

**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD  
MINUTES OF THE May 9, 2022 REGULAR MEETING**

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

**Present:** Mayor Jeremy Stutsman, Mike Landis, Mary Nichols, DeWayne Riouse and Barb Swartley

**Absent:**

**CALL TO ORDER:** Mayor Stutsman called the meeting to order at 2:00 p.m.

**REVIEW/APPROVE MINUTES:** Minutes of the May 2, 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 Mary Nichols. Motion passed 5-0.

**REVIEW/APPROVE AGENDA:** Mayor Stutsman presented the meeting agenda. Board member Riouse moved to approve the agenda as presented. Board member Nichols seconded the motion. Motion passed 5-0.

**1) OPENING OF BIDS** (all were due at 1:45 p.m. on May 9, 2022 in the Clerk-Treasurer's Office):

**East College Avenue Industrial Park – Contract 1 project**

(Water Main Loop – This project includes the installation of new 12" water main, 8" sanitary sewer force main, three bore and jack casing pipes under the Norfolk Southern railroad tracks, and pavement restoration.)

Mayor Stutsman opened the bids received for the East College Avenue Industrial Park – Contract 1 project.

**These were the results of the bids: Niblock Excavating of Bristol, Indiana, a base bid of \$5,717,935 and HRP Construction of South Bend, Indiana, a base bid of \$5,354,383.**

Mayor Stutsman/Nichols moved to refer the bids to the Legal Department for review. Motion passed 5-0.

**East College Avenue Industrial Park – Contract 2 project**

(Earthwork and Drainage Ponds – The work involved is the excavation for the proposed retention/detention basins, the excavation of the flood routing swales, the grading of a portion of the building sites, installation of drainage culverts, rip-rap placement and seeding.)

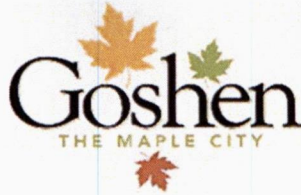
Mayor Stutsman opened the one bid received for the East College Avenue Industrial Park – Contract 2 project. The bid was from: Niblock Excavating of Bristol, Indiana, for \$11,779,850.

Mayor Stutsman/Nichols moved to refer the bid to the Legal Department for review. Motion passed 5-0.

**East College Avenue Industrial Park – Contract 3 project**

(The project includes a new asphalt street with concrete curb & gutter, the installation of new 12" water main, 8" sanitary sewer force main, 8" sanitary sewer, storm sewer, pavement markings, and concrete drive approaches.)

Mayor Stutsman opened the bids received for the East College Avenue Industrial Park – Contract 3 project.



These were the results of the bids: Niblock Excavating of Bristol, Indiana, a base bid of \$5,569,770.75 and an alternate bid of \$1,776,358; HRP Construction of South Bend, Indiana, a base bid of \$5,480,000.00 and an alternate bid of \$1,790,000; and Selge Construction Co. of Niles, Michigan, a base bid of \$7,296,914.30 and an alternate bid of \$1,944,668.44.

Mayor Stutsman/Nichols moved to refer the bids to the Legal Department for review. Motion passed 5-0.

### **East College Avenue Industrial Park –No. 53 Aggregate Bid**

(Aggregate material related to the East College Avenue Industrial Park project.)

Mayor Stutsman announced that no bids were received for the East College Avenue Industrial Park – No. 53 Aggregate. As a result, there was no Board action.

### **2) Resident request: Michael Sommer request to place a moving container in the parking spaces in front of 1011 South 7th Street**

Mike Sommer of 1011 South 7th Street requested permission from the Board to place a 16-foot moving/storage container in the parking spaces in front his home from May 26 to May 31, 2022.

In a written request, Sommer indicated that he plans to move his household furniture and belongings prior to closing the sale of his home scheduled for June 2, 2022, but his next residence will not be available for moving in until mid-July. So, Sommer plans to use a portable 16-foot moving/storage container to properly transport and store his belongings. Since his house does not have a driveway, he asked for permission to place the moving/storage container at the curb in front of his house. The empty container would temporarily occupy the space of 1-1/2 parked cars. He said it would not impede traffic and he would inform his neighbors. There was no City staff feedback.

Riouse/Nichols moved to approve the request by Mike Sommer of 1011 South 7th Street to place a 16-foot moving/storage container in the parking spaces in front of his home from May 26 to May 31, 2022 with any appropriate safety recommendations from City of Goshen staff. Motion passed 5-0.

