

BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD MINUTES OF THE NOVEMBER 14, 2022 REGULAR MEETING

Convened at 2 p.m. at the Goshen Police & Court Building, 111 East Jefferson St., Goshen, Indiana

Present: Mike Landis, Mary Nichols, DeWayne Riouse and Barb Swartley

Absent: Mayor Jeremy Stutsman

CALL TO ORDER: Acting Chair Mike Landis called the meeting to order at 2:00 p.m.

REVIEW/APPROVE MINUTES: Acting Chair Landis presented the minutes of the Oct. 31, 2022 Regular Meeting. Board member Barb Swartley moved to approve the minutes as presented and the motion was seconded by Board member Mary Nichols. Motion passed 4-0.

REVIEW/APPROVE AGENDA: Acting Chair Landis presented the agenda. Board member Swartley moved to approve the agenda as submitted and Board member Nichols seconded the motion. Motion passed 4-0.

1) Fire Department: Conditional Offer of Employment Agreement with Kevin A Mann

Shannon Marks, the Legal Compliance Administrator for the City Legal Department, asked the board to extend a conditional offer of employment to Kevin A. Mann as a probationary firefighter and to approve the Conditional Offer of Employment Agreement with Mann and authorize the Mayor, or the Deputy Mayor in the Mayor's absence, to execute the agreement.

Marks said the agreement sets forth the conditions Mann must meet prior to beginning employment with the Fire Department, which includes being approved by the board of the Indiana Public Retirement System for membership to the 1977 Police Officers' and Firefighters' Pension and Disability Fund. Mann has a Firefighter I/II certification and Basic EMT certification; and is currently enrolled in a paramedic training program. Once employed, Mann will be required to successfully complete a paramedic training program and obtain an Indiana paramedic license, and serve as an active paramedic with the Department a minimum of three years. The Fire Department will ask the Board to confirm the offer of employment when a position becomes available in the Department.

Swartley/Nichols moved to extend a conditional offer of employment to Kevin A. Mann as a probationary firefighter and to approve the Conditional Offer of Employment Agreement with Mann and authorize the Mayor, or the Deputy Mayor in the Mayor's absence, to execute the agreement. Motion passed 4-0.

2) Elizabeth & Norman Yoder request: Approval for a patio encroaching on the Douglas Street right-of-way, with a response from the Director of Public Works

Elizabeth and Norman Yoder asked the Board to approve the replacement and extension of a patio between their home and garage at 802 South 7th Street into the City right-of way.

Elizabeth Yoder said the old concrete patio is badly cracked and she and her husband would like to replace and enlarge it toward the street, and it would encroach four feet, six inches into the City right-of-way, which is close to the home. The patio would be made of flagstone placed in sand and would be level with the surrounding area.



In her written request, **Elizabeth Yoder** wrote that the total area is approximately. 330 square feet. The old portion is 12 feet by 11 feet, 7 inches. The addition would extend 11.5 feet toward Douglas Street from the current patio, which ends at the front of the house and be 16 feet 9 in wide. She added that a new concrete driveway was approved and installed at 416 East Douglas Street in the same block, which also makes use of the City's right-of-way.

City Director of Public Works & Utilities Dustin Sailor provided a memorandum to the Board in which he stated that the City Engineering Department opposes the request. Sailor wrote that the Yoders used a recent driveway extension as a similar allowance by the City. He wrote that the Engineering Department did not view a patio extending from the home into the right-of-way as a legitimate encroachment.

Sailor also wrote that the City's right-of-way needs to be reserved for public uses that include utility services, transit, and the appropriate space necessary to rebuild the noted infrastructure. With the recent surge of communication company activity within the public right-of-way, Sailor wrote that the area that was once adequate to provide room for essential service by a few utilities is quickly becoming a tangled mess.

Board member Landis said that a photo by the Engineering Department showed that the Yoder's home is virtually locked in by the homes to the south and east so it didn't appear there was anything that could be done without encroaching in the right-of-way.

Sailor said that from the Engineering Department's perspective, access from the road to the house would be something justifiable, but something from the home out into the right-of-way is something different and that is what's being requested. He asked, "At what point do we set a precedent by people to extend out into the right-of-way?" He added that unlike a temporary access ramp, a patio would be more of a permanent addition.

