



**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD  
MINUTES OF THE MAY 30, 2024 REGULAR MEETING**

*Convened in the Goshen Police & Court Building, 111 East Jefferson St., Goshen, Indiana*

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

**Absent:** None

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

**REVIEW/APPROVE MINUTES:** Mayor Leichty presented the minutes of the May 23, 2024 Regular Meeting as prepared by Clerk-Treasurer Aguirre. Board member Barb Swartley moved to approve the minutes as presented and the motion was seconded by Board member Mike Landis. The motion passed 5-0.

**REVIEW/APPROVE AGENDA:** Mayor Leichty presented the meeting agenda. Board member Swartley moved to approve the agenda with additional agenda item #9) *Request for closure of 1313 E. Douglas Street just east of 16<sup>th</sup> Street June 3-4, 2024.* Board member Landis seconded the motion. Motion passed 5-0.

**1) Police Department presentation: Life Saving Award to Officer Jordan Snyder**

City Police Patrol Division Chief Ryan Adams said he wanted to bring to the attention of the Board of Works and Safety and to the Goshen community the life-saving actions of **Officer Jordan Snyder**, adding that the Police Department believes in recognizing officers for their positive actions, with a special focus on outstanding efforts in service to the community and their fellow officers.

Chief Ryan said on Sunday, April 14, 2024, **Patrolman Snyder** was in his patrol vehicle in the parking lot of the Faith Mission, having transported a homeless person there, when a man ran up to him and stated that two people were possibly overdosing in a car in the parking lot. Patrolman Snyder immediately got the attention of Faith Mission employees to call for help, and also contacted the Public Safety Communications Center.

Chief Ryan said **Patrolman Snyder** found two subjects, a male and female, unresponsive in the front of a car, resistant to all attempts to wake them up. He retrieved a Narcan applicator (a medication used to reverse opioid overdoses) from his patrol vehicle and used it on one of the subjects. He then took a second Narcan applicator from an arriving Elkhart Police Department officer and gave it to the other subject.

Chief Ryan said "Captain Sullivan from the Elkhart Fire Department advised the Narcan was effective and that one of the subjects was talking by the time medics arrived, and the other was shortly thereafter. Medics did not administer any additional Narcan themselves. At this time, I would like to present the Life Saving Award for actions which averted significant injury and/or saved the life of a person."

On behalf of the City, **Mayor Leichty thanked Officer Snyder** for his life-saving actions. **Officer Snyder** expressed appreciation for the award.

**2) Police Department request: Life Saving Award to Officer Maxwell Harmon**

City Police Patrol Division Chief Ryan Adams said he wanted to bring to the attention of the Board of Works and Safety and to the Goshen community the life-saving actions of **Officer Maxwell Harmon**, adding that the Police Department believes in recognizing officers for their positive actions, with a special focus on outstanding efforts in service to the community and their fellow officers.

Chief Ryan said on April 24, 2024, officers responded to a serious bodily injury crash at Lincolnway East and College Avenue, between a passenger car and a moped. **Officer Maxwell Harmon** was the first officer on scene and located bystanders tending to the driver of the moped. The driver had an apparent complete fracture to his left femur. A civilian had used a belt as a makeshift tourniquet.



**Chief Ryan** said "Officer Harmon then applied his own tourniquet to the person's leg. Captain (Nick) Kauffman spoke with a Goshen Fire Department lieutenant, who stated the injury was bleeding severely and the tourniquet 'stopped the bleed.' He said without its application, the individual 'might have bled out.' At this time, I would like to present the Life Saving Award for actions which averted significant injury and/or saved the life of a person."

**Officer Harmon** expressed appreciation for the award. **Mayor Leichty** praised **Officer Harmon** for his quick actions, which saved a life.

**3) Goshen Community Schools request: Approve the installation of an aggregate drive as part of the new Baseball-Softball Complex project**

**Brian Blight**, a senior project manager with **Weigand Construction of South Bend**, said he was making a request regarding an access road that will be used by emergency vehicles around the perimeter of the new baseball and softball complex for the Goshen Community Schools.

In a May 20, 2024 memorandum to the Board, **Andy Bearman of Commonwealth Engineers, Inc.** wrote that Goshen Community Schools was requesting the approval of an aggregate driveway in lieu of a paved surface for the emergency and maintenance vehicle drive to be included around the east and south sides of the Baseball and Softball Complex project. The public vehicle areas will be covered in asphalt pavement.

**Bearman** wrote that there will be gates at the north end of the drive and to the south of the baseball field to restrict access. The driveway will be constructed with crushed limestone (not gravel) and the soil base will be compacted. The soil on this site is sandy and should not deteriorate over time due to moisture. This drive will also be used by construction traffic. So, it will be subjected to many repeated heavy traffic loads before the complex will be used.

**Bright** also wrote that the route has been discussed with, and presented to the City Engineering, Planning, and Fire departments. The route and 20-foot width are based on their feedback, and this request was based on Technical Review comments. The project meets all planning and zoning requirements.

**Bright** concluded that the main reason for choosing aggregate was the cost – both initial installation and long-term maintenance. He wrote that weather would deteriorate asphalt pavement faster than vehicle use since the number of axle passes will be very small. Additionally, the aggregate surface will reduce the amount of completely impervious surface on the site, which will reduce the concentration of runoff and improve infiltration into the sandy soil.

**Swartley/Landis** made a motion to approve the installation of an aggregate drive as part of the new baseball and softball complex project. Motion passed 5-0.

**4) Downtown Goshen Inc. request: Approve use of the alleyway next to Goshen Theater, 216 South Main Street, from 1 to 11 p.m., on First Friday, June 7, 2024**

On behalf of Downtown Goshen Inc., **Amanda Rose**, of **Eyedart Creative Studio** and the **Director of First Fridays**, requested the use of the alleyway next to the Goshen Theater, 216 S Main St., from 1 to 11 p.m. on June 7, 2024 for First Friday activities.

In case of rain, **Rose** said the alley will be used for the trailer of the Steel Wheels band. She said if there is no rain, the alley won't be used. She said the Street Department has been contacted about the request.

**Swartley/Landis** made a motion to approve **Downtown Goshen Inc.**, request to the use of the alleyway next to the Goshen Theater, 216 S Main St., from 1 to 11 p.m. on June 7, 2024. Motion passed 5-0.

**5) St. John the Evangelist Catholic Church request: Approve street closures for two church events, on June 2, 2024 and on June 9, 2024**

**Cindy Wiederman**, the business manager for **St. John the Evangelist Catholic Church** in Goshen, said on Sunday, June 2, 2024 a big event would take place at the church. She said parishioners wanted to participate in a procession from the church to Monroe Street, taking a left turn onto South 3rd Street, a right turn on West Douglas Street, a right turn onto River Race Drive and then a turn on Monroe Street back to the church.



**Wiederman** said the procession would begin at 12:30 p.m. after Mass and would conclude by 2 p.m. In order to safely allow parishioners to enjoy the procession, the church requesting the Board's permission to temporarily block West Monroe Street, South 3rd Street and River Race Drive from noon to 2 p.m. on June 2 so that 200 to 300 parishioners could participate in the annual Corpus Christi Procession. She said the church had already coordinated the request with the City Street Department. In addition, **Wiederman** asked for permission to block part of West Monroe Street to have more space for parishioners and for children to be safe when coming in and out of the gym on June 9, 2024. She said members will be having a farewell celebration for the church's pastor, Father Royce Gregerson, after the 1 p.m. Mass. **Swartley/Landis** made a motion to approve the two requests for street closures for church events on June 2, 2024 and June 9, 2024. Motion passed 5-0.

**6) Legal Department request: Approve the agreement with Safe Haven Baby Boxes, Inc. for the installation of a newborn safety device at the Central Fire Station, and authorize Mayor Leichthy to execute the agreement** Mayor Leichthy said a number of presenters would be speaking in favor of this proposed agreement.