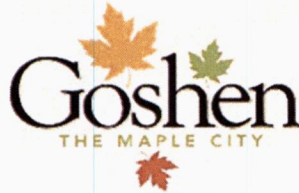
### **3) Police Department: Approval of revised police policies and repeal of certain policies**

Goshen City Attorney Bodie Stegelmann asked the Board to approve Resolution 2022-16 - *Approving Certain Revised City of Goshen Police Department Policies and Repealing Various Policies*.

Stegelmann explained that the Board previously adopted a resolution approving City of Goshen Police Department Policies and Repealing Certain Policies, effective May 16, 2022. The Police Department administration introduced the new policies to its Department and discovered some necessary, minor revisions that needed to be made to the policies to match Police Department operations.

Changes to the following policies were requested (and full copies of the proposed revisions were included in the Board's meeting packet) and the previous versions of these policies were repealed:

- 200 - Organizational Structure and Responsibility
- 304 - Electronic Control Device
- 307 - Vehicle Pursuits
- 426 - Homeless Persons
- 501 - Traffic Accidents
- 504 - Operating While Intoxicated



- 901 - Temporary Custody of Juveniles
- 1008 - Personnel Complaints
- 1010 - Personnel Records
- 1017 - Work-Related Illness and Injury Reporting
- 1018 - Personal Appearance Standards
- 1019 - Uniforms and Civilian Attire

**Clerk-Treasurer Aguirre** noted that Police Chief José Miller provided redline versions of the policies indicating the requested changes and they were included in the Board's agenda packet.

**Riouse/Nichols moved to approve Resolution 2022-16 - Approving Certain Revised City of Goshen Police Department Policies and Repealing Various Policies. Motion passed 5-0.**

#### **4) Utilities Office: James Warble request for relief from a \$500 illegal water connection fee**

**Jim Warble of 123 Blackport Drive in Goshen** asked the Board for relief from an illegal water connection fee of \$500 from April 11, 2022.

**Warble** said he purchased the home in 2014 and arranged for a contractor to connect his home to City water service. Warble said that in April 2022, he contacted the City Water Department about a water leak in his yard. Warble said he had no knowledge of the illegal water connection. Warble said that if he knew it was an illegal connection, he would have never have asked City staff to come to his home and investigate the leak. He said that when City staff told him he had an illegal connection, he had it disconnected right away.

**Warble** said that in 2014, he paid a Fort Wayne contractor \$3,300 to connect his home to City water service. In response to a question from **Mayor Stutsman**, Warble said he has a legal inside water connection and has paid his bills. In his written request, Warble indicated he didn't feel responsible for the charge and that the contractor should be held responsible. Warble further wrote that he is retired, lives on a fixed income and couldn't afford to pay the fee.

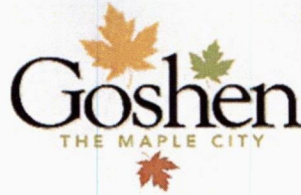
**City Water and Sewer Office Manager Kelly Saenz** clarified that Warble has City water service. Saenz said that the second, illegal, connection was used for outdoor irrigation. She said Warble was billed for inside water service, but not for any outdoor usage.

**City Water Utility Supervisor Matthew Beard** described the illegal water connection at 123 Blackport Drive and confirmed outdoor usage was not monitored or charged to Warble by the City.

According to a City staff report, Beard observed a PVC line connected to the domestic water line bypassing the utility water meter. This water source was confirmed as a private connection to an outside water spigot. While at the site, the water line was disconnected and Warble was told the private line could no longer be used. Photos were taken at the time of the incident and were included in the agenda packet.

**Saenz** reported that this type of connection is against City Ordinance 4290 Section 1. L. "Unauthorized Connection" which states: "A person connecting a location of the Water Utility's water system without the knowledge and consent of the Water Utility shall be charged a fee of Five Hundred Dollars (\$500.00) unless the Water Utility can establish that a greater fee should be charged by applying the schedule of rates and charges." A billing statement for the \$500 fee was mailed to Warble on April 13, 2022. A copy of the billing statement, with supporting documentation, was included in the Board's agenda packet.

In response to a question from **Mayor Stutsman**, **City Attorney Bodie Stegelmann** said the \$500 illegal connection fee is set by the City's ordinance and is a flat fee. **Saenz** clarified the fee for the Board.



**Board member Landis** said that if what Warble says is true, he might not have known the outside water connection was illegal. On the other hand, Landis said that if Warble used outside water frequently and was aware of the connection, a \$500 fee would be reasonable. However, Landis said it might not be possible to know if Warble knew it was illegal and what happened when water service was connected in 2014.