Board member Swartley asked about the width of the Douglas Street right-of-way. **Sailor** said he didn't have that information, but said it was wider in that area. But as he put in his memo, Sailor said that regardless of the size of the right-of-way, it is quickly being consumed by multiple fiber optic companies and the city is running out of right-of-way. **Landis** said the City has always required that any improvements approved in the right-of-way had to be removed at the homeowner's expense if necessary. He asked if it made any difference to **Sailor** If what was being proposed in this case was flagstone pavers set in sand and not concrete. **Sailor** said that from the City's standpoint, 25 years from now trying to track whether it was an improvement that was approved or not would be difficult.

Asked by **Landis** if the raised beds that were indicated on the Yoder's diagram existed, **Elizabeth Yoder** said they did not and that she and her husband only planned to install ground-level landscaping. She added that there were no other ways to expand an outdoor area except in the direction proposed. In response to a question from Landis, she said he didn't know the width of the driveway.

Asked by **Landis** what the Engineering Department would have responded if the Yoders had sought to widen the driveway to 24 feet, **Sailor** said there would not have been a justification to allow that because it wouldn't have aligned with the garage.

Asked by **Swartley** what he was thinking, **Landis** said this was a difficult case because a photo showed that the right-of-way on the north side of Douglas Street was the middle of the sidewalk and the right-of-way on the south side was almost up to the house. He said that wasn't the Engineering Department's doing, but it didn't bode well for the Yoders. If the right-of-way on the Yoder's side of the street was the same as on the north, they could expand the patio without asking. Landis said he would be inclined to permit the request, because concrete wouldn't be used. There was further discussion about the proposal, including reducing the width of the patio and changing its location, but no alternative was offered.

Swartley said she was sympathetic because her home is also on a small lot, but she wasn't inclined to oppose the Engineering Department's recommendation.



Swartley/Nichols then moved to deny the request of the owners of 802 South 7th Street to extend their patio into the City's right-of-way. Motion passed 4-0.

3) Aguilar family request: Approval for a gravel driveway underneath a carport at 1322 East Douglas Street Adrian Aguilar of Goshen asked the Board to allow his family to install a gravel driveway underneath a carport built at 1322 East Douglas Street.

In a written request, **Aguilar** indicated that his family is in the process of finishing its carport on 1322 E Douglas St. and are required by the City to install a hard surface for vehicles. He said the family would like a concrete surface, but that's not possible because of the cost. In the meantime, he said the family would like a gravel driveway. Aguilar wrote that a nearby house, at 1308 Reynolds Street, has a similar gravel driveway.

In response to a question from **Board member Landis**, Aguilar said the carport will be on the west side of the house, attached to the garage and at the end of the driveway. He confirmed to **Board member Swartley** that the carport has been built.

Providing a perspective of City staff, City Assistant Planning & Zoning Administrator Rossa Deegan said the request originated from his office and the carport has now been approved by the City Board of Zoning Appeals. More specifically, the Board granted approval to Martin Aguilar (Adrian Aguilar's father) of a developmental variance to allow a side (west) setback of 5 feet where 8 feet is required for the addition of an approximately 408 square foot carport for the subject property, which is zoned Residential R-1 District.

Deegan said the carport had already been installed, but it wasn't pre-approved. He said the family was asking the Board of Works to grant permission for gravel underneath the carport instead of the required hard surface, adding that the driveway is concrete. Deegan said the Planning Department didn't have an opinion on this request.

Landis asked City Attorney Bodie Stegelmann to confirm that when the Board approves gravel surfaces, it usually must consider imposing conditions. Stegelmann concurred. He said Resolution 2020-30, approved in November 2020, requires that driveways be a hard surface with exceptions relating to the "unique attributes of the real property and surrounding properties as well." Generally, he said not installing a hard surface cannot be injurious to public health or the general welfare and not affecting the aesthetics of the neighborhood in an adverse manner.

Swartley said that it appeared a gravel driveway would go the opposite way and be an improvement over a muddy surface. Asked if there were other gravel driveways in the neighborhood, Aguilar said there is a home on Reynolds Street with a gravel driveway.