**BACKGROUND:**

In a May 30, 2024 memorandum to the Board, **City Attorney Bodie Stegelmann** wrote that along with the memorandum, he was providing a proposed agreement with Safe Haven Baby Boxes, Inc. an Indiana nonprofit corporation. Pursuant to the agreement, the City would install and operate a newborn safety device at the City's Central Fire Station under Indiana Code 31-34-2.5.

**Stegelmann** wrote that the City would be obligated to pay to Safe Haven Baby Boxes, Inc. the sum of \$15,500 as a one-time fee, and an annual fee of \$500. The City would need to pay for the installation of the device. City staff anticipates that grant funds would cover the cost of the acquisition and installation of the safety device.

**Under the eight-page agreement, the five "Whereas" clauses stated:**

- **SHBB (Safe Haven Baby Boxes) is a nonprofit educational organization that provides information and services related to child welfare, safe haven laws, initiation and implementation of newborn safety devices ("Safety Device") (as that term is defined under Indiana law), and awareness related to preventing child abandonment.**
- **Indiana Code § 31-34-2.5-1, et al (the "Safe Haven Laws"), provides certain protections to local fire departments that install a newborn safety device (the "Safety Device");**
- **Provider (City of Goshen) desires to install a Safety Device on Provider's premises pursuant to the Safe Haven Laws;**
- **SHBB is agreeable to placing a Safety Device to the Provider's premises and undertaking certain services in relation thereto;**
- **Finally, the Provider has consulted its legal, financial and insurance related advisors and has confirmed that its location and operation is acceptable under the laws and regulations of its jurisdiction for the placement of a Safety Device.**

**"Section 1. Installation" of the agreement specified:**

**"SHBB shall provide to Provider one (1) Safety Device for installation by Provider on the premises located at 209 North 3rd Street, Goshen, Indiana. Delivery of the Safety Device shall be at the expense of the Provider. SHBB has the option at any time to oversee the installation of the Safety Device and advise as to installation on the appropriate placement to maximize awareness and implementation of its educational objectives as set forth in this Agreement. SHBB and Provider agree to cooperate with respect to the appropriate third-party contractors for the placement of the Safety Device and to ensure that such third-party has the appropriate skill and knowledge for constructing improvements to Provider's facility. Provider is to pay for all installation costs and expenses for labor and/or materials.**



"Provider is responsible for compliance with all applicable federal, state, and municipal or local laws, rules, and regulations and all laws, rules, and regulations pertaining to permitting requirements for the installation of the Safety Device. Provider agrees to abide by the policies and procedures for installation as outlined in Exhibit 'A' (the "Policies and Procedures") of this Agreement, which is hereby made a substantive part of this Agreement by reference."

**"Section 2. Services by SHBB"** specified

**"SHBB shall provide annual services related to the performance of this Agreement. Such services shall include:** (1) providing educational materials to Provider and policies and procedures relating to the maintenance of the Safety Device to Provider; (2) operating a toll-free phone number for the general public to utilize in emergency situations involving abandoned children or issues related thereto; (3) educating emergency services personnel related to the use of the Safety Device; (4) providing educational information to the general public regarding the location and awareness of the Safety Device at the Provider's facility as well as other educational resources related to child welfare advocacy and safe haven law awareness; (5) provide at minimum annual inspection and maintenance on the Safety Device; and (6) Will exclusively repair or replace parts if/when the Safety Device is malfunctioning at expense of Provider as set forth under Section 4 of this Agreement and as otherwise provided in this Agreement (collectively the 'Services')."

**"Section 3. Lease and Service Term"** specified:

**"The term of this Agreement shall be for five (5) years ("Term") and shall renew for successive five (5) year terms** upon the mutual agreement of terms, fees, and conditions or unless terminated in accordance with Section 9, below or as otherwise agreed to by the parties."

**"Section 4. Consideration"** specified:

"In consideration for leasing the Safety Device and providing the Services described under Sections 1 and 2 above, **Provider (City of Goshen) agrees to pay SHBB an initial fee of \$15,500**, unless otherwise agreed to by the Parties under Section 3 of this Agreement. Provider shall pay a **renewal fee of \$500 for each successive Term** under this agreement, due within thirty (30) days of the start of each successive Term. Additionally, Provider shall pay an **annual fee of \$500** and other associated expenses as determined from time to time by SHBB on January 1 of every year that this Agreement is in force. The foregoing fees and expenses include but are not limited to the services and expenses listed in the Services, Fees, and Expenses Schedule attached hereto as Exhibit 'B.'"

**"Section 5. Obligations of Provider"**(City of Goshen) specified:

"In addition to any and all other obligations of the Provider set forth herein, **Provider agrees to follow all policies and procedures provided by SHBB** which may change from time to time. SHBB shall provide thirty (30) days' prior Notice to Provider. Such policies and procedures are included as Exhibit A to this Agreement and, by way of Provider's signature hereto, shall evidence Provider's acknowledgement and receipt of the Policies and Procedures.

**"Provider agrees to maintain the Safety Device in good working order**, the costs of which are to be borne by Provider. **Provider agrees to not change, add to, subtract from, alter, rebrand, or otherwise modify the Safety Device and accompanying signage as set forth in Exhibit A in any manner whatsoever without the prior written approval of SHBB.**

"Provider agrees to use best efforts to prevent any third parties from adding to, subtracting from, altering, rebranding, or otherwise modifying the Safety Device and accompanying materials/signage as set forth in Exhibit A in any manner whatsoever without prior written approval by SHBB. Provider agrees to immediately notify SHBB of any modification to the Safety Device. **Provider agrees to accept complete liability for any and all unapproved modifications to the Safety Device and any and all unapproved modifications to accompanying parts of the Safety Device, including required signage/materials. Provider agrees to accept complete liability for modifications to the Safety Device which are the result of: its own actions, omissions, and/or failure to use best efforts to maintain the Safety Device in good working order or best efforts to prevent any modifications to the Safety Device by a third party.**



"Provider (City of Goshen) shall refer to the Safety Device as a **"Safe Haven Baby Box."** Further, **Provider shall procure and maintain a twenty-four (24) hour alarm monitoring of the Safety Device at all times** and shall confirm with SHBB that such service is acceptable. Should alarm monitoring service be disconnected for any reason, Provider shall immediately notify SHBB and shall secure the Safety Device by locking its exterior door and removing all signage and materials related to its use and functionality. SHBB may, but is not required to, inspect the Safety Device at any time, including, but not limited to: ensure that it is in good working order, to ensure proper branding and signage is being displayed, and to conduct tests related to its functionality and monitoring and alarm systems."

**"Section 6. Representations and Warranties, B. Representations & Warranties of SHBB"** specified:

"SHBB REPRESENTS THAT THE SAFETY DEVICE IS NOT A MEDICAL DEVICE AND HAS CONFIRMED SUCH WITH THE FOOD AND DRUG ADMINISTRATION. SHBB REPRESENTS THAT THE SAFETY DEVICE IS NOT INTENDED AS A CONSUMER PRODUCT AND THUS IS NOT REGISTERED WITH THE CONSUMER PRODUCT SAFETY COMMISSION ..."

**"Section 7. Insurance"** specified:

"Provider agrees to procure and maintain in full force and effect at all times during the Term of this Agreement and any renewals thereof, at its own cost and expense, a policy or policies of comprehensive commercial general liability insurance on an occurrence basis, in the amount of \$1,000,000 per occurrence/\$2,000,000 aggregate and a \$2,000,000 limit umbrella coverage related to the Safety Device's placement and operation in or about Provider's facility against all loss, damage or liability for personal injury or death of any person or loss or damage to property occurring in upon or about the Safety Device during the Term of this Agreement and all extensions thereof. This insurance policy shall not be a separate policy solely because of this Agreement but, rather, will be part of the City of Goshen's master general liability and umbrella policies. SHBB's liability as to the Safety Device in relation to the Provider under this Agreement is covered under the City's master general liability and umbrella policies."

**"Section 9. Termination"** specified:

"Provider may terminate this Agreement upon sixty (60) days prior written notice from Provider to SHBB. SHBB may terminate this Agreement for any reason specified under Section 10, below ..."

