hereby declared to be civil rights. The practice of denying these rights to properly qualified persons by reason of the race, religion, color, sex, disability, national origin, or ancestry of such person is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the public policy of this state and shall be considered as discriminatory practices. The promotion of equal opportunity without regard to race, religion, color, sex, disability, national origin, or ancestry through reasonable methods is the purpose of this chapter.

The United States Equal Employment Opportunity Commission (US EEOC) issued a decision in Appeal No. 0120 133080 on July 15th, 2015 determining that allegations of employment discrimination on the basis of sexual orientation necessarily state a claim of discrimination on the basis of sex under Title VII of the Civil Rights Act of 1964 as amended (Title VII); and instructed all EEOC agencies to treat claims of sexual orientation discrimination as complaints of sex discrimination under Title VII.

The US EEOC has issued a previous ruling (*Mia Macy v. Eric Holder*, Appeal No. D12 0120 821 – decided on December 9th, 2011) that gender identity based discrimination also states a claim of sex discrimination under Title VII.

The State Courts of Indiana and Federal Courts have consistently concluded that Title VII prohibits discrimination based on an employee's association with person of another race, such as association with interracial friends or interracial marriage. The same standard has been applied by the Courts to discrimination based on religion and national origin.

The US EEOC's July 15th, 2015 decision prohibits employers from treating an employee or an applicant for employment differently than other employees or applicants based on the fact that such individual has a personal association with someone or a particular sex including lesbian, gay and bisexual associations.

Prior to EEOC's July 15th, 2015 decision, previous decisions prohibited discrimination based on gender stereotyping. Gender stereotyping is treating an employee differently because of their appearance, mannerisms or conduct that does not meet stereotypical norm or expectations.

The City of Goshen's Discrimination Harassment Policy, which has been in effect since October 26th, 1998, prohibits discrimination or harassment of employees or potential employees based upon race, color, religion, gender, physical appearance, sexual orientation, national origin, citizenship, age marital status, veteran status, disability or the known association with a known disabled individual.

As the Mayor and Executive of the City of Goshen, I now instruct that the City of Goshen's Discrimination/Harassment Policy, which is applicable to all City of Goshen employees and applicants for employment, be amended to also prohibit the discrimination or harassment of employees or potential employees based on gender identity.

There being no further business Mayor Kauffman moved to process claims and then to adjourn. Second by Board Member Landis 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