

**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD  
MINUTES OF THE MARCH 13, 2023 REGULAR MEETING**

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

**Present:** Mike Landis, Mary Nichols and Barb Swartley

**Absent:** Mayor Jeremy Stutsman

**CALL TO ORDER:** Acting Chair Mike Landis called the meeting to order at 2:01 p.m.

**REVIEW/APPROVE MINUTES:** Acting Chair Landis presented the minutes of the March 6, 2023 Regular Meeting. Board member Barb Swartley moved to accept the minutes of the March 6, 2023 meeting as presented. The motion was seconded by Board member Mary Nichols. Motion passed 3-0.

**REVIEW/APPROVE AGENDA:** Acting Chair Landis presented the meeting agenda with the addition of new agenda item 9) *Board of Public Works & Safety public hearing: Review of the Order of the City of Goshen Building Commissioner for 518 East Jefferson St. (Ron Davidhizar, property owner)*. Board member Swartley moved to approve the agenda as amended. Board member Nichols seconded the motion. Motion passed 3-0.

**1) Opening of bids: Opening of sealed quotes for programmable logic controller upgrades (bids were due 1:45 p.m., March 13, 2023)**

**Opportunity:** Sealed quotes were solicited for the installation, configuration and startup of new programmable logic controllers (PLCs). The work will involve the upgrade of the existing Allen Bradley Control Logix PLCs on 15 control systems throughout the City Water Treatment and Sewer Department.

**Acting Chair Landis opened the following three bids for the solicited quotes:**

**Automate, Inc. of Elkhart submitted a bid for \$108,000.**

**Donohue & Associates, Inc. of Fort Wayne submitted a bid for \$129,000.**

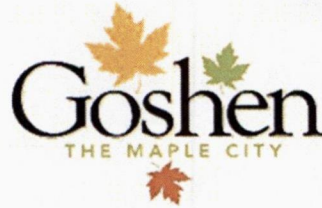
**Kendall Electric, Inc. of Fort Wayne, submitted a bid for \$117,627.31.**

**Acting Chair Landis/Swartley moved to refer the bids to the Legal Department for review. Motion passed 3-0.**

**2) Water & Sewer Business Office: Request for Water billing relief – 25 The Willows – Shirley Truex**

**BACKGROUND:** At the Board's March 6, 2023 meeting, **Shirley Truex**, a resident of 25 The Willows, asked the Board to be excused from paying sewer charges incurred because of a water leak caused by a broken water line under her mobile home Jan. 3-11, 2023.

**Kelly Saenz, City Water & Sewer Office Manager**, told the Board that the Utility Office notified Truex of the leak on Jan. 5 and again on Jan. 11. After making contact with Truex, City staff determined the water did not flow into the sewer and she qualified for sewer relief. Saenz reported that \$1,826.46 was billed for the sewer service period Dec. 1-Jan. 1 and \$1,563.96 was billed for Jan. 1-Feb. 1. The normal monthly charge: \$49.49 Saenz told the Board that the City was recommending that the Board grant Truex's request for sewer relief in the amount of \$3,291.44.



**Saenz** said City staff members also were recommending a further bill adjustment for the increased water usage, but that separate action would need to be taken to make that possible. **Mayor Stutsman** confirmed the City could approve the sewer relief today and later consider a reduction in the water bill.

After clarifying the motion with the City Attorney, **Landis/Swartley** moved to grant **Shirley Truex's** request for sewer relief in the amount of \$3,291.44 and that at the March 13 meeting, the Board will consider granting some relief for the water bill. Motion passed 3-0.

#### **DISCUSSION OF POSSIBLE FOLLOW-UP ACTION ON MARCH 13, 2023:**

**City Water & Sewer Office Manager Kelly Saenz** reviewed the action the Board took at the March 6 meeting and reminded the Board that the matter was back on the agenda for possible water relief. Saenz said that upon review by the City Attorney, it was found that the Board does not have the authority to change or modify the current schedule of water & sewer rates.

**Board member Landis** asked if a motion was needed. **City Attorney Bodie Stegelmann** said this was just a report. **Saenz** said the department would contact Truex to determine if further help or payments could be arranged.

**Based on the City Attorney's legal conclusion, no further action was taken by the Board.**

#### **3) Water & Sewer Billing Office: Request for sewer relief, 178 The Willows, Susan Stoner**

**Todd Deuel, the son of Susan Stoner, the former resident of 178 The Willows,** said that in October, his mother fell and broke her hip and after surgery suffered a stroke. Deuel said his mother is in a long-term care facility and won't be returning to The Willows. He said the home is in the process of being sold and had been unoccupied since October, so no one was living there when the water leak occurred in December. Since no one knew about the leak for several days, Deuel requested sewer relief from the City.