**"Section 12. Disclaimer and Limitation of Warranties"** specified:

"SHBB IS NOT THE MANUFACTURER OF THE SAFETY DEVICE AND MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY, DURABILITY, FITNESS FOR USE, MERCHANTABILITY, CONDITION, QUALITY, PERFORMANCE OR NON-INFRINGEMENT OF THE SAFETY DEVICE. WITH RESPECT TO SAFETY DEVICE, PROVIDER ACCEPTS IT "AS IS." THE SAFETY DEVICE SHALL BE SUBJECT TO ANY WARRANTIES PROVIDED TO PROVIDER BY THE SAFETY DEVICE MANUFACTURER AND/OR AVAILABLE BY THE SAFETY DEVICE'S COMPOSITE PARTS.

"SHBB neither assumes nor authorizes any other person associated or related by legal right, corporate entity, governmental entity, or any other entity associated or related by legal right to assume for it, or any other liability in connection with the lease of the Safety Device. There are no warranties which extend beyond the terms of this Agreement, unless otherwise stated or provided for herein or by law via preemption. These warranties shall not apply to the Safety Device or improvements, restoration, repair, remodel, modifications, and/or any other construction work on the Safety Device, related to the Safety Device, or any other part thereof which has been subject to accident, negligence, alteration, abuse or misuse. SHBB makes no warranty whatsoever with respect to accessories or parts not supplied by it."

The agreement included **"EXHIBIT A, SAFE HAVEN BABY BOXES, INC. POLICIES AND PROCEDURES,"** a three page document which includes sections titled I. Purpose; II. Policies; III. Generic procedures when the Baby Box is Activated; IV. Additional Procedures for designated Providers; and V. Documentation (Documents & Forms). **Finally, the agreement included "EXHIBIT B. SAFE HAVEN BABY BOXES, INC. SERVICES, FEES, AND EXPENSES SCHEDULE,"** which detailed the expenses, terms and other fees.



## DISCUSSION ABOUT & PASSAGE OF THE CITY'S AGREEMENT WITH SHBB, INC. ON MAY 30, 2024:

**Mayor Leichty** said she first became aware of this request last summer, not long after taking office to complete **Mayor Jeremy Stutsman's** term, after he resigned. She said the organization **100 Women Who Care Elkhart County** reached out because they decided Goshen was going to be, at long last, a recipient of one of the group's many charitable offerings.

**Mayor Leichty** said the group wanted to donate to the Safe Haven charitable cause, with funds donated through the Elkhart County Community Foundation. The group was interested in placing a Safe Haven Baby box at one of Goshen's fire stations.

**Mayor Leichty** said Indiana's statute provides that children in the State of Indiana who are infants "can be surrendered anonymously to a safe location without legal compromise for the parents, so that statute pertains to fire houses that are operated 24 hours a day and could apply to any hospital as well. But it's a way for parents who are in dire circumstances who have decided that they are no longer able to care for an infant to turn over that infant safely."

**Mayor Leichty** said Safe Haven Baby Box, Inc., which is separate from the state Safe Haven Law, has provided baby boxes, which are safe spaces for babies to be placed instead of being left on the front steps of a fire or police station. She said the baby box is a temperature-controlled incubator that has an alarm and is monitored.

**Mayor Leichty** said City staff started a conversation about the donation and then put it on hold for a while to make sure that legal questions and concerns were resolved before moving forward with the proposal. She said **City Attorney Bodie Stegelmann** would discuss those issues in a while.

**Mayor Leichty** said next there would be a presentation from **Carrie Berghoff**, one of the **100 Women Who Care Elkhart County** as well as a **representative of the Community Foundation of Elkhart County**. She said the group would be providing funds to cover the cost of the project.

**Berghoff, the Chief Development Officer for the Community Foundation**, said she works with generous donors who engage in philanthropic acts through the foundation. She said one of those groups is **100 Women Who Care Elkhart County**, to which she also belongs.

**Berghoff** said members of the group get together four times a year and donate \$100 each and together they give \$10,000 to charity. She said members have been doing this for 10 years and have donated more than \$400,000 to local non-profit organizations.

In January 2023, **Berghoff** said the group selected Safe Haven Baby Box, Inc. with the idea of donating a baby box to Goshen. She said there is one in Elkhart, at the Cleveland Township Fire Department, and shortly after it was installed, a baby was surrendered in 2023.

Since Safe Haven Baby Box, Inc. started in the state of Indiana in 2016, **Berghoff** said 29 infants have been surrendered in the state without one fatal abandonment. She said there are more than 100 baby boxes in Indiana, but only one in Elkhart County. She said **100 Women Who Care Elkhart County** wanted to place a baby box in Goshen to provide this surrender option for parents facing a dire situation.

**Berghoff** said Safe Haven Baby Box, Inc. also provides counseling and services for women. In most cases, she said the organization has been in communication with mothers before they have surrendered their babies. The women are counseled on their options. She said SHBB operates a hotline to tell women the closest location of a baby box.

**Berghoff** said **100 Women Who Care Elkhart County** have donated \$10,000 to the Goshen project. She said other donors in Elkhart County have also started a fund. Rep. Joanna King, R-Middlebury, has said state funding also is available, but **Berghoff** said there is already enough charitable support to pay the Goshen baby box expenses.

**Berghoff** said total costs for the baby box will be up to \$18,000 and she said she had no doubt adequate funds will be available. She said donations also would be raised for the \$500 annual baby box fee.



**Berghoff** said a hospital-grade bassinette would be installed on the side of the Goshen Fire Station and she has connected **City Fire Chief Dan Sink** with **D.J. Construction**, which is willing to reduce the cost of the baby box's construction and installation. She said even the installation would be "fiscally responsible."

Ultimately, **Berghoff** said there are many women and families in Elkhart County who want to provide this additional choice for mothers and fathers in the area who are facing a dire situation. **Berghoff** invited questions from the Board. **Mayor Leichty** asked if 100% of the program costs would be covered by donations, so the City won't bear any of the costs. **Berghoff** said that was correct – that the group was committed to paying through general public philanthropy adding, "In fact, I've said to send any invoices to the Foundation. We will pay for them. Safe Haven Baby Box is a non-profit, so by doing it through the Community Foundation, it's considered a grant. So, it makes perfect sense to do it through us." She added that there would be adequate donors, including from herself.

**Mayor Leichty** said a question was raised about the City's financial obligations since the agreement states that the City would be responsible for the expenses. The Mayor said she wanted to make sure the funding did not have to go through the City of Goshen. **Berghoff** said that was correct. "I would want all invoices to come to us and we'll pay them as grants to this charity." She added that the Carmel baby box has had numerous surrendered babies.

**Board member Swartley** asked where Safe Haven Baby Box, Inc. gets its referrals and who does the counseling. **Berghoff** said the organization operates a hotline and SHBB staff members are usually in conversation with women during their pregnancies and not just after the birth of babies. She said they discuss options with the women. She also said other non-profit groups refer women to the organization.

**Berghoff** said that a baby box usually is the mother's "last resort" after exhausting other options. She said the surrender is usually at a fire station because the women usually have had no medical care and the baby is often still attached to the placenta, so it is a medical emergency. An alarm sounds and the babies are taken to the hospital.

**Berghoff** said the **Indiana Department of Child Services** is then contacted and places the babies in state custody. She said the babies "are placed in their forever homes generally within 90 days because so many foster-to-adopt parents want infants."

**Board member Swartley** asked if Safe Haven Baby Box, Inc.'s role ends when the baby is surrendered. **Berghoff** said it would depend on the mother because the service is anonymous. However, she said sometimes the organization knows the identity of mothers who have surrendered their babies.

**Berghoff** said the organization usually distributes a news release because the surrendering usually mother wants to know that the baby is safe and in good hands. And, she said, sometimes the counseling continues, but Safe Haven Baby Box, Inc. has no further contact with the baby.

**Board member Landis** said he is in the middle of adoption issues and knows adult adoptees who have no idea who their origin families are. He said that was one of his concerns apart from the baby box, which he said he understood was the last choice. He asked who would pay for the DNA searches for these children when they become adults.

**Berghoff** said inside the baby box will be information bag of resources for the mother. She said it contains forms that can be filled out, including medical history.