**Mayor Stutsman** said he believed Warble's statement that he would not have called the City about the leak if he knew he had an illegal connection. So, the Mayor said he believed Warble and that the illegal installation might have occurred before 2014. Still, he said a \$500 fee might be less than the cost of the water used since 2014.

**Mayor Stutsman** said this is the first case of a residential illegal connection he has encountered. **City Attorney Stegelmann** said previous cases have involved commercial water customers and not homeowners.

Asked by **Mayor Stutsman** about the Board's authority to act or reduce the fee, **Stegelmann** said \$500 was the fee established by the ordinance. Stegelmann said the Board could impose a higher fee if it could established a large amount of water was used, but it also could drop the fee entirely.

**Landis** said that if the \$500 fee was imposed, that would work out to \$60 a year or \$5 a month, which might be what Warble might have owed if charged. Landis asked **City Water and Sewer Office Manager Saenz** if Warble would be required to pay a lump sum or something else. Saenz said Warble could make payments, but his water service would not be disconnected if he didn't make the payments.

**Mayor Stutsman** said he could argue the case both ways. **Board member Swartley** said she tended to believe Warble and that a \$500 fee seemed punitive and a lot of money to charge a person living on a fixed income. She said she would vote for the requested relief. Mayor Stutsman agreed. He also said he would have considered reducing the \$500 fee, but understands that isn't possible and that it doesn't appear Warble knew about the illegal connection.

**Mayor Stutsman** asked if the illegal connection has been removed. **Saenz** said it was removed.

**Mayor Stutsman/Nichols then moved to waive the \$500 illegal water connection fee for James Warble of 123 Blackport Drive. Motion passed 5-0.**

#### **5) Redevelopment Department: Request for permission to place eight (8) sculptures within the public right-of-way**

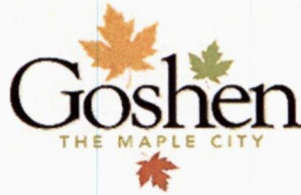
**City Redevelopment Director Becky Hutsell** asked the Board to approve a request to place eight locally-created sculptures within the public right-of-way for a period of 12 months at the approximate locations detailed on a spreadsheet provided to the Board.

**Hutsell** said this year marks the 15th anniversary of the Elkhart County Convention & Visitors Bureau's Quilt Garden Tour. To commemorate the anniversary, the bureau will be bringing back a limited number of Seward Johnson sculptures to be placed at each of the garden locations and, in support of local artists, it is also sponsoring locally-created sculptures to cities and towns in Elkhart County if so desired.

The ECCVB has offered to fund four local pieces and Goshen has agreed to sponsor four additional sculptures. All eight pieces were created by Goshen artists, including several Goshen College students, and the Redevelopment Department requested permission to place them downtown within the right-of-way.

Similar to the Seward Johnson sculptures the City hosted five years ago, the sculptures placed outside of the walking path and to avoid any conflicts with utilities. The sculptures would remain for 12 months, beginning this month.

**Mayor Stutsman** said this project would be paid for with funds designated for public art through the City's American Rescue Plan Act federal grant.



Riouse/Nichols moved to approve the request to place eight locally-created sculptures within the public right-of way for a period of 12 months at the approximate locations detailed on a spreadsheet provided to the Board. Motion passed 5-0.

**6) Engineering Department: Approve Resolution 2022-15 and agreement with Niblock Excavating for the College Avenue Bridge #410 Utility Relocation Project for \$1,685,277.50**

**City Civil Engineer Bryce Gast** asked the Board to approve an agreement with Niblock Excavating for the College Avenue Bridge #410 Utility Relocation project in the amount of \$1,685,277.50 and adopt Resolution 2022-15.

**Gast** said Niblock was the lowest responsive and responsible bidder for the project. He said Resolution 2022-15 was needed because the current material shortage and inflationary pressures in the construction industry, both owners and contractors find it challenging to navigate project bidding and delivery.

**Gast** said that to assist with pricing risk reduction for both the owner and the contractor, Line Item No. 36 - Construction Allowance in the amount of \$120,000.00 was added to the contract. He said this allowance will permit the contractor to make claims for material price increases between issuing a purchase order (P.O.) and the delivery of the material. He said the inclusion of this line item effectively makes this a cost-reimbursement contract, as defined by Indiana Code 5-22-17-2.