Landis said he would be inclined to say that anything outside the carport should be concrete for the sake of the neighborhood. If the carport was ever converted into a garage, Landis said a building permit and concrete floor would be required. He suggested that all surfaces leading to the carport should be concrete.

Asked by **Board member Riouse** if the family wanted a gravel driveway because it was cheaper, Aguilar confirmed that was the case. He said eventually, the family would like a concrete surface. He said the family hasn't received a cost estimate on having a concrete surface leading to the carport.

Asked by **Swartley** the approximate cost of concrete in that small area leading to the carport, **Landis** estimated that it would cost about \$400. **Riouse** suggested that perhaps the family could get a cost estimate for that work. Asked by Landis if the family would agree to seek a cost estimate **Aguilar** said he would agree to do so.

Landis/Nichols moved to approve the installation of a gravel driveway underneath the carport at 1322 East Douglas Street, but that areas leading to the street outside the carport be of concrete and match the width of the carport. The motion passed 4-0.



4) Legal Department: Community Service Partnership Agreement with the Economic Development Corporation of Elkhart County

Brandy Toms, a paralegal with the City Legal Department, asked the Board to approve and authorize Mayor Stutsman to execute the agreement with the Economic Development Corporation of Elkhart County to support the project outlined in its submitted application.

Toms said various community service organizations provide services or programs to residents in a manner more efficient than what the City of Goshen can provide. The City supports these organizations with funds. These organizations are subject to an application process requiring specific documentation regarding their organization including a detailed description of how these funds will be used.

Toms said the Economic Development Corporation of Elkhart County is one such community service organization that has applied for these funds. It has requested \$65,219 to help with business retention and expansion projects they are a part of. She said the Economic Development Corporation has provided all the required information and an agreement is now being brought before the Board for consideration and approval.

Toms added that this was a late submission because of unforeseen circumstances. She added that the application was put on a year-old application. In response to a question from **Board member Landis**, Toms said this is at least the applicant's second application in the approximate same amount as last year. She added that to the best of her knowledge, the applicant was doing work that benefitted the City. City Attorney Stegelmann concurred. Swartley/Nichols moved to approve and authorize Mayor Stutsman to execute the agreement with the Economic Development Corporation of Elkhart County to support the project outlined in its submitted application. Motion passed 4-0.

5) Legal Department: Approve and authorize Mayor Stutsman to execute the agreement with OJS Building Services, Inc. for upgrading KMC Temperature Controls at the Police Department at a cost of \$46,550 Brandy Toms, a paralegal with the City Legal Department, asked the Board to approve and authorize Mayor Stutsman to execute the agreement with OJS Building Services, Inc. for upgrading KMC Temperature Controls at the Goshen Police Department at a cost of \$46,550.

Under the agreement, the contractor will: remove the KMC controller and dispose of it per EPA guidelines; provide a Reliable Control® MPZ-44 controller; provide a Reliable Control® SS3-EPD controller; provide a discharge air sensor; provide the fan status; provide programming and graphical user interface; and provide labor/travel costs. Asked by **Board member Landis** if the proposed work would fix longstanding temperature issues in the building, **City Director of Public Works & Utilities Dustin Sailor** said this work would replace outdated equipment and should be the third and last such replacement.

Swartley/Nichols moved to approve and authorize Mayor Stutsman to execute the agreement with OJS Building Services, Inc. for upgrading KMC Temperature Controls at the Goshen Police Department at a cost of \$46,550. Motion passed 4-0.

6) Legal Department: Approve and authorize Mayor Stutsman to execute the agreement with OJS Building Services, Inc. for the replacement of hot and chilled water valves at the Police Department for \$38,150 Brandy Toms, a paralegal with the City Legal Department, asked the Board to approve and authorize Mayor Stutsman to execute the agreement with OJS Building Services, Inc. for the replacement of hot and chilled water valves at the Goshen Police Department at a cost of \$38,150.