**Board member Landis** said he had more questions, which should not be interpreted as meaning he opposed this agreement. He said he wished there was a way to protect the child after they were placed with a new family, that the birth mother would not be anonymous. **Berghoff** said she didn't know if surrendering mothers provide information. She said perhaps at times the mother may not know who the father was.

**Board member Landis** said he just wanted there to be a "balance." He said there currently is a system that allows a mother to drop off a child at a fire station. **Berghoff** said that is true, but the baby box is a way to do so anonymously with no security cameras.

**Berghoff** said infants left at baby boxes are usually in their permanent homes within 90 days, which is much faster than usual foster home adoptions. **Board member Landis** said that wasn't rare for infant adoptions. He added that this system could result in 50-year-old adults not knowing who their parents were.



**Mayor Leichty** thanked **Berghoff and the Community Foundation** for providing enough voluntary contributions to pay for the entire program. She said she appreciated that.

**City Fire Chief Dan Sink** said he would discuss the logistics and operations of the baby box at the Central Fire Station. He said it would be located in the back building along the alley, which will provide a private pathway and allow for anonymity. As he is not a contractor, **Chief Sink** said he contacted **Matt Schrock of DJ Construction**, who has provided counsel on how the baby box should be installed.

**Chief Sink** said the Safe Haven Law allows a person to give up an infant anonymously without fear of arrest or prosecution. He acknowledged **Board member Landis'** concerns, but he said with the current parenting crisis, the goal is to prevent harm to children.

**Chief Sink** said all Goshen fire stations are considered safe haven locations, where a parent can surrender an infant or child, but the baby box provides a different tool that is not now available.

**Chief Sink** said the baby box is climate controlled for the newborns and features multiple alarms, so when the outside door is opened it triggers a silent alarm to the 911 dispatch center. He said when the infant is placed in the bassinette, a sensor triggers another call to the dispatch center so there is always awareness of the surrender. When the door closes, **Chief Sink** said the device is locked, first responders are notified and the baby is retrieved from the baby box. Paramedics conduct a quick examination before the infant is transported to Goshen Hospital for medical care through the emergency department. And then, he said, various entities are contacted.

**Chief Sink** said the Fire Department is always striving to add value beyond its daily responsibilities of fire response and emergency medical services "and as an avid defender and caregiver for children in our community, we at the GFD see the addition of a baby box as another tool or option to assist either parents or a parent who is in crisis with an option to surrender an infant for good quality care vs. something maybe untoward happening to the infants." He said the Fire Department wants to care for these vulnerable infants.

**Board member Landis** asked if the proposed baby box location was currently monitored by cameras. **Chief Sink** said it doesn't have a camera now, "but even we had a camera in the area, we would take it out if we had to."

**Chief Sink** said he serves on the board of the Indiana Fire Chiefs Association and multiple chiefs have baby boxes in their fire houses. He said they have worked successfully, with some almost-immediate surrenders after being placed.

**Mayor Leichty thanked Chief Sink.**

**Mayor Leichty** said **City Attorney Bodie Stegelmann** would now discuss some of the legal issues and clarify concerns raised about the agreement.

**City Attorney Stegelmann** said the Fire Department has the obligation to accept surrendered children. Parents can bring children to the Fire Station or call 911, and Fire Department staff members are obligated to pick up the child.

**Regarding anonymity**, **Stegelmann** said that when a child is brought to the fire house or when the department responds to a 911 call, they are obligated to inform the parents that they have the right to remain anonymous.

**Stegelmann** said he understood **Board member Landis'** concern, but the way the statutes are written, anonymity is part of the process. **Stegelmann** said a baby box would provide a third avenue of surrender under the state statute.

**Regarding questions about the City's liability** for taking part in this process, **Stegelmann** said the statute provides for civil immunity from liability for the City acting under the statute and accepting the surrender of children and taking related action. Taking action under the statute, he said, provides for immunity.

**Regarding the discussion about what happens to the child who has been surrendered**, **Stegelmann** said the Fire Department is obligated to take any action for the care of the child needed immediately but then immediately must transport the child to the closest hospital.

**Stegelmann** said there's an obligation for the Fire Department to contact (state) Child Services. Once that contact is made, he said, the Department of Child Services takes responsibility for the care of the child, including medical care and placement.





**Regarding issues or questions about what happens when a parent changes their mind, Stegelmann** said the Department of Child Services is involved and responsible for the care and placement of the child. He said a parent who surrenders a child would have every opportunity to contact the Department of Child Services and be part of any adoption or placement of that child. And, he said, there are statutes and procedures in the juvenile court system for parents to be involved in that process.

**Stegelmann** said Safe Haven Baby Box, Inc. would have an obligation under the agreement to inspect and maintain the City's baby box on an ongoing basis. So, if the baby box was damaged, he said the City would have an obligation to pay for the repairs and those and other ongoing expenses would be paid by the Community Foundation.

Stegelmann also said ongoing expenses or maintenance or repairs "should not be an issue."

**Mayor Leichty** said the initial term of the agreement would be five years. **Stegelmann** added that the City could terminate the agreement with 60 days' notice if it was not working out.

**Mayor Leichty** asked Board members if they had any further questions.

**Board member Swartley and Landis** said not at this time.

**Mayor Leichty** asked Clerk-Treasurer **Richard R. Aguirre** if he had additional questions.

**Clerk-Treasurer Aguirre** said he prepared a memo outlining concerns and questions about the proposed agreement, some questions about costs and accounting for the funds that would be spent and a recommendation that approval of the agreement be conditioned on an additional appropriation for baby box expenses from the Common Council. He said he distributed copies of the memo to the Board, the Mayor, the City Attorney and the Fire Chief – and emailed copies last night and would be making this memorandum part of the record (**EXHIBIT #1**).

**Aguirre outlined these concerns about the City's proposed agreement with Safe Haven Baby Box, Inc: Incomplete financial and insurance review.** Aguirre said the agreement stated that the City "consulted its ... financial and insurance related advisors ..." However, he said the Clerk-Treasurer oversees the City's finances and insurance and did not contact that review, nor has he been provided any information from a review. He said he hasn't checked on costs or insurance issues with other Indiana cities with baby boxes, which he would like to do.

**Abdication of the City's appropriate role to communicate with and inform residents.** Under the agreement, SHBB will provide educational materials to the City and the general public about the baby box and the safe haven law as well as signage. Aguirre said he believed it was inappropriate for the City to surrender its informational responsibility to a private organization and to agree to provide its materials without reviewing them in advance.

**High cost of the baby box.** Under the the agreement, the City must pay SHBB an initial fee of \$15,500, a renewal fee of \$500 for each successive five-year term under this agreement, and an annual fee of \$500 and other associated expenses. Given that the initial cost quoted in June 2023 was \$11,000, Aguirre asked why there had been a nearly 41% cost increase in less than a year and what the annual fee would pay for.

**SHBB can change provisions but not the City.** Aguirre said the agreement specifies that SHBB can change policies and procedures, but not the City. He asked why this was the case.

**An inaccurate representation about the baby box.** The sixth page of the agreement, in all capital and bold letters, stated that "SHBB IS NOT THE MANUFACTURER OF THE SAFETY DEVICE ..." However, Aguirre pointed to news coverage in which SHBB staff members said that the baby boxes are made by SHBB, Inc. at its headquarters in Woodburn, Indiana. He said this statement should be removed from the agreement.

**Leasing of a device without any warranty.** Aguirre asked why the City would lease and pay for a device that comes with "no representations or warranties whatsoever, directly or indirectly, express or implied, as to the suitability, durability, fitness for use, merchantability, condition, quality performance or non-infringement of the safety device." He asked if the City was even allowed to accept a piece of equipment without any warranties or expectation of performance and whether it was a prudent to do so.

**A provision requiring action by Goshen Hospital.** Aguirre pointed out that the agreement stated that "The hospital supervisor will notify the appropriate state agency and have a social services consult order placed."