**Gast** said the reason for the inclusion of Line Item No. 36 is that it has become impracticable to obtain the supplies required except under such a contract, as contractors increasingly refuse to commit to pricing for supplies as the market for construction supplies has become volatile with frequent and significant price changes. **Gast** said the Goshen Engineering Department asked the Board of Public Works and Safety award the contract for \$1,685,277.50 to Niblock Excavating as the lowest responsive and responsible bidder

**City Attorney Stegelmann** further clarified the need for the Resolution 2022-15, stating that because of the current rising costs, this is the only way the City can enter into this contract for the required work.

In response to questions from **Board member Landis**, **Gast** said that in order to qualify for additional funds, Niblock will have demonstrate the materials have become more costly than anticipated.

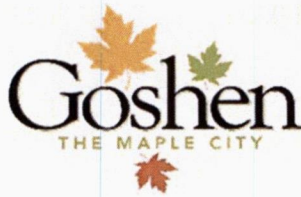
**Riouse/Nichols** moved to approve the Agreement with Niblock Excavating for the College Avenue Bridge #410 Utility Relocation project in the amount of \$1,685,277.50 and adopt Resolution 2022-15. Motion passed 5-0.

**7) Engineering Department: Request for partial sidewalk closures for storm drain mural art painting**

**City Stormwater Coordinator Jason Kauffman** asked the Board to approve partial sidewalk closures at 10 storm drain mural painting locations between Monday, May 9 and Saturday, June 11, 2022.

In support of his request, **Kauffman** distributed to the Board a Goshen Water Fest flier, in English and Spanish, and four color examples of 2022 Storm Drain Mural Art (**EXHIBIT #1**).

**Kauffman** said painting for the storm drain mural art project is kicking off next week with artists painting at 10 locations at various times through the month of May. Artists are expected to finish painting by June 6, 2022 and City staff will be applying sealant soon after with all work to be completed by the unveiling at Goshen Water Fest on Saturday, June 11. To complete the project, some partial sidewalk closures will be needed to complete the painting, apply the protective sealant, and allow the areas to dry.



Before starting, artists will meet with Stormwater Department staff to receive their supplies, including traffic cones and reflective vests. Artists and their assistants or supervisors will receive a brief safety training about cone configurations and other considerations.

**Riouse/Nichols moved to approve partial sidewalk closures at 10 storm drain mural painting locations between Monday, May 9 and Saturday, June 11, 2022. Motion passed 5-0.**

**8) Engineering Department: Approve lane restrictions for concrete paving project in Terrace Green, between May 16-Sept. 1, 2022 (JN 2022-0002B)**

**City Director of Public Works & Utilities Dustin Sailor** asked the Board to approve the Concrete Paving Project lane restrictions in Terrace Green from May 16 thru Sept. 1, 2022.

Sailor said Rieth-Riley employees will remove old and install new concrete pavement and ADA ramps in Terrace Green. They will be starting on Kentfield Way and working their way throughout the subdivision. The work will require partial lane restrictions throughout the subdivision as the work progresses, with Rieth-Riley providing traffic control.

**Riouse/Nichols moved to approve the Concrete Paving Project lane restrictions in Terrace Green from May 16 thru Sept. 1, 2022. Motion passed 5-0.**

**9) Building Department: Mechanical license request for John Cabral of Pro Comfort Heating & Cooling, LLC City Building Commissioner/Commercial Building Inspector Myron Grise** asked the Board to approve a City of Goshen mechanical licenses for John Cabral of Pro Comfort Heating & Cooling, LLC of Fort Wayne.

**Grise said Cabral has met the requirements for a City of Goshen mechanical license.** He said Cabral took an acceptable limited air conditioning examination on March 6, 2004 and received a passing score of 79 percent. Cabral holds a valid mechanical license in Allen County, and is requesting a reciprocal license with Goshen.

**Riouse/Nichols moved to approve a City of Goshen mechanical licenses for John Cabral of Pro Comfort Heating & Cooling, LLC of Fort Wayne. Motion passed 5-0.**

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

**Mayor Stutsman** opened Privilege of the Floor at 2:32 p.m. There were no public comments, so the Mayor closed the public comment period at 2:32 p.m.