Under the agreement, the contractor will: Provide and install (26) 3-way ½" modulating valve (any other valves larger than 3/4" will be quoted); provide and install (29) 3-way ½" modulating valve (any other valves larger than 3/4" will be quoted); provide piping materials to install water valves to include insulation; and provide post-installation testing. Swartley/Nichols moved to approve and authorize Mayor Stutsman to execute the agreement with OJS Building Services, Inc. for the replacement of hot and chilled water valves at the Goshen Police Department at a cost of \$38,150. Motion passed 4-0.

7) Legal Department: Approve and authorize Mayor Stutsman to execute the Agreement for the special cleaning of Well #14 with Peerless Midwest, Inc. at a cost of \$29,960

Brandy Toms, a paralegal with the City Legal Department, asked the Board to approve and authorize Mayor Stutsman to execute the agreement with Peerless Midwest, Inc. for the special cleaning of Well #14 for \$29,960. Toms said Peerless-Midwest, Inc. will utilize an innovative and very successful process called the Armour Method. It will require approximately six treatments over three to four weeks for \$29,960.00. Any required additional treatments will cost \$4,500 per treatment. Tom said in the past, additional treatments have not been necessary. She added that this will be the second time this annual process has been used for this well and it has been very successful. Kent Holdren, Superintendent of City Water Treatment and Sewer Department, said this work will be on the City's Kercher wellfield and this treatment worked well for about a year. He said one well is already down in the Kercher wellfield, so it's critical to get this well cleaned and running efficiently again. He confirmed a different treatment was previously tried, but wasn't successful, so the City contracted with Peerless Midwest, Inc. Swartley/Nichols moved to approve and authorize Mayor Stutsman to execute the agreement with Peerless Midwest, Inc. for the special cleaning of Well #14 at a cost of \$29,960. Motion passed 4-0.

8) Legal Department: Approve and authorize Mayor Stutsman to execute the Agreement with Peerless-Midwest, Inc. for work on the #7 pump overhaul at a cost not-to-exceed \$27,840

Brandy Toms, a paralegal with the City Legal Department, asked the Board to approve and authorize Mayor Stutsman to execute the agreement with Peerless Midwest, Inc. for work on the #7 pump overhaul at a cost not-to-exceed \$27,840.

Under the agreement, the contractor's duties include: full replacement of bowl assembly rated 1800 GPM@ 170' TDH (includes new column, line shaft); standard motor reconditioning 100 HP motor; Shop and Machinist labor to disassemble overhaul and reassemble; and field labor: Pull/Set (3-man crew due to 10" column size).

Swartley/Nichols moved to approve and authorize Mayor Stutsman to execute the agreement with Peerless Midwest, Inc. for work on the #7 pump overhaul at a cost not-to-exceed \$27,840. Motion passed 4-0.

9) Legal Department: Agreement with Peerless-Midwest, Inc. for work on the #4 pump overhaul at a cost not-to-exceed \$25,830

Brandy Toms, a paralegal with the City Legal Department, asked the Board to approve and authorize Mayor Stutsman to execute the agreement with Peerless Midwest, Inc. for work on the #4 pump overhaul at a cost not-to-exceed \$25,830.

Under the agreement, the contractor's duties include: full replacement of bowl assembly rated 1200 GPM@ 200' TDH (includes new column, line shaft); Standard motor reconditioning 75 HP motor; Shop and Machinist labor to disassemble overhaul and reassemble; and Field labor: Pull/Set.



Asked by **Board member Landis** if pumps #4 and #7 would be down at the same time, **Kent Holdren**, **Superintendent of City Water Treatment and Sewer Department**, said that would not be the case. He also said the price difference in the two overhauls was related to the different horsepower of the two pumps. **Swartley/Nichols moved to approve and authorize Mayor Stutsman to execute the agreement with Peerless Midwest, Inc. for work on the #4 pump overhaul at a cost not-to-exceed \$25,830, Motion passed 4-0.**

10) Legal Department: Resolution 2022-28 – Contract with Indiana Department of Transportation for Sweeping Services

Shannon Marks, the Legal Compliance Administrator for the City Legal Department, asked the Board to move to adopt Resolution 2022-28, Contract with the Indiana Department of Transportation for Sweeping Services.

Shannon said the Indiana Department of Transportation wants to contract with the City of Goshen for the City to sweep the 20.6 curb miles of state highways within the City limits a minimum of two times each year. The contract term is for 48 months commencing July 1, 2021 through June 30, 2025. The State will pay the City \$360/curb mile for a total of \$7,416 each year.