**Aguirre** asked how this would be enforced and if the City could require Goshen Hospital personnel to do anything. **The costs of transporting the infants and providing hospital care.** Aguirre said the City is reimbursed for transporting some patients to the hospital now and asked whether the City would be reimbursed for transporting the babies. He also asked who would pay the medical costs of the infants at Goshen Hospital.

**Paying the City's costs for the baby box.** Although private donors have agreed to pay all expenses for the baby box, Aguirre recommended that the City obtain a written agreement guaranteeing those donations. Otherwise, he said the City would be responsible for paying the costs under the terms of the agreement.

**The Common Council should be asked to approve an appropriation to pay any unmet expenses.** Aguirre said it is likely that some City funds will be spent on the baby box program, including the time Fire Department employees will spend to maintain and test the baby box. Because of that, Aguirre recommended an appropriation request should be made to the Common Council before the SHBB agreement is finalized.

**After summarizing his memorandum to the Board,** Aguirre said that when this agreement was proposed about a year ago, he objected to it coming to the Board for many reasons, including some he stated today. Because questions had been raised, Aguirre said he believed it was prudent decision by the **Mayor's** to make sure issues were addressed before the agreement came before the Board.

However, just because he has concerns **Aguirre** said that that doesn't mean he's opposed to saving innocent lives. Aguirre said he supports saving lives for personal and faith-related reasons. Aguirre said he is a committed Christian and believes in protecting all life. He also said he serves on the national Executive Board of Mennonite Church USA and grew up Catholic, a denomination which respects all life.

**Aguirre** said there was also another issue in the background of this discussion and that was abortion and a women's right to choose. He said pro-choice people support baby boxes and pro-life people, including in Florida and Ohio, who have opposed them.

But other people have opposed them, **Aguirre** said, in part because the founder of Safe Haven Baby Box, Inc. opposes abortion in all instances. And her advocacy, Aguirre said, has become part of this discussion, especially among those who believe public funds used for baby boxes would be better spent informing pregnant women about their options, and providing prenatal and postnatal care and mental health counseling.

**Despite the rapid spread of Safe Haven Baby Boxes, Aguirre said he didn't believe this was something the City of Goshen needed to be involved in for the following reasons:**

1. All 50 states, including Indiana, have safe haven laws that allow mothers to surrender babies at hospitals and police and fire stations with no negative consequences. And over the past two decades these laws have worked very well. There have been 4,707 surrenders since 1999, according to the National Safe Haven Alliance.
2. If a baby box was deemed truly necessary in Goshen, it should be placed at Goshen Hospital as baby boxes have been placed at hospitals elsewhere in Indiana. In that way, babies would be exactly where they need to be to get the immediate care they needed. And the City would not have to be involved, nor bear any costs.
3. However noble the cause, there is no documented evidence that a baby box is the only effective way to save babies. Again, existing safe haven laws have proven that.
4. Unlike a mother surrendering a baby in person at a hospital or a fire or police station, with a baby box there is no possibility to obtain the informed consent of a surrendering parent or provide the mother with urgently needed medical care or counseling.
5. With a baby box, there's also no possibility to collect the vital medical or social history of a child. And many adoptees have struggled with this issue of not knowing their family or medical history.
6. A baby box also does nothing to address the crises that led a mother to surrender a child in the first place – no postnatal (or prenatal) services, no mental health services or no other services for women in crisis.
7. A baby box also makes it tough for a mother who has second thoughts or surrendered a baby without informing the father. These parents have to bear the costs of going to court and fighting for the baby.



8. These boxes also are speeding adoptions in Indiana, which may not be in the best interests of society or the parents who might want to reclaim a baby. It was reported earlier this year that last August officials placed a child left at a baby box at a Carmel fire station with an adoptive family within 12 hours. Is that the fast-track system we want?

9. That may be why some states, including New Mexico, have resisted baby boxes – out of concern for surrendered babies and their mothers.

10. Finally, despite the prevalence of baby boxes, they are rarely used – just 47 times since Safe Haven Baby Box, Inc. began its program in 2016.

**Aguirre** concluded, "It's been said -- and will be repeated throughout this discussion -- that if only one baby can be saved from being left in a dumpster, all the costs and all the discussions of a baby box will be worth it. But, again, there are other ways to protect innocent lives and that's by encouraging mothers to use our safe haven law and take their babies to Goshen Hospital."

**Mayor Leichty** thanked **Aguirre** for his comments. There were no Board questions for him.

**Mayor Leichty** asked if there were additional questions from Board members.

**Board member Landis** asked the **City Attorney** about the possible failure of the baby box and whether it would be the sole responsibility of the City from the start, especially given all the parts and complexity of the device.

**City Attorney Stegelmann** said it will be the City's obligation to keep the baby box in good working order based on regular testing and inspections. But, he said, Safe Haven will be responsible for inspecting and maintaining the baby box at least on an annual basis. So, he said it was a joint obligation of the City and SHBB.

**Mayor Leichty** said that in terms of the failure of equipment, this would be the same as any failure of equipment – the liability the City would have, such as the failure of a fire engine.

**Board member Landis** said he understood that, but if he bought a refrigerator and it had a one-year warranty, most refrigerators if they are going to fail will fail in the first year and then the responsibility is on the manufacturer and not the purchaser. And, he said, if something lasts for the first period, one can be fairly sure that it will last a normal lifetime. So, he said this was one of his concerns and he asked if there was any warranty on the equipment which was assembled by Safe Haven.

**City Attorney Stegelmann** said he understood that Safe Haven assembled equipment provided by companies.

**Mayor Leichty** said she believed the individual components in the baby box came with warranties from their manufacturers. **City Attorney Stegelmann** said he believed that was correct.

**Board member Landis** said he "would like some better clarification of that" given that it's a complex device and isn't just a shelf on a wall.

**Board member Swartley** asked for clarification that Safe Haven was assembling the baby boxes but wasn't the manufacturer. **Mayor Leichty** said that was correct. **City Attorney Stegelmann** said Safe Haven was making a representation that it wasn't the manufacturer to avoid product liability for the device. He added that he didn't know what Safe Haven was doing at its facility near Fort Wayne, "but anything that was in this agreement would not waive some products liability responsibilities of the manufacturer."

**City Attorney Stegelmann** also said Safe Haven's agreement provisions waiving implied or expressed warranties, suitability, merchantability or quality performance were "fairly standard" contract language. He said the agreement also included an obligation by Safe Haven to inspect and maintain the device, at least on an annual basis, which would mean having to keep it operational. He added that City also must maintain the device in good order.

**Board member Swartley** asked **Mayor Leichty** if she has seen any of the material that would be placed inside the box for mothers to take. **Mayor** said she has not. She asked if **City Fire Chief Sink** has seen it.

**Chief Sink** said he has seen the device, which he described as a "bassinette," which he said was kept at a constant 70 degrees and was well built. He said none of his colleagues have had warranty issues with Safe Haven.



**Board member Landis** said the fact the City could cancel the agreement with 60 days' notice was about as good a warranty as possible except for the money paid for it – which the Mayor said would be paid by others.

**Board member Swartley** clarified that she was asking about the educational materials placed in the baby box for mothers surrendering their babies. **Chief Sink** said he misunderstood the question and has not seen those materials. **Mayor Leichty** said she also misunderstood the question.

**Board member Landis** said if in fact anyone can surrender a baby openly and anonymously, someone from the City should have the right to examine the materials and have a say in what should be included.

**Chief Sink** said everyone would like that, but having worked on the street for many years, he would rather the baby be surrendered by a stressed parent than a worse alternative.

**Board member Landis** said that wasn't what he was talking about. "I'm talking about what gets put in this box – what they choose to put in ... so I would just say I would like (City Attorney Stegelmann) to be able to review that document and say, 'That's a very appropriate set of paperwork in the box.'" **Chief Sink** said he would defer to **Carrie Berghoff, of the Community Foundation of Elkhart County.**

**Berghoff** said she has just reviewed the resources section on the Safe Haven Baby Box website and said the packet inside the baby box includes information about the mother's legal rights, medical information about the baby if they choose to submit it, a safe haven registry with information about human trafficking and it also provides post-partum information because many of the mothers need medical care. She also said phone numbers are also included. She said the information is meant to help the mother in the initial days after giving birth.