**As all matters before the Board of Public Works & Safety & Stormwater Board were concluded, Mayor Stutsman/Nichols moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 5-0.**

**Mayor Stutsman** adjourned the meeting at 2:32 p.m.

**EXHIBIT #1: Goshen Water Fest flier, in English and Spanish, and four color examples of 2022 Storm Drain Mural Art, both provided by City Stormwater Coordinator Jason Kauffman.**



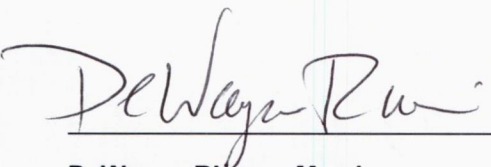
APPROVED

  
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Jeremy Stutsman, Chair

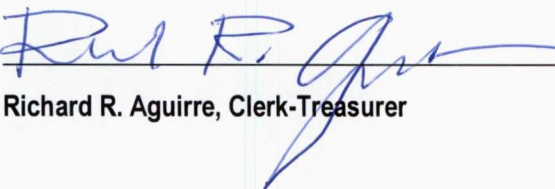
  
\_\_\_\_\_  
Michael Landis, Member

  
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Mary Nichols, Member

  
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Barb Swartley, Member

  
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DeWayne Riouse, Member

ATTEST

  
\_\_\_\_\_  
Richard R. Aguirre, Clerk-Treasurer

# Goshen Water Fest

## Featuring...

- Storm Drain Mural Art Project Unveiling
- Rock Run Creek Trash Clean-up
- Reptile, amphibians, and macros
- Kids activities
- Information on your water utilities
- And more!!



Walk/Bike Event!



**Saturday, June 11**  
**10 AM-2PM**  
**Mill Street Park**  
**Goshen**

Mill Street Park (212 Prospect Ave)

For more suggested parking and walking routes to the event, go to:

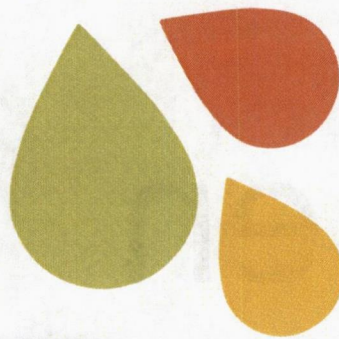
[goshenindiana.org/water-fest](http://goshenindiana.org/water-fest)





# Goshen

# Water Fest



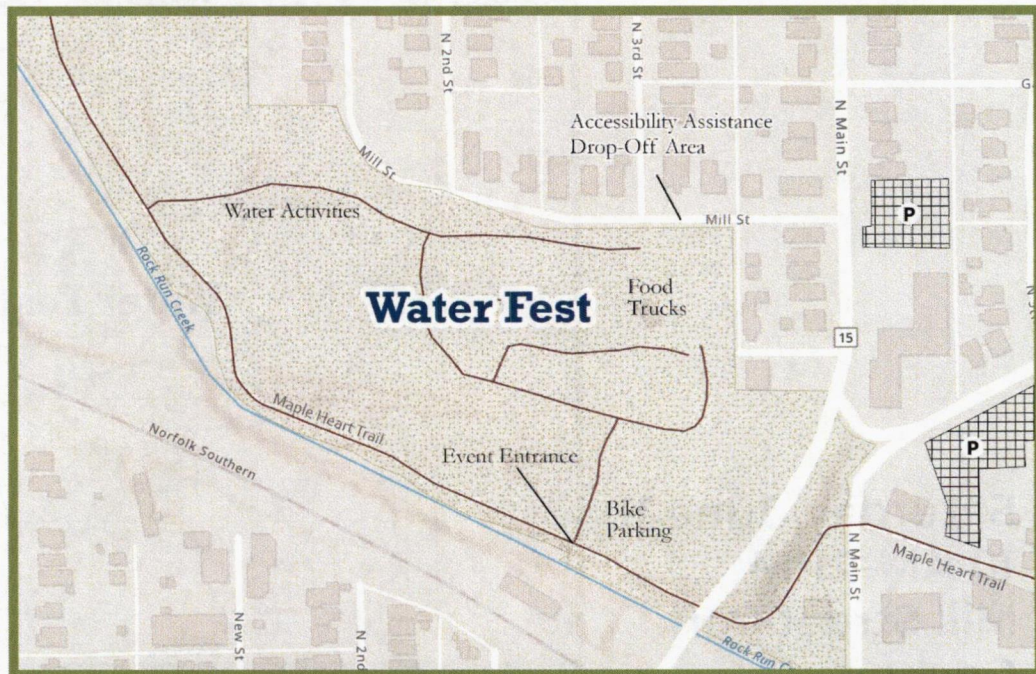
## Presentando...

