

**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD
MINUTES OF THE FEBRUARY 21, 2022 REGULAR MEETING**

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

Present: Mayor Jeremy Stutsman and members Mike Landis and DeWayne Riouse

Absent: Mary Nichols and Barb Swartley

CALL TO ORDER: Mayor Stutsman called the meeting to order at 2 p.m.

REVIEW/APPROVE MINUTES: Minutes of the Feb. 14, 2022 meeting of the Board of Works & Safety & Stormwater Board were presented. Board member DeWayne Riouse moved to approve the minutes as presented and the motion was seconded by Board member Mike Landis. Motion passed 3-0.

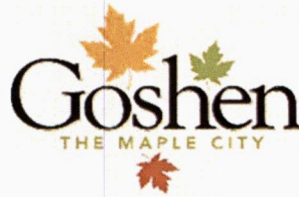
REVIEW/APPROVE AGENDA: Mayor Stutsman presented the agenda. Board member Riouse moved to approve the agenda as submitted. Board member Landis seconded the motion. Motion passed 3-0.

1) Legal Department: Community Service Partnership Agreement with Warsaw Housing Authority

Brandy Henderson, a paralegal with the City Legal Department, asked the Board to approve and authorize Mayor Stutsman to execute an agreement with the Warsaw Housing Authority to provide funds for operational and programming support as outlined in its submitted application to the Community Service Partnership Program. Henderson said the City of Goshen has various community service organizations that provide services or programs to residents in a manner more efficient than what the City can provide. The City supports these organizations with funds from the Community Services Partnership Program. She said one such organization is the Warsaw Housing Authority (WHA) of Milford, which has requested \$23,000 (to supplement the \$35,000 received annually from the City of Warsaw and federal funds) to continue administering the U.S. Department of Housing and Urban Development-funded Housing Choice Voucher Program (Section 8) for the cities of Warsaw and Goshen.

According to the applicant, the Housing Choice Voucher (HCV) Program is the foundation of affordable housing in the City of Goshen. Administrative revenue from Housing and Urban Development does not cover all operational costs, nor fund additional or capacity building programs that aim to benefit clients, participating landlords and the communities served. The proposed request for funding includes the continuation of a pilot program that began during the pandemic in an effort to increase and improve access to affordable housing.

Each month, the WHA offers a 3-hour class to new voucher holders. The class covers topics such as budgeting, Landlord/Tenant Law, how to seek housing as well as information about other community resources that the voucher holder may be eligible for. Each participant receives a notebook with information and resources. Participants who "lease-up" receive financial assistance toward their rental deposit paid directly to the landlord. This assistance creates the incentive for new voucher holders to find housing and for landlords to participate. The proposal also includes a WHA staff person to have Goshen office hours approximately 3 times/month. This staff person would accept applications as well as schedule appointments for annual re-certifications for existing voucher holders.



This program seeks to make affordable housing more accessible for Goshen residents, with desired outcomes such as an increased number of applications to the program and a more efficient recertification process. WHA reported staff members are noticing a growing trend of applicants that meet the definition of homeless, and an initiative such as this aims to reduce some of the barriers people are facing to access affordable housing.

During the first year of the program, WHA reported that approximately 63% of those invited completed the class. Of that total, approximately 63% leased up and were provided deposit assistance. Goals for 2022 are to maintain or exceed these percentages. In addition, WHA seeks to maintain positive feedback from both participants and landlords about the program and the WHA's efforts to improve access to their services. In the first year of the program, the majority of participants reported benefiting from the class and an intent to utilize information and resources shared. Similarly, landlords have made referrals to the class and have responded positively to the deposit assistance provided.

Providing on-site staff in Goshen would aim to remove barriers to transportation and improve the use of staff time by reducing the number of missed/rescheduled appointments due to this barrier often experienced by Goshen residents. WHA will measure success of the program by the number of families leasing up and new landlords due to deposit assistance.

The population that directly benefits from the services of the WHA includes low-income individuals and families. This can include, but is not limited to, those with disabilities, elderly and single-parent households with children. Both the Goshen and Warsaw communities benefit from the presence and operation of the WHA due to the availability of affordable housing options.