**Board member Swartley** asked **Berghoff** the reason for a provision in the agreement that the general public will not be informed about the baby box until the day it "goes live." **Mayor Leichty** clarified that there is a contract provision that asks the City to wait to make an announcement until the agreement is signed so there can be a joint announcement.

**Berghoff** said she didn't know the answer to that but said she does know that Safe Haven Baby Box, Inc. does a "blessing ceremony" so the organization would be represented as well as City staff, the Fire Department and some of the donors. He said the box is blessed and then opened. Once installed, she added that there is a week of testing before it is turned on. She said she guessed SHBB wanted to make sure it was operating before any news coverage.

**Board member Swartley** said she had just wondered about this provision.

**Mayor Leichty** said her assumption was that SHBB wants to make sure the baby box is ready before it is used.

**Berghoff** said perhaps SHBB doesn't want mothers to know it's an option before it is available.

**Board member Landis** said "that's a tough pill for me to swallow."

**Mayor Leichty** said there was language in the agreement that specifies the many steps that must be taken to prepare the baby box. She said that was the organization's branding to ensure the baby box is ready before use.

**Board member Landis** said "if it wasn't a branding issue that might be easier for me."

**Chief Sink** responded: "It bothers me that it appears to be somebody referring or intimating that somebody here is trying to hide something. I mean, we're in a public meeting here, for crying out loud. So, let's disregard that right now. Secondly, I agree with Carrie that as this build-out goes, you don't want too much advertisement ahead because if it's not working, you do not want someone showing up in crisis and have something really, really tragic happen. So, I understand the whole process of not advertising and going live until the system is built, checked, tested and ready to go live. Sequentially that makes perfect sense, branded or not."

**Board member Swartley** responded, "I'd like to be clear that I don't think anybody is trying to hide anything." **Chief Sink** said he appreciated that. **Board member Landis** added, "Not from me. I'd agree with that."

**Mayor Leichty** asked if there were any other questions or comments or a motion from the Board.



**Swartley made a motion to approve the agreement with Safe Haven Baby Boxes, Inc. for the installation of a newborn safety device at the Central Fire Station and authorize Mayor Leichty to execute the agreement.**

**Before a second to the motion was made, Don Riegsecker of Goshen said that comments had not been invited from the audience. Mayor Leichty then welcomed comments from the public.**

**Mr. Riegsecker**, who said he was solely representing himself today, said he heard about this proposal from **Rep. Joanna King**, who approached him more than a year ago about the possibility of a Safe Haven Baby Box in Goshen. He said he "was so excited and felt so proud to live in a country, state and community that this was even a possibility." **Mr. Riegsecker then said the following:**

"Every day we wake up and we go about life making decisions that affect us and those around us. Some decisions are wise, but some decisions we may regret for the rest of our lives. One thing we have is options. Options are not always easy to navigate, but one thing I know is that my decisions will affect me and possibly others for years to come.

"Like me, I am sure every one of us has made decisions that we thought were the right ones at the time but turn out bad and may bring unexpected or undesirable results. The Safe Haven Box will allow a mother, whether she is young, old, wise, reckless, Christian or not, a chance to utilize one of many options available to her.

"This new mother will have many emotions and may feel lost and not sure how she will handle her decision to bring a new life into this world. Some of the concern may be financial. Some may be shame. Some may be immaturity. Or some might be 'I can't handle being a single mother at this point in my life.'

"Decisions will be made that may be good or may be regretful, but having the option to give a newborn baby up is not going to be easy either way, no matter what the decision. The Safe Haven Baby Box will be a safe and legal option for a mother to give up a newborn baby with anonymity and feel that her past decisions may not have to weigh on her or her baby so heavily for the remainder of their lives.

"Please approve the Safe Haven Baby Box agreement and possibly save the life of a newborn baby and allow this mother the option of turning a possible regretful event into a blessing for her, the baby and another family who desires a baby to love. I want to thank Rep. King and the Elkhart County Community Foundation for pursuing this option and thank you to this Board for considering this option. Jesus, I think, will be smiling on this community.

**Mayor Leichty thanked Mr. Riegsecker for his comments.**

**Mayor Leichty asked if anyone else in the audience wanted to speak. No one did.**

**Clerk-Treasurer Aguirre** asked if the Board was going to approve the agreement with the inaccuracies and false information that it had. **Mayor Leichty** said the agreement would be approved as-is, adding, "I think the interpretation of falsehood and inaccuracies is one interpretation of that agreement."

**Aguirre** responded, "An interpretation is something that is subject to dispute based on facts," while this agreement had inaccurate information. **Mayor Leichty** responded that the agreement has undergone extensive legal review and that the Board was relying on the City Attorney to ensure that the agreement was legally sound.

**Aguirre** said the agreement stated that the agreement had undergone a complete financial and insurance review, which would be the responsibility of the Clerk-Treasurer and was not done and that should be noted for the record.

**Mayor Leichty** said, "I believe we've addressed that adequately in talking about how this is an extension of existing policy within the City already and we have addressed the financial concerns."

**Mayor Leichty invited a motion from the Board.**



Swartley/Landis made a motion to approve the agreement with Safe Haven Baby Boxes, Inc. for the installation of a newborn safety device at the Central Fire Station and authorize Mayor Leichthy to execute the agreement. The motion passed 5-0.

**7) Engineering Department request: Authorize Mayor Leichthy to sign the agreement with Survey & Mapping Services for the preparation of four easement descriptions for \$6,500**

City Director of Public Works & Utilities Dustin Sailor presented an agreement for surveying and mapping services for Yoder Culp Funeral Home's proposed expansion west of its primary building.

In review of the submitted site plan and of County records, **Sailor** said it was discovered that the public sanitary sewer on the proposed development property was not located within a recorded easement. With new utility asset requirements in place, all public assets on private property are to be within a documented easement.

Therefore, **Sailor** said Goshen Engineering would like to retain Survey & Mapping Services (SAM) to prepare legal descriptions and easement exhibits for four different parcels that the sewer line currently traverses. He said SAM has offered a lump sum fee of \$6,500 to complete the work within 30 calendar days.

**Swartley/Landis made a motion to authorize Mayor Leichthy to sign the agreement with SAM for the preparation of the four easement descriptions and exhibits for a lump sum fee of \$6,500. Motion passed 5-0.**

**8) Engineering Department request: Approve the agreement with Traffic Control Specialists for the 2024 Road Line Striping project in the amount of \$104,883.68**

City Director of Public Works & Utilities Dustin Sailor said on May 9, 2024, the City received these proposals for the 2024 Road Line Striping project: Traffic Control Specialists - \$104,883.68 and The Airmarking Co. - \$232,681.76.

Based on reviews by the Engineering and Legal departments, **Sailor** recommended that the Board award the contract to Traffic Control Specialists, Inc. as the lowest responsive and responsible bidder at \$104,883.68.

Asked by **Board member Landis** why there was such a large spread between the two bidders, **Sailor** said the bid from Traffic Control Specialists was closer to the City's estimate.

**Swartley/Landis made a motion to approve the agreement with Traffic Control Specialists for the 2024 Road Line Striping project in the amount of \$104,883.68. Motion passed 5-0.**

**9) Request for closure of 1313 E. Douglas Street, just east of 16<sup>th</sup> Street, June 3-4, 2024**

**Marvin Shepherd, Superintendent of the City Water Treatment and Sewer Department**, presented a request for the closure of 1313 East Douglas Street, just east of 16th Street, for the installation of a sewer tap (**EXHIBIT #2**).

**Shepherd** said the work will require excavation of the road, with a trench approximately 11 feet in depth. For the safety of the work crews and the public, the department was requesting permission for the street closure starting at 7 a.m. on Monday, June 3, 2024 and reopening to traffic the evening of Tuesday, June 4, 2024.

**Swartley/Landis made a motion to approve the closure of 1313 E. Douglas Street, just east of 16th Street, starting at 7 a.m. on June 3 and reopening the evening of June 4. Motion passed 5-0.**

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

Mayor Leichthy opened Privilege of the Floor at 5:17 p.m. There were no public 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.