**City Water & Sewer Office Manager Kelly Saenz** requested sewer relief in the amount of \$157.51, plus \$98.26 for a total amount of \$255.77.

In a written report, **Saenz** informed the Board that there was a water leak caused by a broken water line under the mobile home unit. She said the leak occurred on Dec. 26, 2022 to Jan.3, 2023. The repair to the water line was made on or around Jan. 5, 2023. In addition, Deuel requested that the late penalty of \$98.26 be waived.

**Saenz** reported that the Utility Billing Office attempted to notify Stoner of the water leak on Dec. 29, 2022 by leaving a door hanger and again on Jan. 5, 2023 by contacting the mobile home community manager. The manager determined the leak had since been repaired. An employee of the Goshen Water & Sewer plant determined the water did not flow into the sewer and therefore, would qualify for sewer relief.

**Saenz** said the total amount of credit to the customer for this leak is as follows: Dec. 1, 2023 to Jan. 1, 2023, total sewer bills were \$705.37 while the sewer average was \$47.86. The total amount of credit for the same period was \$657.51 and a waiver of the late penalty of \$98.26.

**Swartley/Nichols** moved to grant **Susan Stoner's** request for sewer relief in the amount of \$157.51, plus \$98.26 for a total amount of \$255.77. Motion passed 3-0.

#### **4) Water & Sewer Department: Request to close a portion of South 8th Street, March 14-16, 2023, for replacement of a sewer lateral**



**Superintendent of the City Water Treatment and Sewer Department Kent Holdren** told the Board that City staff will be replacing a sewer lateral at 913 South 8th St. He said the work will require excavation of the road, with a trench that will be about 13 feet in depth.

For the safety of the work crews and the public, the City requested permission to close South 8th Street to through traffic, between East Plymouth Avenue and East Jackson Street, on Tuesday, March 14, 2023, starting at 8 a.m., and reopening for traffic on Thursday afternoon, March 16, 2023. He said staff would notify Goshen Schools, emergency medical services and ensure that trash containers were moved to the appropriate locations for pick up.

**Swartley/Nichols moved to approve closure of South 8th Street to through traffic, between East Plymouth Avenue and East Jackson Street, on Tuesday, March 14, 2023, starting at 8 a.m., and reopening for traffic on Thursday afternoon, March 16, 2023. Motion passed 3-0.**

**5) Redevelopment Department: Approve agreement for the completion of the construction project at 1655 Brinkley Way East**

**City Redevelopment Director Becky Hutsell** told the Board that **Brinkley RV has substantially completed construction of its new facility at 1655 Brinkley Way East and is requesting permission to occupy the building until weather permits the remaining work to be completed.**

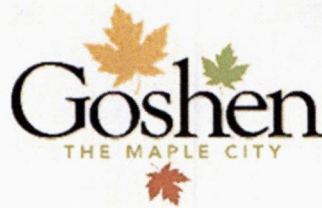
**Hutsell** said the construction project is happening concurrently with the City's construction of the public infrastructure in the area and, per the previously executed Development Agreement, the City has agreed to permit use of the building prior to the City's project being complete.

As such, **Hutsell said City staff members have worked with the developers to complete a long list of tasks in advance of this point and has also developed a list of the steps that need to be taken while the remainder of the work is completed. A summary of the steps was summarized below:**

1. Permanent stabilization for the vegetated area on the site plan is to be completed by June 15, 2023.
2. Landscaping is to be installed per the approved plan.
3. Remaining hard surfaces for the employee parking area and northern portion of the lot is to be completed. For now, temporary gravel areas are in place.
4. Occupancy is permitted for the Production Facility only. Office occupancy shall be granted at the time that the final building inspections are completed and approved by City staff for those areas.
5. Water service to the building is currently deemed "non-potable" until the water main loop down County Road 31 to Kercher Road is completed. During that time, Brinkley is to provide drinking water for employees with signage regarding the non-potable water.
6. The maximum work occupancy is limited to the capacity available with the temporary sanitary pumping system. Monitoring of the temporary system is to be completed by the City and/or the City's representatives until the lift station is operational.

**Hutsell** said the agreement states that **all the remaining work shall be completed no later than Oct. 15, 2023**, but the City expects completion before that time. She noted that there were several attachments to the agreement.