- Inauguración de murales de drenaje pluvial
- Limpieza de basura de Rock Run Creek
- Reptiles, anfibios y macros
- Actividades para niños
- Información sobre servicios públicos de agua
- ¡Y mucho más!!

Venga caminando ó en bici!



**Sábado,**  
**11 de junio**  
**10 AM-2PM**  
**Mill Street Park**



Mill Street Park (212 Prospect Ave)

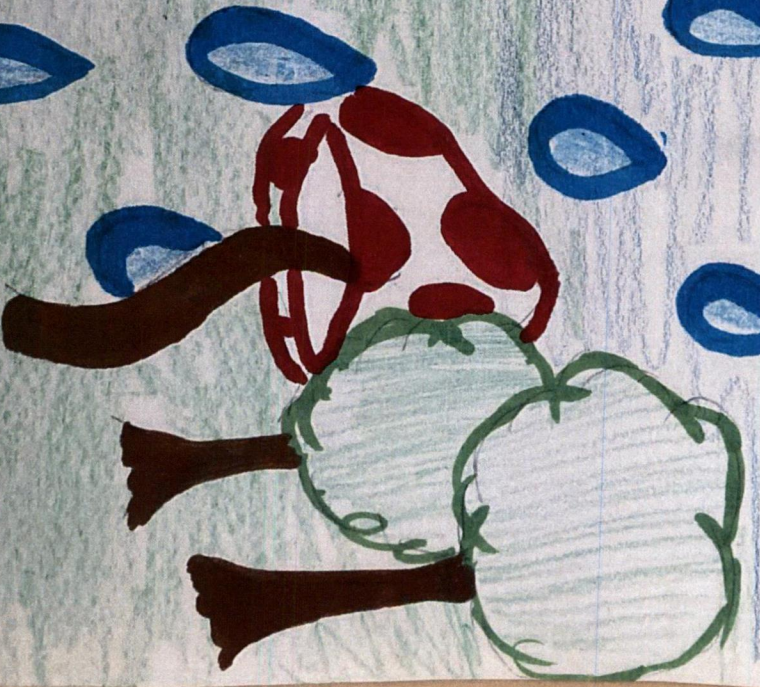
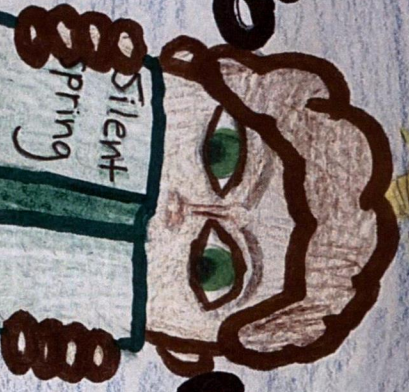
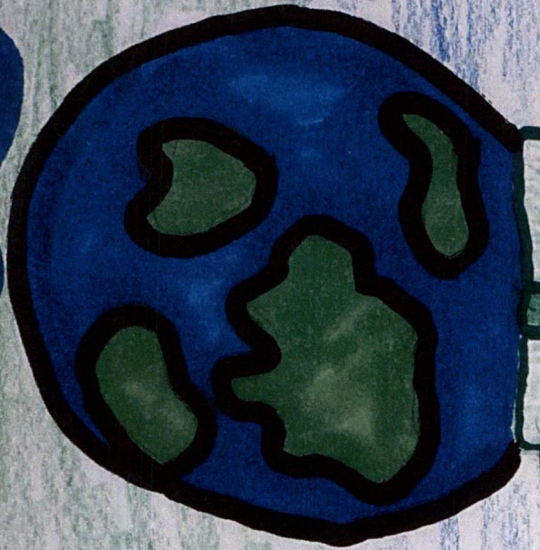
Para más sugerencias de rutas, vaya a:  
[goshenindiana.org/water-fest](http://goshenindiana.org/water-fest)