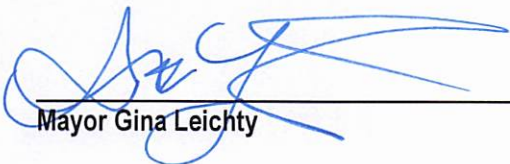
Adjournment

Mayor Leichty adjourned the Board of Public Works and Safety meeting at 5:17 p.m.

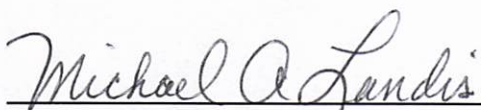
**EXHIBIT #1: A memorandum to the Board, dated May 30, 2024, from City of Goshen Clerk-Treasurer Richard R. Aguirre with questions and concerns about the proposed Safe Haven Baby Box, Inc. agreement.**

**EXHIBIT #2: A memorandum, dated May 29, 2024, from Superintendent of the City Water Treatment and Sewer Department Marvin Shepherd requesting the closure of 1313 E. Douglas Street, just east of 16th Street, for the installation of a sewer tap, June 3-June 4, 2024 (new agenda item #9).**


APPROVED:



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Mayor Gina Leichty



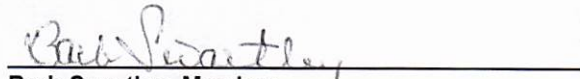
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Mike Landis, Member



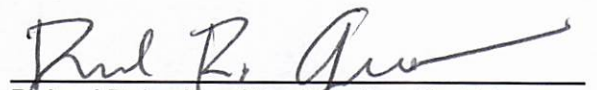
\_\_\_\_\_  
Orv Myers, Member



  
Mary Nichols, Member

  
Barb Swartley, Member

ATTEST:

  
Richard R. Aguirre, City of Goshen Clerk-Treasurer





Richard Aguirre, City Clerk-Treasurer  
CITY OF GOSHEN

202 South Fifth Street, Suite 2 • Goshen, IN 46528-3714

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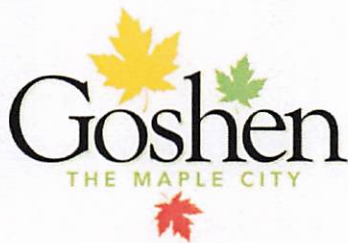
richardaguirre@goshencity.com • www.goshenindiana.org

**To:** Mayor Leichty, Board of Public Works & Safety, Fire Chief Dan Sink & City Attorney Stegelmann  
**From:** Clerk-Treasurer Richard R. Aguirre  
**Date:** May 30, 2024  
**Subject:** Concerns about the Safe Haven Baby Box agreement, costs and implementation

Scheduled to be before the Board on May 30, 2024 will be a proposed agreement with Safe Haven Baby Boxes, Inc. The proposed agreement is supported by the Goshen Fire Department and is the result of diligent work by City Attorney Stegelmann. It also is supported by a number of local residents and a sponsoring organization dedicated to saving lives by making baby boxes widely available to parents who have made the difficult decision to surrender their babies. There can be no more noble cause than acting to save innocent lives.

That stated, as the Chief Fiscal Officer for the City of Goshen, it's my responsibility to advise decision makers about issues that I believe should be considered before any City agreement is approved. In this case, there are issues that should be explored by the Board before it approves the agreement with Safe Haven Baby Boxes, Inc. These issues include the following:

- **Incomplete financial and insurance review.** On the first page of the Lease and Service Agreement, under "Recitals," the final "Whereas" clause states, in part: *"Provider has consulted its ... financial and insurance related advisors ..."* I am the City of Goshen official responsible for overseeing the City's financial and insurance well-being and I am unaware that any consultation was conducted before this agreement was circulated. **Why is it stated there was consultation? And if so, what was done and by whom?**
- **Abdication of the City's appropriate role to communicate with and inform our residents.** The second page of the agreement, Section 2. Services by SHBB states, in part that SHBB shall provide annual services related to the performance of this Agreement, *"including providing educational materials to Provider ... operating a toll-free phone number for the general public to utilize in emergency situations involving abandoned children ... (and) providing educational information to the general public regarding the location and awareness of the Safety Device at the Provider's facility as well as other educational resources related to child welfare advocacy and safe haven law awareness ..."* **Why should the City surrender its informational responsibility to a private organization? Why will we be barred from providing materials? Why can we not refer individuals to other organizations? And why are we agreeing to provide materials without reviewing and approving them in advance?**
- **High cost and actual value of the baby box.** The second page of the agreement, Section 4. Consideration. states that the City will pay SHBB an **initial fee of \$15,500, a renewal fee of \$500 for each successive term under this agreement, and an annual fee of \$500 and other associated expenses as determined from time to time by SHBB** on Jan. 1 of every year that this agreement is in force.



Richard Aguirre, City Clerk-Treasurer  
CITY OF GOSHEN

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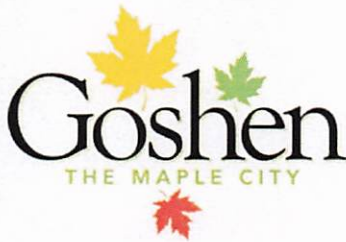
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**In June 2023, the City was quoted an initial fee of \$11,000. Why has the price increased by nearly 41% in less than a year? Why would \$500 be charged for each successive term as well as a \$500 annual fee? What are “associated expenses” and how will they be determined? For insurance purposes, we must provide the actual cost/value of the baby box. What is the true replacement cost?**

- **SHBB can change provisions but not the City.** The second page of the agreement, Section 5. Obligations of Provider. states that the City *“agrees to follow all policies and procedures provided by SHBB which may change from time to time ... (and) agrees to not change, add to, subtract from, alter, rebrand, or otherwise modify the Safety Device and accompanying signage as set forth in Exhibit A in any manner whatsoever without the prior written approval of SHBB ... (and) Provider agrees to accept complete liability for any and all unapproved modifications to the Safety Device and any and all unapproved modifications to accompanying parts of the Safety Device, including required signage/materials.”* **If SHBB can change policies and procedures, why not the City? Why must the City agree to provisions that prohibit any changes to signage or materials? Why are we surrendering this right and responsibility?**
- **Concerns about the City’s liability.** The fourth page of the agreement, Section 8. Insurance. states that the City *“agrees to procure and maintain in full force and effect at all times during the Term of this Agreement and any renewals thereof, at its own cost and expense, a policy or policies of comprehensive commercial general liability insurance on an occurrence basis, in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate and a \$2,000,000 limit umbrella coverage related to the Safety Device’s placement and operation in or about Provider’s facility against all loss, damage or liability for personal injury or death of any person or loss or damage to property occurring in upon or about the Safety Device during the Term of this Agreement and all extensions thereof.”* This section also states that *“SHBB’s liability as to the Safety Device in relation to the Provider under this Agreement is covered under the City’s master general liability and umbrella policies.”*  
**Who is responsible for paying if the City’s insurance costs increase? What is the limit of the City’s liability for a claim against SHBB?**
- **Worrisome representations about the baby boxes.** The sixth page of the agreement, Section 12. Disclaimer and Limitation of Warranties. states the following (in bold face type and all capital letters): ***“SHBB IS NOT THE MANUFACTURER OF THE SAFETY DEVICE AND MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY, DURABILITY, FITNESS FOR USE, MERCHANTABILITY, CONDITION, QUALITY, PERFORMANCE OR NON-INFRINGEMENT OF THE SAFETY DEVICE. WITH RESPECT TO SAFETY DEVICE, PROVIDER ACCEPTS IT ‘AS IS.’ THE SAFETY DEVICE SHALL BE SUBJECT TO ANY WARRANTIES PROVIDED TO PROVIDER BY THE SAFETY DEVICE MANUFACTURER AND/OR AVAILABLE BY THE SAFETY DEVICE’S COMPOSITE PARTS.”***