**Hutsell said the City was not requiring a surety bond for the completion of the remaining work, as is normally required, because the developers purchased economic development revenue bonds for about \$24 million, most of that to cover the three construction contracts the City is overseeing. In addition, she said the City requested that the bonds be for 10% more, so the City has a \$2 million contingency that the City controls through the Bank of New York.**



**Hutsell** said the surety bonds filed with the City are typically used for homes. She said this is a different scenario because much of the work has been affected by supply chain issues for the City. So, **Hutsell** said the city has worked hard with Brinkley RV to “to get them up and running while we complete the work.”

Regarding the lift station, **Acting Chair Landis** asked if the City would have to do much monitoring to ensure Brinkley RV is not overusing the temporary sanitary pumping system. **Hutsell** responded it was a “minimal amount,” adding that the City installed a grinder pump with electricity to it and it will run on its own.

**There were no further questions or comments by the Board.**

**Swartley/Nichols** moved to approve the Agreement for the Completion of the Construction Project at 1655 Brinkley Way East.

**Acting Chair Landis** asked if there were any questions or comments from the Board or public.

**Clerk-Treasurer Aguirre** said he had few questions for Redevelopment Director **Hutsell** and/or City Attorney **Stegelmann** and perhaps any Brinkley RV representative present. He said he was doing so to fulfill his obligations as the City's chief fiscal officer. He also said the Brinkley RV project is one of the largest City projects in recent years and he hoped it was progressing consistent with City ordinances and appropriate procedures.

**Aguirre** said he knew it was normal that building occupancy is allowed when construction is “substantially completed,” but in such cases, the City normally requires the posting of surety bonds with the Clerk-Treasurer's Office for the amount of the expected work – to guarantee it's done.

As drafted, **Aguirre** said the agreement specified that Brinkley RV would post a surety bond “to guarantee the timely and proper completion of the Work under the terms of this agreement.” **Aguirre** said he learned Friday that City staff would not be requiring a surety for the reasons **Hutsell** now outlined. So, he asked if this was the normal procedure with construction of this magnitude and complexity and had this been done in past similar cases.

**City Attorney Bodie Stegelmann** responded that the contingency built into the Brinkley RV bond was the first time this has ever been done because of contracting and supply chain issues for the City. He said about \$2 million was being held by the City.

**Aguirre** asked what recourse the City had to assure compliance if required work by Brinkley RV was not completed. He asked what funds the City could retain and asked if the \$2 million could be retained.

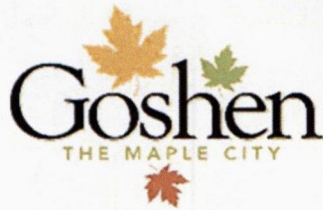
**City Attorney Stegelmann** responded that he didn't recall from the bond documents what triggered use of the contingency funds. He said generally those funds are used to pay for items of work that comes in higher than expected or the work not being complete due to unexpected contingencies.

**Aguirre** asked if the City could impose any penalties for non-compliance.

**City Attorney Stegelmann** responded that he couldn't recall that from the bond documents.

Given that uncertainty alone, **Aguirre** said he didn't think the completion agreement should be approved until those questions could be explored and satisfactorily answered.

**Aguirre** also said the agreement before the Board clearly set forth the specific work that needed to be completed on site – by Oct. 15, 2023 – and also terms that were to be met before the issuance of an occupancy permit. He said the draft agreement made clear the conditions Brinkley RV had to meet before contacting the City Building Department and obtaining a Certificate of Occupancy – prior to occupying the building. In addition, he noted that **Redevelopment Director Hutsell** wrote a letter, dated Jan. 27, 2023, to the Brinkley RV team that included a list of conditions that needed to be met in order to receive Temporary Occupancy for 1655 Brinkley Way East.



However, **Aguirre** said he learned Friday that portions of the building have already been occupied and were being used. So, he asked if others from the City had confirmed that portions of the building have been occupied and for how long. Aguirre also asked why this happened despite the City's clear directives and if there were any consequences for the violation of the City's directives – and if not, why not.

**Hutsell** responded that the bond funds are being held by the Bank of New York Mellon and the City can draw from those funds to pay the contractors and for other uses with the necessary documentation. At this point, Hutsell said the City intends to use those funds for the public infrastructure, but there is no stipulation that it could not be used otherwise if the City needed to have its contractor complete the work required of Brinkley RV. She said it would be an eligible payment.