# CLEAN WATER ACT

1972

2022

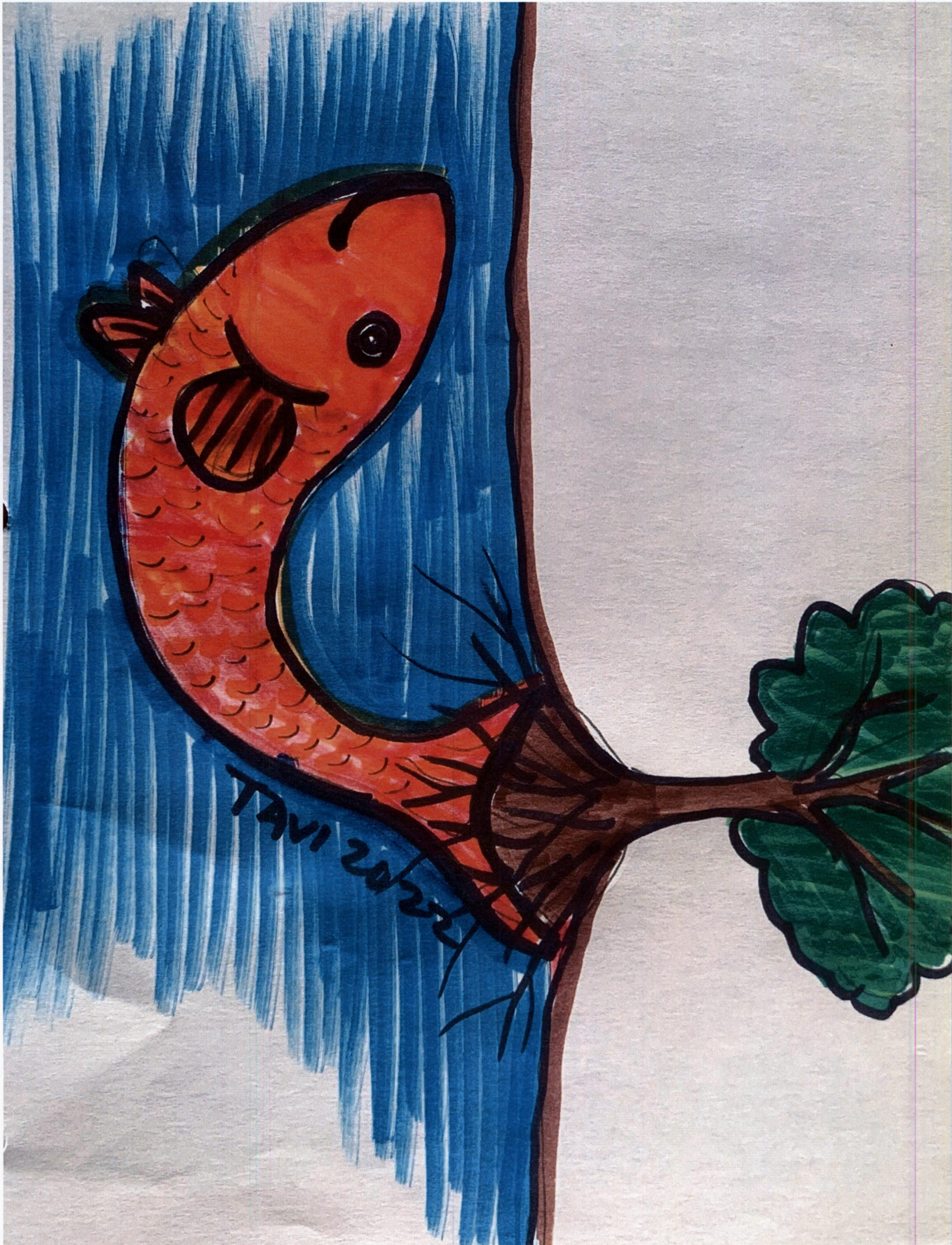


Storm  
Drain

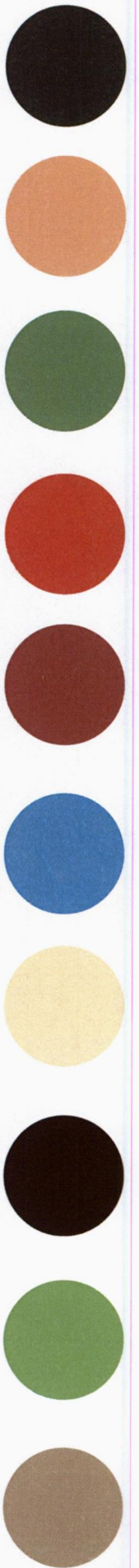


OURS TO PROTECT

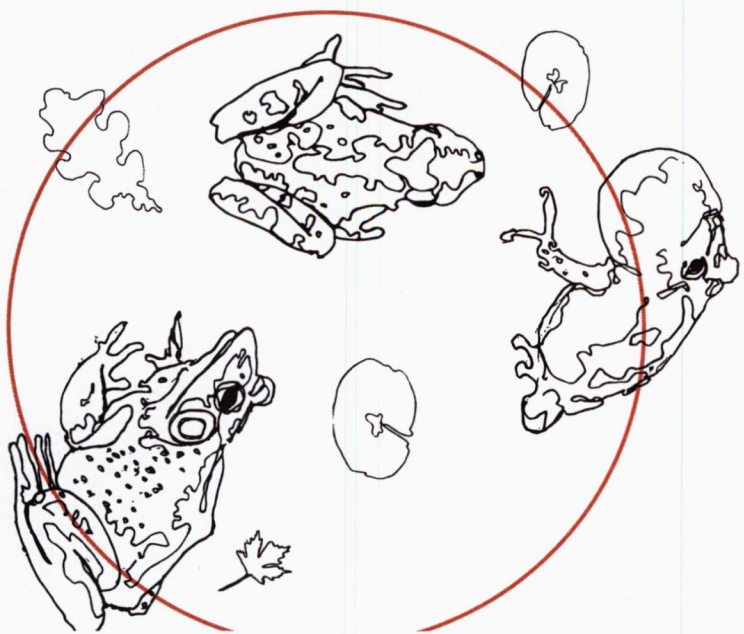
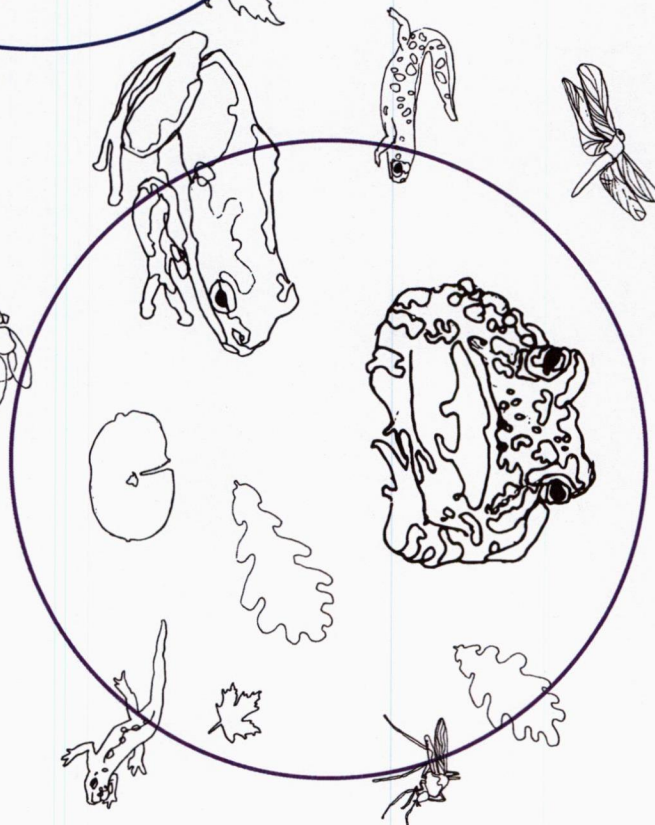