Mayor Stutsman said City staff has had extensive conversations with the Warsaw Housing Authority over the program. He said the services WHA provides would bring more resources to those utilizing the Housing Authority. WHA took over housing authority services for the City and will bring more services to Goshen.

Riouse/Landis moved to approve and authorize Mayor Stutsman to execute an agreement with the Warsaw Housing Authority to provide the requested funds for operational and programming support as outlined in its submitted application to the Community Service Partnership Program. Motion passed 3-0.

2) Request from Brian & Heidi McKee: Second driveway at 1301 Baker Avenue

Heidi McKee of 1301 Baker Avenue in Goshen asked the Board to approve the construction of a second driveway as part of her request to the City Board of Zoning Appeals for an apartment in her home. McKee said she and her husband, Brian, would like to add an efficiency apartment so they can care for Heidi's father, Lester Chupp. In her written request, she indicated that after Chupp passes away, they would convert the apartment into a rental or an Airbnb. They plan to apply for a developmental variance with the Board of Zoning Appeal for the apartment. They are seeking approval to build a second concrete driveway off Winter Avenue in the City right-of-way. It would be 10 feet wide, with two feet-wide flares for a total of 14 feet wide, in the right-of-way with no parking in the right-of-way.

City of Goshen Civil Traffic Engineer Josh Corwin told the Board that additional driveways on residential lots of this size are not permitted by City policy. He said the location of the second driveway is on the same street as the original access. The original access measures approximately 33 feet in width, which is greater than the maximum 24 feet width permitted by City policy for new driveways. Corwin said the proposed driveway will not provide for two parking spaces per dwelling as required by the zoning ordinance. Because of the conflict with City policies and ordinances, Corwin said staff cannot permit the new access without review and approval by the Board of Works.



City Assistant Planning & Zoning Administrator: Rossa Deegan told the Board said the application was also reviewed by the Planning and Zoning Department. He said to be approved, the apartment would require that the Board of Zoning Appeals approve developmental variances for the apartment and setbacks as well as require an additional parking space. He said staff does not foresee any issues with the apartment request.

Mayor Stutsman said he believed that in the past when a matter has come before the Board that also needed Board of Zoning Appeals (BZA) approval, the Board has granted the request contingent on BZA approval. **Board member Landis** said he didn't recall a similar request for a driveway in the right-of-way coming before the Board. He said the only issues have been a driveway surface or signage in the right-of-way. Landis said there are other similar developments in the neighborhoods, including some with second driveways. Landis said his only question was if the current driveway already can accommodate three parking spaces. **Deegan** said the applicant is seeking approval for three spaces where four are required and that the BZA will determine whether an apartment should be allowed.

Landis said the key issue for the Board of Zoning Appeals will be whether to allow separate units on a small lot.

Mayor Stutsman said it didn't appear a second driveway would adversely affect the neighborhood. He asked about the current parking at the home. **Heidi McKee** said the driveway can accommodate three cars and the garage has two parking spaces. She said he father has two vehicles and she expects her daughter will also have a vehicle later this year. So, McKee said it would be preferable for her father to be able to park a vehicle in the new driveway.

Landis said from a planning perspective, those three spaces don't count, which is why the Board had the second driveway request. **Mayor Stutsman** said that when possible, the City should try to make accessory apartments work.

Landis/Riouse moved that, contingent on the approval of an efficiency apartment by the city Board of Zoning Appeals, the Board approve the construction of a second concrete 10-foot driveway with an entrance off Winter Avenue at 1301 Baker Avenue. Motion passed 3-0.

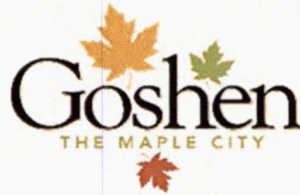
3) Engineering Department: Request for closure of First Street, March 9-25

City of Goshen Civil Traffic Engineer Josh Corwin asked the Board to approve the closure of First Street, between Pike Street and Wilkinson Street, during normal working hours on two weekdays sometime between March 9 and 25. Corwin said NIPSCO requested the closure of First Street, along with the adjacent sidewalk, to complete boring for a new gas service line. A map depicting the closure and detour was included in the agenda packet.