Still, **Hutsell** said the City is confident that the required work by Brinkley will be done. Beyond that, Hutsell said Brinkley has two other buildings under construction at the site and the company wants to operate out of them as well. She said Brinkley also has site plans for buildings four and five. Those plans have been submitted for City technical review and she said Brinkley has every intent to complete them. She said the remaining work on site is weather contingent and has required work to be completed by the City.

**Hutsell** said City staff knew that Brinkley would be closing production Wednesday at its leased facility and planned to move everything to the new site to get it prepped for production this week. She said that required some machines to be turned on to make sure they were running, but the company was not fully operating at the new site.

**Hutsell** said the City is working collaboratively with Brinkley RV and trying to be good partners to keep the project moving forward.

Asked by **Acting Chair Landis** about the status of the new offices, **Hutsell** said Brinkley RV is still using offices in its old facility. Landis asked if the City will be checking to make sure the offices are not used until the company receives approval from the City. Hutsell said the contractor is working closely with the City Building Department and staff will be keeping an eye on that. She added that Brinkley RV "has been a good partner so far."

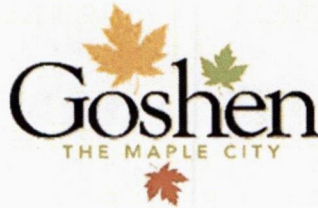
Regarding the \$2 million contingency, **Acting Chair Landis** asked how the rest of the project was going and whether those funds would need to be used. **Hutsell** said that contingencies were built into each contract to cover higher material costs. While some funds "have been tapped slightly, Hutsell said there has not been a need to use the 10% excess and she is hopeful the project will come in under contract.

**Hutsell** also confirmed for **Board members Swartley and Landis** that the bond covers the entire project and that the City believes it has enough money to complete the entire project.

**Aguirre** said he still would like City staff to pursue why the facility was occupied before the company had the occupancy permit. He said this seemed to set a bad precedent and sent the message that it doesn't matter what the City requires. Aguirre said in this case, a major company ignored City staff. He also said he believed the company owed the City an explanation and an apology for doing that, adding that it didn't show good faith.

**Acting Chair Landis** noted that **Hutsell** knew Brinkley RV was moving in equipment. He asked if this constituted occupancy or just finishing construction.

**Hutsell** responded, "To me it could go either way. There were a few final items that we weren't sure were going to come into play in time or we would have had this (agreement) to the Board last Monday. It's been a bit of a race to the finish line for all the different components, working with NIPSCO for power and that type of thing. Had this been approved last Monday, then we could have signed off and it would have been ahead of time. We were hesitant on our part just to make sure that those final steps could be achieved. We didn't want to grant it too far in advance with unknown variables."



There were no further comments.

By a 3-0 margin, the Board then approved the Agreement for the Completion of the Construction Project at 1655 Brinkley Way East.

**6) Engineering Department: Accept Lippert Components water utility easement at 3048 Skyview Drive**

City Director of Public Works & Utilities Dustin Sailor told the Board that Goshen Engineering is auditing past projects and entering the installed infrastructure into the City's GIS. Through this process, he said an unaccepted or recorded utility easement from 2020 for the above referenced site was found in a project file.

Sailor asked the Board to accept the provided water utility easement and the approximately 550 feet of 8 inch water main within the easement as part of the City's water distribution network.

Swartley/Nichols moved to accept the water main utility easement provided by Lippert Component along the south side of 3048 Skyview Drive, and authorize Dustin Sailor, the City's Director of Public Works, to sign the easement document as that is how it was prepared by Lippert's attorney. Additionally, they moved to accept the approximately 550 feet of 8 inch water main within the described water main utility easement. The motion passed 3-0.

**7) Engineering Department: Approve Abonmarche Consulting's Starcraft Lift Station contract amendment No. 1 for \$40,100, bringing the total contract amount to \$90,000**

City Director of Public Works & Utilities Dustin Sailor told the Board that attached to the agenda packet was Agreement Amendment No.1 with Abonmarche Consulting for services performed in the design and permitting for the Starcraft Lift Station.

Sailor said that due to an issue with property acquisition, designing utilities around a proposed bridge replacement, and permitting associated with a waterway, the original design scope for this project expanded significantly. He said Abonmarche's contract Amendment No. 1, is for an increase amount of \$40,100, with the previous contract amount brings the total not-to-exceed service contract amount to a \$90,000.