**The initial information is at deceptive and at worse false.**



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**These baby boxes ARE made by SHBB, Inc. at its headquarters in Woodburn, Indiana.** On April 18, 2024, WRTV (Indianapolis) reported on the manufacture of baby boxes by SHBB in a production area of its Woodburn headquarters. The report included comments from Monica Kelsey, the founder of SHBB, at the facility. There also were comments from her son, who is the manager for production and described the manufacturing process, and her husband, shown making the baby boxes. Link to story: <https://www.wrtv.com/news/local-news/behind-the-boxes-the-small-passionate-team-manufacturing-safe-haven-baby-boxes-in-rural-indiana>

**Why is this false claim in this agreement? It should be removed.**

**Also why is the City leasing and paying for a device that comes with “no representations or warranties whatsoever, directly or indirectly, express or implied, as to the suitability, durability, fitness for use, merchantability, condition, quality performance or non-infringement of the safety device.”**

**Is the City even allowed to accept a piece of equipment without any warranties or expectation of performance? Is it prudent to do so?**

- **Questions about surrender procedures and costs.** Exhibit A, Safe Haven Baby Box, Inc. Policies and Procedures, III. Generic procedures when the Baby Box is Activated, states in part, “A. *Emergency Personnel, including, Firefighters, Police Officers, EMT’s, or Paramedics must perform the act of retrieving a newborn and taking said newborn into custody when he or she is voluntarily placed in a Box and the parent does not express an intent to return for the newborn.*” How is a City employee supposed to conclude a parent “does not express an intent to return for the newborn.” What if the parent changes her mind? Shouldn’t this determination be left to a judge?
- In that same section, it is stated as follows in “E. *Newborns will be evaluated by medical personnel at the location and immediately transported to the closest hospital for further evaluation. The evaluation at the hospital will include screenings and examinations by physicians as necessary.*” Who will pay for the baby’s medical care? Will the City be responsible? How will the charges for the ambulance services be recorded and will compensation for the City be sought? From whom? If not, why not?
- In that same section, it is stated as follows in “G. *The hospital supervisor will notify the appropriate state agency and have a social services consult order placed.*” How will this provision be enforced? Can we require Goshen Hospital personnel to do anything?
- **More questionable provisions.** Exhibit A, Safe Haven Baby Box, Inc. Policies and Procedures, IV. Additional Procedures for designated Providers, states in part, “E. *The Baby Box will not be announced to the public or otherwise discussed with third parties or go ‘live’ prior to the official unveiling/blessing of the Baby Box, which will be agreed upon prior to “going live”*”

**We should not agree to this muzzling provision. We are proposing to spend public resources and have an obligation to inform the public about this device.**

**Also, while an unveiling of a new public improvement is to be expected, a Christian “blessing” ceremony does not seem appropriate.**



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The section also states in part, *"H. Each Provider will provide medical information and a copy of parents' rights located in a bag inside the Baby Box. The bag is to be placed on the medical bassinet and leaning against the outside door."*

**We can/should include information prepared by SHBB but should not surrender our right and responsibility to provide additional information provided by credible organizations that inform parents of their rights and provide lists of medical and counseling resources. We should care about the parents as much as the babies.**

The section also states in part, *"J. Provider will ensure that no video monitoring will occur around the part of the building containing or facing the Baby Box."*

**Will obeying this provision require the City to disable/remove any of our current video monitoring devices? Will this jeopardize the safety of people or the security of any facilities or equipment? Is this wise to do? What if there was coercive behavior during the surrender of a baby? Wouldn't we want that recorded?**

The section also states in part, *"Q. In the event that the Agreement with Safe Haven Baby Boxes, Inc. is terminated for whatever reason, Provider is responsible for all costs and expenses of removing respective Baby Boxes at Provider location(s)"*

**How will the City pay these costs? Will they be reimbursed?**

#### **BESIDE THESE CONCERNS ABOUT THE AGREEMENT, I HAVE THESE QUESTIONS ABOUT THE COSTS OF THE BABY BOX & IMPLEMENTATION OF THE PROGRAM:**

**COSTS:** The City Attorney's May 30, 2024 memorandum to the Board states, *"The City will be obligated to pay to Safe Haven Baby Boxes, Inc. the sum of \$15,500.00 as a one-time fee, and an annual fee of \$500.00. The City would need to pay for the installation of the device. City staff anticipates that grant funds will cover the cost of the acquisition and installation of the safety device."*

**What grant commitments have been made to pay for the baby box and in what amount(s)? Verbal or written promises? When will the City receive the funds? Will the grants cover all of the City's costs, including installation, the alarm system and the \$500 yearly renewals? What will happen if the grants don't cover all of the City's expenses?**

**CITY'S SHARE OF ANY COSTS:** Assuming grants do not cover all of the City's baby box expenses, how will they be paid for and from what Department budget? No such funds are currently appropriated.

**ACCOUNTING FOR THE FUNDS:** Baker Tilly Municipal Advisers have informed the Clerk Treasurer that any money donated to the City specifically for the Safe Haven baby box would be accounted for per State Board of Accounts (SBOA) guidelines as a "restricted donation," meaning that money is earmarked for the baby box project. A separate fund would need to be established to account for the donated money. Restricted donation funds, as long as they are spent on the restriction, can be spent **without** appropriation per the SBOA (Cities and Towns Bulletin, June 2016). Any other City money used would require an appropriation.



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**RECOMMENDATION: IF THE PROGRAM IS DESIRED, THE COMMON COUNCIL SHOULD APPROVE AN ADDITIONAL APPROPRIATION FOR THE SAFE HAVEN BABY BOX PROGRAM BEFORE THE CITY FINALIZES THE AGREEMENT WITH SHBB, INC:**

This is my best advice based on consultation with **Todd Caldwell**, a Senior Manager at Baker Tilly and a former Director of Audit Services for the State Board of Accounts. Caldwell provided the following responses to questions that I posed on Wednesday:

***Can the City spend money on this project BEFORE donations have been received without triggering passage of an additional appropriation?***

Only if the City were to use existing appropriations. Meaning - if the City spent money before donations roll in, you'd have to post it to an appropriation (as opposed to a non-appropriation line item).

***What would be the consequence if City funds were spent and we didn't receive enough donations to cover the expenses? Would we have to get a post-expenditure appropriation?***

The consequence would be any money spent in excess of donated money would need to come from City appropriations – either existing or additional.

***And is it just safer to get an appropriation for up to a certain amount (say \$10,000) and note that we expect and hope donations will cover the expenses?***

Council could approve an additional appropriation for up to \$10,000 (per your example), and, if needed, Council could do another additional later in the year if the \$10,000 is spent and donations don't cover expenses.

**It's clear that City funds will be spent on the baby box program at some point regardless of the donations received. Donations won't cover the time Fire Department employees spend maintaining and checking the baby box and perhaps not the costs of the 24/7 alarm services.**

**Given that certainty, an appropriation request should be made to the Common Council before the SHBB agreement is finalized. This also would provide members of the public the opportunity to comment on whether this is an appropriate use of City funds.**

**THANK YOU:**

Thank you for considering these issues and questions and my appropriation recommendation before approving the proposed agreement with Safe Haven Baby Boxes, Inc. I welcome your questions and feedback.

**– City of Goshen Clerk-Treasurer Richard R. Aguirre**

EXHIBIT #2



**Marv Shepherd, Superintendent**  
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05/29/2024

**Request for Road Closure at 1313 E. Douglas Street just east of 16<sup>th</sup> Street**

To the Board of Public Works, Safety, and Storm Water:

The City of Goshen Water and Sewer Department will be installing a sewer tap at 1313 E. Douglas Street

The work will require excavation of the road, with a trench approximately 14 feet in depth.

For the safety of the work crews and the public, the city is requesting permission to close E. Douglas St. Just east of South 16<sup>th</sup> Street to traffic, starting at 7:00 A.M. on Monday, 06/03/2024.

Reopening for traffic on Friday evening of 06/04/2024.

We will notify Goshen Schools and EMS and ensure the garbage is moved to the appropriate location for pickup.

Regards,

*Marvin Shepherd*

Marv Shepherd  
Superintendent of Goshen Water Department