Riouse/Landis moved to approve the closure of First Street, between Pike Street and Wilkinson Street, during normal working hours on two weekdays sometime between March 9 and March 25 to complete boring for a new gas service line. Motion passed 3-0.

4) Stormwater Department: Agreement for completion of construction, 1824 Lighthouse Lane

Goshen Director of Public Works & Utilities Dustin Sailor asked the Board to approve and authorize the Mayor to execute an Agreement with The Crossing Development LLC and Lehman Development Inc. for the Completion of the Construction Project at 1824 Lighthouse Lane. Sailor said the home at 1824 Lighthouse Lane has passed its final building inspection and the project is substantially complete except for sidewalk installation, seeding and stabilization, and landscaping requirements, which cannot be completed at this time due to weather conditions. The Stormwater Department has submitted an Agreement for the Completion of the Construction Project for approval and authorization for the Mayor to execute.



The property owners, The Crossing Development LLC, and the builder, Lehman Development Inc., agree to complete all concrete work, plant the required tree, and stabilize the lawn with seed and a temporary stabilization measure by June 15, 2022. The expected cost of work is \$6,990 and a surety check for that amount has been remitted to the Clerk-Treasurer's office.

Riouse/Landis moved to approve and authorize the Mayor to execute an Agreement with The Crossing Development LLC and Lehman Development Inc. for the Completion of the Construction Project at 1824 Lighthouse Lane. Motion passed 3-0.

Privilege of the Floor:

Mayor Stutsman opened Privilege of the Floor at 2:19 p.m. There were no public comments, so Mayor Stutsman closed the public comment period at 2:19 p.m.

At 2:20 p.m. Mayor Stutsman called for consideration of the following agenda item:

5) Demolition Order and request to approve the submission of bids: 414 River Avenue (Ron Davidhizar)

Carla Newcomer, a paralegal with the City Legal Department, asked the Board to affirm the Demolition Order dated August 22, 2019 and approve submission of a Request for Bids to demolish the house at 414 River Avenue in Goshen. Newcomer said the Board of Public Works ordered the demolition of the house at 414 River Avenue on June 25, 2019 and a Compliance Hearing was held on August 22, 2019. Newcomer said these orders are recorded with the Elkhart County Recorder as Instrument Number 2019-17463 and are attached to the agenda packet. Newcomer said that on Aug. 29, 2019, Ron Davidhizar, the property owner filed an Appeal of the Demolition Order in the Elkhart County Superior Court No. 2. On Jan. 14, 2022, Judge Stephen R. Bowers of the Elkhart County Superior Court #2 denied the appeal, which had the effect of allowing the Board of Works to enforce its order that the house at 414 River Avenue be demolished.

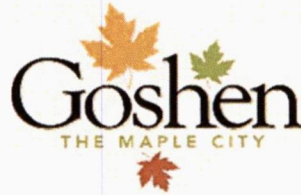
Newcomer said this matter was back before the Board to affirm the Aug. 22, 2019 demolition order and to allow the Building Department to proceed with a submission of a Request for Bids to demolish the house at 414 River Avenue.

Background: On June 25, 2019, Ron Davidhizar was served with an Order of the City of Goshen Board of Public Works and Safety requiring Davidhizar to demolish the structure at 414 River Avenue by Aug. 20, 2019. A hearing was held before the City of Goshen Board of Public Works and Safety on Aug. 19, 2019 to review compliance with the June 25, 2019 Order. The Aug. 19, 2019 review hearing also provided Davidhizar an opportunity to present to the Board of Public Works with a detailed plan for the repairs to the real estate at 414 River Avenue.

The City of Goshen Building Department appeared by Travis Eash, Code Compliance Officer. Davidhizar appeared in person at the Aug. 19, 2019 hearing. Evidence was presented and arguments were heard regarding compliance with the Board of Public Works Order of June 25, 2019 for the premises located at 414 River Avenue.