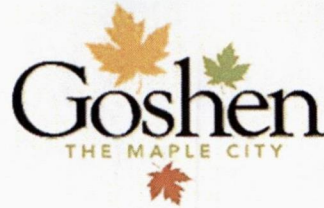
Sailor said in 2022, the lift station project bid was for \$1,685,277.50. In a professional services comparison, Abonmarche's amended fee is 5.34-percent of the contract amount, which Sailor said was a very reasonable service fee when compared to other professional service contracts the City has entered into.

Swartley/Nichols moved to approve Abonmarche Consulting's Starcraft Lift Station Design Contract Amendment No. 1 for \$40,100, which brings the total not-to-exceed service contract amount to \$90,000. The motion passed 3-0.

**8) Announcement: The annual statewide tornado siren test will be March 14 (10-10:30 a.m.)**

Clerk-Treasurer Richard R. Aguirre told the Board that at the request of Goshen Fire Department Chief Dan Sink, he was announcing that the annual statewide tornado siren test will be March 14, 2023 between 10 a.m. and 10:30 a.m.

Aguirre said this is an annual test and part of Severe Weather Preparedness Week as declared by Gov. Holcomb. He said the week was a collaboration of many agencies, including the Indiana State Police, the Department of Homeland Security and the National Weather Service. He also said officials also were calling public attention to the growing problem of severe flooding.



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

Acting Chair Landis opened Privilege of the Floor at 2:37 p.m. There were no public comments.

**9) Board of Public Works & Safety public hearing: Review of the Order of the City of Goshen Building Commissioner for 518 East Jefferson St. (Ron Davidhizar, property owner)**

At 2:37 p.m., Acting Chair Landis opened a public hearing on the Order of the City of Goshen Building Commissioner for the property at 518 East Jefferson St., Ron Davidhizar, property owner. Davidhizar was not present as the hearing began.

**BACKGROUND:**

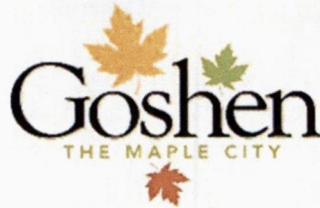
On Dec. 21, 2022, through a written order, City Building Commissioner Myron Grise notified Ronald Davidhizar, the owner of the property at 518 East Jefferson Street, that his property was in violation of the Goshen City Code.

Grise reported that the Goshen Building Department inspected the subject real estate on Sept. 14, 2022. Violations of the Accumulation of Materials, Building Code, and Neighborhood Preservation Ordinance code sections were cited. Grise reported that the real estate was re-inspected on Sept. 29, 2022 and again on Oct. 14, 2022, which showed no significant improvement to the real estate.

Grise reported that the real estate was unsafe within the meaning of Indiana Code §36-7-9-4 in that the building or structure on the real estate is: (1) in an impaired structural condition that makes it unsafe to a person or property; (2) a fire hazard; (3) a public health hazard; (4) dangerous to person or property because of one or more violations of Goshen City Code Title 6 concerning building condition or maintenance; and/or (5) vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of Goshen City Code Title 6.

**The following thirteen (13) violations of Title 6 of the Goshen City Code were cited by the Goshen Building Department inspector and had not been satisfactorily repaired or remedied:**

1. A permit shall be obtained before a person begins to construct, alter, remodel, rehabilitate, or add to any building or structure, or the placement of a mobile home.
2. There were no working smoke detectors.
3. There was soft, deteriorating wood on the front porch. The building has one or more porches that are not capable of supporting the load that normal use may cause to be placed on them. There was soft, deteriorating wood on the front porch. The stairs on the porch were in disrepair.
4. The building has not been kept in good repair. There was damage to the downstairs bedroom ceiling. There was significant damage to the upstairs closet wall.
5. There was peeling paint/plaster on the bathroom ceiling.
6. The building's wall has not been kept reasonably weather tight and rodent proof. The building has not been kept in good repair. There was significant damage to the front of the dwelling from a downed tree.
7. The dwelling unit at the above cited address is using extension or flexible cords for permanent wiring. Extension or flexible cords are running through doors, under carpets.
8. There was an outlet in the upstairs bedroom that was inoperable. The basement was flooded with six inches of water due to a possible plumbing malfunction.



9. The building has one or more handrails that have not been firmly fastened and capable of supporting normally imposed loads and have not been maintained in good condition.
10. The building has windows and exterior doors that have not been kept reasonably weather tight and in good repair. The front door had broken windows. There were several broken windows.
11. Smoke detectors shall be located in each room used for sleeping purposes and in the common living area on each floor, including the basement.
12. Unable to access basement due to high water.
13. An accumulation of materials, namely wood products and rubbish, on the real estate of the above cited property creates a harborage for rodents or insects. There was roofing materials that had been discarded in the front yard.