Asked by Board member **Landis** if the sweeping has been done or not, **Marks** said the City has been doing the work. She also said the State has been paying the City the same rate since 2013. **Landis** responded, "I guess when you have all the power, you get to set the terms of the agreement."

Swartley/Nichols moved to adopt Resolution 2022-28, Contract with the Indiana Department of Transportation for Sweeping Services. Motion passed 4-0.

11) Legal Department: Acceptance of Easement from Pilgrim Partners, LLC

Shannon Marks, the Legal Compliance Administrator for the City Legal Department, asked the Board to accept the easement for the Goshen City storm sewer utility from Pilgrim Partners, LLC, and authorize the Mayor to execute the acceptance. She said the 500 square foot easement area is located on the south side of West Plymouth Avenue, east of Lighthouse Lane, and will be used for storm sewer utility purposes.

Swartley/Nichols moved to accept the easement for the Goshen City storm sewer utility from Pilgrim Partners, LLC, and authorize the Mayor to execute the acceptance. Motion passed 4-0.

12) Legal Department: Resolution 2022-29 for the transfer of 311 N. 9th Street to Habitat for Humanity of Elkhart County, Inc. and authorize Mayor Stutsman to execute documents necessary for the transfer City Attorney Bodie Stegelmann asked the Board to approve Resolution 2022-29 for the transfer of 311 N. 9th Street to Habitat for Humanity of Elkhart County, Inc. and authorize Mayor Stutsman to execute documents necessary to accomplish the transfer.

Stegelmann said the City owns vacant real property located at 311 North 9th Street, and has no plans to utilize the real property for governmental purposes, so staff recommends the transfer of the property to Habitat for Humanity. He said the property will be used to build a home on the lot.

Greg Conrad, the president and executive director of Habitat for Humanity of Elkhart County, thanked the City for working with the organization and said work on the site should begin in a few days.

Swartley/Nichols moved to approve Resolution 2022-29 for the transfer of 311 N. 9th Street to Habitat for Humanity of Elkhart County, Inc. and authorize Mayor Stutsman to execute documents necessary to accomplish the transfer. Motion passed 4-0.



13) Legal Department: Approve an agreement with Q-mation, Inc. for the development of a serial interface custom driver for the City's SCADA system for \$14,040

City Attorney Bodie Stegelmann asked the Board to approve an agreement with Q-mation, Inc. for the development of a serial interface custom driver for the City's Supervisory Control and Data Acquisition (SCADA) system, in the amount of \$14,040.

Q-mation received a request from City of Goshen to help interface with communication to an old USFilter D620 controller at its facility in Goshen. The controller communication is being decoded by the FSGateway tool kit DDE custom driver. This tool kit is no longer available and is not compatible with the newer windows environment. Q-mation is proposing to upgrade the current application to OmniServer and will provide all software, and services to complete the upgrade project.

Marvin Shepherd, City Water Quality Manager, said the City upgraded its SCADA system this year, but there has been a problem with the lift stations that were not upgraded. He said this will resolve the issue.

Swartley/Nichols moved to approve an agreement with Q-mation, Inc. for the development of a serial interface custom driver for the City's SCADA system, in the amount of \$14,040. Motion passed 4-0.

14) Community Development Block Grant Program: Approve and authorize Mayor Stutsman to sign the CDBG agreement for homeownership assistance for Program Year 2022

City Planning & Zoning Administrator Rhonda Yoder asked the Board to approve and authorize Mayor Stutsman to sign the CDBG agreement for homeownership assistance for Program Year 2022.

Yoder said homeownership assistance is a new program that will provide \$40,000 in direct financial assistance to low/moderate homebuyers purchasing single family homes in the City of Goshen.