Davidhizar presented no preponed renovation plan. However, he indicated that repairs at the location commenced five (5) days prior to the hearing, which was confirmed by Travis Eash.

The Board found that only one (1) of the ten (10) violations contained in the June 25, 2019 order had been completed by the Aug. 19, 2019 hearing.



The Order of the Goshen Board of Public Works and Safety dated June 25, 2019, required the property at 414 River Avenue to be demolished by Aug. 20, 2019. That Order of June 25, 2019 was not modified by the Board of Public Works and remained in effect. The Order of the Board of Public Works was issued on Aug. 26, 2019.

After the August 2019 hearing, Davidhizar sought judicial review of the City of Goshen's administrative order, through its Board of Public Works (the "Board"), finding that one of his houses was unsafe and directing that the house be demolished pursuant to Indiana's Unsafe Building Law, codified at Ind. Code §§ 36-7-9-1 to -29.

Davidhizar made several arguments. First, he argued that the Court, when deciding whether the findings and order were appropriate, could not consider any, or at least most, of the materials that Goshen submitted as the Board Record. Second, he contended that even if the Court considered all or a portion of the Board Record, the Board Record did not contain sufficient evidence that the house was unsafe. Third, he argued that even if the Court considered the materials and concluded that the house was unsafe, demolition was not appropriate, and Davidhizar should have been given an opportunity to complete repairs.

Judge Stephen R. Bowers denied Davidhizar's Ind. Code § 36-7-9-8 appeal.

On Feb. 21, 2022, Mayor Stutsman noted that Ron Davidhizar was present and clarified with Carla Newcomer that today's agenda item wasn't a hearing, but only an affirmation of the Demolition Order and a request to approve the submission of a request for bids to demolish the home at 414 River Avenue. Mayor Stutsman invited Davidhizar to address the Board.

Davidhizar told the Board that he had new information to share. He said that many of the alleged deficiencies in the home cited by City inspectors had been remedied. He said the peeling paint had been scraped off and the surfaces patched and repainted. He said the home has been re-wired. He said the roof is fairly new; about five years old. Davidhizar said with "great hesitation" he has agreed to sell the house if someone would like to buy it.

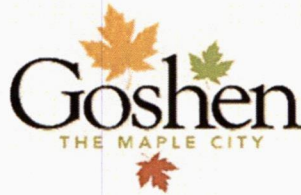
Davidhizar said that there has been substantial news coverage, including in the *Goshen News*, about the lack of housing in Goshen. He said he is "besieged" by potential tenants seeking places to live. So, he said it might be wise to save the home and not make the City's housing shortage worse than it has become.

Mayor Stutsman asked City Building Commissioner Myron Grise if he could confirm Davidhizar's statements about the improved condition of the home and any recent inspections. Grise said he hasn't been at the home in about four years. Grise said **City Code Enforcement Officer Travis Eash** could probably provide a more recent report. He noted that the court had denied Davidhizar's appeal. **Mayor Stutsman asked Eash to respond.**

Eash said he last visited the home in 2019. He said that after the August 2019 hearing, Davidhizar pulled some permits to make repairs in the home. Eash said the only work he can confirm was done, and which was inspected and approved, were electrical service repairs. Eash said no one from the City Building Department had been called to make any inspections at the home since 2019. Eash said that the home still had major foundation deficiencies. Eash also said no other major work at been done at the home.

Mayor Stutsman said that the Elkhart County Superior Court judge was aware of the home's condition when he rejected Davidhizar's appeal in January. The Mayor said the Board of Works & Safety determined in August 2019 that the home at 414 River Avenue was unsafe and needed to be demolished. He said issues remained and there had been no new inspections. Mayor Stutsman said he understood that Davidhizar wanted to save the property, but the home appeared to be past the point of saving and the Court sided with the City's demolition order.

Board member Riouse agreed with the Mayor and said it was time to move forward.