**Grise advised the property owner that these violations made the premises, at 518 E. Jefferson St., unsafe. Grise ordered the property owner and tenant to vacate the unsafe building and to repair or rehabilitate the unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy or use by completing all repairs set forth in the "Corrective Action Ordered" section of the table, above so that the building and/or structure is in compliance with Title 6 of the Goshen City Code by Jan. 31, 2023.**

In the event of a failure comply with this Order, **Grise** advised the property owner that the City of Goshen may take action to make the required corrections and bill the owner for the costs of such work, including, but not limited to, the actual cost of the work performed and an amount equal to the average processing expense the City would incur in pursuing this matter. Such amounts could become a lien upon the real estate and ultimately be enforced in the same manner as any other judgment.

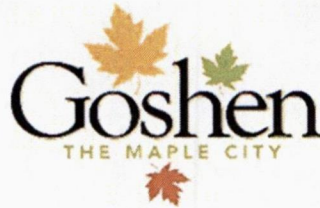
**Grise further notified the property owner that a hearing would be held before the Goshen Board of Public Works and Safety on Monday, Feb. 6, 2023 at 2 p.m., or soon thereafter, for the purpose of reviewing the Order of the City of Goshen Building Commissioner.**

**Grise** advised the property owner that he had the right to appear at this hearing with or without counsel, to present evidence, cross-examine opposing witnesses and present arguments. **Should he fail to appear at the time set for the hearing, the hearing would be conducted in his absence.**

**Grise** advised that the Goshen Board of Public Works and Safety would have the right to affirm, rescind or modify this Order. The Order of the City of Goshen Building Commissioner is issued on December 21, 2022. **Grise's** Order was included in the Board's meeting packet with a memo from Assistant City Attorney Matt Lawson, a four-page inspection final notice of violations (dated Sept. 30, 2022) by City Rental Inspector Ryan Conrad of the City Building Department and 34 pages of color photographs showing the home's condition.

**On Feb. 6, 2023 Mayor Stutsman** convened the noticed hearing on the Review of the Order of the City of Goshen Building Commissioner for 518 East Jefferson St. (Ron Davidhizar, property owner). The **Mayor** noted that property owner Ronald Davidhizar was not present. The **Mayor** asked **City Attorney Bodie Stegelmann** if the Board should proceed with the hearing.





**City Attorney Stegelmann** responded that Davidhizar received formal notification of the hearing and that it would be held. **City Rental Inspector Ryan Conrad** said he had been in contact with Davidhizar's maintenance supervisor for the property but not Davidhizar. **Assistant City Attorney Matt Lawson** told the Mayor that Davidhizar had personally signed the certified mailing for the notice of this hearing.

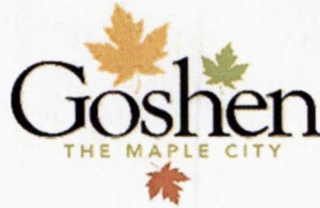
**Mayor Stutsman** swore in **Ryan Conrad** to provide truthful testimony during the hearing. Reading from a memo dated and distributed to the Board today (Feb. 6, 2023), Conrad reported:

- On Sept. 14, 2022, Conrad conducted an inspection of the property at 518 E. Jefferson St. and determined that several maintenance violations existed.
- Conrad notified the property owner, Ron Davidhizar, in writing, that he would have 30 days to correct the violations. Conrad inspected the real estate again on Sept. 29 and Oct. 14 and determined that there was no significant improvement to the real estate.
- During a re-inspection of the property this morning (Feb. 6, 2023), it appeared that the property owner has made some improvements. A new roof and porch have been installed. However, code violations still exist.
- There is missing wood siding on the on the front porch with exposed insulation.
- There are broken windows on the property.
- Numerous extension cords are being used to operate portable space heaters and other appliances, thus creating a fire hazard.
- An outlet in one of the bedrooms is malfunctioning, creating an additional need for extension cords.
- There is flooring that does not have adequate support.
- There are exterior wood surfaces that are not properly covered.
- There are newly installed stairs on the porch that do not have the required handrails.
- Additionally, Conrad was advised today by the tenant that the heating system works intermittently. The tenant stated that he occasionally uses the oven to provide additional heat.
- Conrad asked the Board to affirm the Building Commissioner's order and that matter be reset for a compliance hearing in another 30 days to continue monitoring progress. He reported that there have been some repairs, but more need to be worked on.