Asked by **Board member Landis** if the entire \$40,000 would be spent this year, **Yoder** said the program year began July 1, 2022 and continues through the end of June 2023. If not all is spent, she said the funds can be rolled over into the next year until all is spent. And if successful, she said the same activity could be repeated the following year. **Swartley/Nichols moved to approve and authorize Mayor Stutsman to sign the CDBG agreement for homeownership assistance for Program Year 2022. Motion passed 4-0.**

15) Water & Sewer Office: Request to approve unpaid final accounts (Kelly Saenz)

Kelly Saenz, Manager of the Goshen City Utilities Office, said that the original amount of unpaid final Water/Sewer accounts for this period, through Aug. 24, 2022, was \$8,055.88. Collection letters were sent out and payments of \$4,270.98 were collected. The uncollected amount was \$3,784.90. So, Saenz asked the Board to move the office's uncollected final accounts from active to Collection, Sewer Liens and Write offs.

Swartley/Nichols moved to move the Goshen Water and Sewer Office's uncollected finaled accounts from active to Collection, Sewer Liens and Write offs. Motion passed 4-0.

16) Engineering Department: Approve the extended closure of Wilden Avenue from east of Main St (SR 15) to and including the intersection with 5th Street through Nov. 18, 2022

City Director of Public Works & Utilities Dustin Sailor, asked the Board to approve the extended closure of Wilden Avenue from east of Main Street (SR 15) to and including the intersection with 5th Street through Nov. 18, Sailor said Rieth-Riley has notified the Engineering Department of its request to extend the closure of Wilden Avenue to ensure the safety of crews during final sidewalk installation, grading, and site restoration.



Sailor said the detour route will remain the same, with traffic using 61h Street, Oakridge Avenue, and Main Street. Swartley/Nichols moved to the extended closure of Wilden Avenue from east of Main Street (SR 15) to and including the intersection with 5th Street through Nov. 18, 2022. Motion passed 4-0.

17) Engineering Department: Approve \$10,181.12 contract with Yoder & Sons Fencing to remove and replace fencing in City Parking Lot #1 and authorize Mayor to sign the agreement

City Director of Public Works & Utilities Dustin Sailor, asked the Board to award the contract to Yoder and Sons Fencing in the amount of \$10,181.12, and authorize the Mayor to sign the agreement.

Sailor said the vinyl fence along the north line of Parking Lot I, which is north of the Goshen City Church of the Brethren at 203 N. Fifth Street, is in poor condition. The City secured three quotes to replace the entire fence and Yoder and Sons Fencing provided the lowest responsive and responsible quote in the amount of \$10,181.12. Work on the fence replacement is to be complete by April 28, 2023.

Swartley/Nichols moved to award the contract to Yoder and Sons Fencing in the amount of \$10,181.12, and authorize the Mayor to sign the agreement. Motion passed 4-0.

18) Engineering Department: Approve balancing Change Order No. 1, decreasing the contract \$19,759.45, for a final amount of \$329,450.70 for Niblock's asphalt paving project

City Director of Public Works & Utilities Dustin Sailor asked the Board to approve the balancing Change Order No. 1, decreasing the asphalt paving contract with Niblock Excavating, Inc. \$19,759.45, for a final contract amount of \$329,450.70. The change order is a 5.66% decrease in the original contract of \$349,210.15.

Swartley/Nichols moved to approve the balancing Change Order No. 1 decreasing the contract \$19,759.45, for a final contract amount of \$329,450.70. Motion passed 4-0.

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

Acting Chair Landis opened Privilege of the Floor at 2:49 p.m. There were no public comments.

However, Landis asked City Director of Public Works & Utilities Dustin Sailor about the different approaches to the reconstructed Plymouth Avenue Bridge. He said the approach from the west into town resembles a ramp while the approach in the opposite direction is smooth. Landis asked if this would be fixed or remain this way for 20 years. Sailor said he didn't have an answer, but said it was a good question. Sailor added that there is nothing the City can do about this because it was a state project, but he would ask. Landis said people have noticed this difference

Acting Chair Landis closed Privilege of the Floor at 2:51 p.m.

As all matters before the Board of Public Works & Safety were concluded, Acting Chair Landis/Board member Nichols moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 4-0.

Acting Chair Landis adjourned the meeting at 2:51 p.m.



APPROVED

Mayor Jeremy Stutsman

Mike Landis. Member

Mary Nichols, Member

DeWayne Riouse, Member

Barb Swartley, Member

ATTEST

Richard R. Aguirre, City of Goshen Clerk-Treasurer