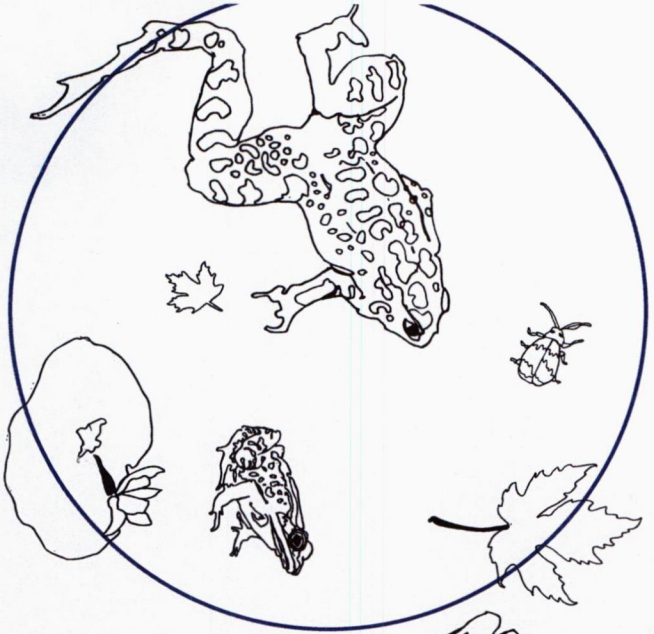




TAVI  
20/2/20



Possibly include engaging questions within the mural around the loads such as:  
How do I dance?  
Where do I hide?  
What do I eat?  
What am I dreaming about?  
What do I sing?



Stormdrain