In response to a question from **Mayor Stutsman**, **Conrad** said the tenant was using space heaters because the furnace only works intermittently. **Conrad** said when he visited today, the indoor temperature of the home was comfortable, but the tenant said the furnace is not reliable, so the oven was turned on today. The Mayor responded that was not safe. Conrad confirmed the home has an old furnace.

**Board members and Ryan** further discussed the condition of the property, work done and alleged violations that still needed to be corrected. Also discussed was the furnace, which wasn't included in the Building Commissioner's original order.

**The City Attorney** said that he wasn't sure, due to the need for due process, that an order could be issued today on a matter the property owner wasn't aware would be heard today. He said action on the furnace should begin with notice to the property owner. **Mayor Stutsman** said the City staff should begin work on the paperwork for the new issues, including the furnace, right away so as not to get too far behind on those matters.



**Mayor Stutsman** asked the City Attorney for advice on how to take action today and whether to mention the need to repair the furnace. **Stegelmann** said Board could direct City staff to start enforcement action related to the furnace, since that would begin the process of putting the property owner on notice this was an issue that must be resolved

**Mayor Stutsman** then made a motion that the Board affirm the findings of the City Building Commissioner's order for 518 East Jefferson Street, determining that the listed violations existed and must be repaired in 30 days and that City staff should address the furnace issue. He also moved that the matter be continued to March 13, 2023 for another compliance hearing. Landis seconded the motion. Motion passed 4-0.

After the hearing, the Legal Department conveyed to Ron Davidhizar the Order of the City Board of Works and Safety regarding the property at 518 E. Jefferson St. It informed him that a hearing was conducted Feb. 6, 2023, provided a summary of the case and the Board's actions on Feb. 6, 2023. It further advised Davidhizar that a compliance hearing would be conducted on March 13, 2023 at 2 p.m. (EXHIBIT #1)

#### **MARCH 13, 2023 COMPLIANCE HEARING TESTIMONY, DISCUSSION AND BOARD ACTION:**

**Acting Chair Mike Landis** convened the hearing. He noted that Ron Davidhizar was present/not present. He asked **City Rental Inspector Ryan Conrad** to provide an update.

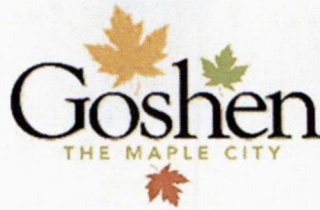
Reading from a memorandum to the Board, which included new photos showing the current condition of the home (EXHIBIT #2), **Conrad** reported that he conducted a re-inspection of the property located at 518 E. Jefferson St. the morning of March 13, 2023 and determined that the following violations still exist on the property:

- There is a bedroom window that is broken and as a result, covered with foam board, which is preventing egress.
- The front door window is broken and covered with plastic.
- Numerous extension cords are being used throughout the dwelling due to inoperable electric outlets, creating a fire hazard.
- There are gaps in the wood siding and there are other exterior wood surfaces which have not been properly coated.

**Conrad** also reported that, "The owner stated that he intends to complete the needed repairs by March 15. I recommend the City give the property owner until March 17. If the repairs are not completed by that date, the City move forward with repairs and bill the property owner for the work, as per the order of February 6."

**Acting Chair Landis** asked if there was anyone present to represent Ron Davidhizar. There was no response.

**Landis** asked if painting the exterior of the home was possible this week. **Conrad** said it wasn't because of the weather. Landis asked if that requirement should be separated out of the order. Conrad said the Board could do that. **Landis** asked if there were other matters on the property that needed to be addressed. **Conrad** said there were not. Landis suggested the Board set two dates for the completion of the work. **City Attorney Stegelmann** agreed, suggesting an earlier deadline for some work and perhaps a week later for other work.



**Clerk-Treasurer Aguirre** said that he understood that there has been a change in the condition of the furnace, which was the subject of extended conversation at the Board's last meeting. **Conrad** responded that the furnace has been repaired and is fully functioning.

**Board member Swartley** asked about the conditions of some outside items that were previously reported. **Conrad** said those areas have been repaired.

**Swartley/Nichols** then moved to give the property owner of 518 East Jefferson Street until March 17, 2023 to replace broken out glass in the bedroom and front door window and make the electrical outlets operable and by April 15 to repair gaps in the wood siding and paint any exterior wood surfaces that have not been properly coated or the City will move forward with repairs and bill the owner for the work pursuant to the Board's order of Feb. 6, 2023. Motion passed 3-0.