Board member Landis said that if this was Davidhizar's only home needing rehabilitation, there would be more of an argument for saving it. Landis said Davidhizar has other homes in a similar condition that have not yet reached the demolition stage. Landis said issuing the demolition order might make it easier for Davidhizar to focus on other homes. **Mayor Stutsman** said several neighbors contacted the City in the past year asking when the home would be taken down for safety reasons. **Riouse** said the City had been concerned about the home's condition since 2014.

Davidhizar said the only reason some people thought the home was dangerous was because it was open. But he said the windows have now been replaced. Davidhizar said selling the home would free up his time to focus on other homes he owns and that funds received from the sale would help pay for those repairs. Davidhizar said he believes the home could be sold quickly. He said a potential buyer has the knowledge and equipment to repair the home. Davidhizar said it would be a wise move for the Board to allow him time to sell the home.

Davidhizar reiterated that the home is no longer standing open. He acknowledged that the foundation still needed repairs on both sides. He said he was surprised Eash had not noticed that the peeling paint had been repaired. Davidhizar also said the home still needs foundation repairs, kitchen cabinets and a furnace. With those repairs, Davidhizar said the home at 414 River Avenue would be a "pretty respectable small, four-bedroom house."

Mayor Stutsman told Davidhizar that the City has heard Davidhizar request additional time on many prior occasions, yet problems have persisted years later. **Davidhizar** said he hasn't previously offered to sell a home. Davidhizar noted that the Mayor was "angry" with him. The Mayor responded, "Not angry, frustrated. Frustrated is fair"

Mayor Stutsman said he favored allowing staff to seek bids to demolish the home. In the meantime, he said Board members could drive-by the home. He said it didn't appear the home's condition had substantially changed in the past few years. He said the home still needed a furnace, a kitchen and the foundation was failing.

Landis responded: "It's the same song and dance every time. This is the first time, in my knowledge, we've actually had the opportunity to follow up on action, because we've granted grace, we've given second chances. We've finally gone to the Court because all those second chances didn't work. And now we have a chance to say, 'We're serious.'"

Mayor Stutsman responded, "Yeah, I agree." He said that while awaiting bids, Board members can drive by and look at the home and perhaps consider a delay.

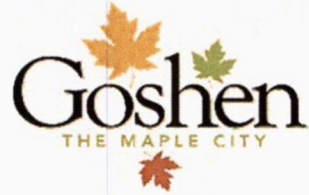
Carla Newcomer and **Travis Eash** said they would like to make sure the potential purchaser knows about the demolition order. **Mayor Stutsman** agreed. **Landis** suggested that perhaps Davidhizar should donate the home. Davidhizar didn't directly respond to the suggestion.

In response to a question from the **Mayor**, a representative of the City Legal Department said it would take about three weeks for the City to receive and process bids to demolish the home. **Mayor Stutsman** suggested that the Board move forward, but that in the meantime he would be willing to discuss a delay with a home purchaser.

Riouse/Landis moved to affirm the Demolition Order dated August 22, 2019 and approve submission of a Request for Bids to demolish the house at 414 River Avenue. Motion passed 3-0.

Afterward, **Mayor Stutsman** told Davidhizar that if the purchaser would like, he can call the Mayor's Office and set up a meeting in the next two or three weeks to discuss the home. Davidhizar said "OK."

As all matters before the Board of Public Works & Safety and Stormwater Board were concluded, **Mayor Stutsman/Riouse** moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 3-0. And the **Mayor** adjourned the meeting at 2:32 p.m.



APPROVED

A blue ink signature of Jeremy Stutsman, written in a cursive style, positioned above a horizontal line.

Jeremy Stutsman, Chair

Michael Landis, Member

A black ink signature of Mary Nichols, written in a cursive style, positioned above a horizontal line.

Mary Nichols, Member

Barb Swartley, Member

A blue ink signature of DeWayne Riouse, written in a cursive style, positioned above a horizontal line.

DeWayne Riouse, Member

ATTEST

A blue ink signature of Richard R. Aguirre, written in a cursive style, positioned above a horizontal line.

Richard R. Aguirre, Clerk-Treasurer