At 2:42 p.m., Acting Chair Landis closed the public hearing on the Order of the City of Goshen Building Commissioner for the property at 518 East Jefferson Street (Ron Davidhizar, property owner).

#### Approval of Civil City and Utility Claims

As all matters before the Board of Public Works & Safety were concluded, Acting Chair Landis/Board member Swartley moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 3-0.

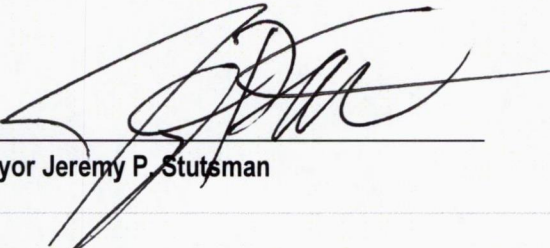
#### Adjournment

Acting Chair Landis adjourned the Board of Works meeting at 2:43 p.m.

**EXHIBIT #1:** *Feb. 6, 2023 Order of the City Board of Works & Safety, prepared by the Legal Department and conveyed to Ron Davidhizar, regarding the property at 518 E. Jefferson St.*

**EXHIBIT #2:** *City Rental Inspector Ryan Conrad memo to the Board about a re-inspection on March 13, 2023. The memo, presented to the Board today, included new photos showing the current condition of the home.*

APPROVED:

  
\_\_\_\_\_  
Mayor Jeremy P. Stutsman



*Michael A Landis*

Mike Landis, Member

*Mary Nichols*

Mary Nichols, Member

*Barb Swartley*

Barb Swartley, Member

ATTEST

*Richard R. Aguirre*

Richard R. Aguirre, City of Goshen Clerk-Treasurer

**ORDER OF THE CITY OF GOSHEN BOARD OF PUBLIC WORKS & SAFETY  
Regarding the Property Located at 518 E. Jefferson St., Goshen, Indiana 46528**

February 6, 2023

**TO: RON DAVIDHIZAR**  
203 Middlebury St.  
Goshen, IN 46528

**OCCUPANT**  
518 E. Jefferson St.  
Goshen, IN 46528

This Order is being served on you as a person holding a substantial property interest in the real estate at **518 E. Jefferson St., Goshen, Indiana 46528 (the "Property")**.

A hearing was held before the City of Goshen Board of Public Works and Safety (the "Board") on **February 6, 2022** to review compliance with the Order of the City of Goshen Building Commissioner issued on **December 21, 2022** (the "Order"). Notice of the hearing was provided to occupants of the Property and to all persons holding a substantial property interest, including Ron Davidhizar.

**Ryan Conrad**, Rental Housing Inspector, appeared before the Board representing the City of Goshen Building Department.

**Ron Davidhizar** did not appear despite receiving notice of the hearing via certified mailing on **December 28, 2022**.

Evidence was presented to the Board which now finds as follows:

The Goshen Building Department inspected the Property on **September 14, 2022**, at which time a total of thirteen (13) Violations of the Accumulation of Materials, Building Code, and Neighborhood Preservation Ordinance (the "NPO") code sections were cited.

The Property was reinspected on **September 29, 2022**, and again on **October 14, 2022**, which showed no significant improvement to the Property.

On **February 6, 2023**, the Goshen Building Department re-inspected the Property and determined that some improvements had been made, including the installation of a new roof and porch; however, the following four (4) NPO code violations still existed from the original Order:

VIOLATIONS OF TITLE 6, ARTICLE 3 - NEIGHBORHOOD PRESERVATION ORDINANCE ("NPO")			
#	DESCRIPTION	CODE SECTION VIOLATED	CORRECTIVE ACTION ORDERED
1	The building's wall has not been kept reasonably weather tight and rodent proof. The building has not been kept in good repair. There was significant damage to the front of the dwelling from a downed tree.	§6.3.1.1(b) Privacy, Weather Tight, Good Repair – Exterior	All damaged wood siding must be removed and replaced with like material to make weathertight and rodent proof. All surfaces shall be properly re-coated for protection against the elements.
2	The dwelling unit at the above cited address is using extension or flexible cords for permanent wiring. Extension or flexible cords are running through doors, under carpets.	§6.3.1.5(h) Extension or Flexible Cords	Cords need to be removed to eliminate fire hazard.
3	There was an outlet in the upstairs bedroom that was inoperable.	§6.3.1.1(a) Safe and Satisfactory Condition of Facility, Equipment Utility	The electric needs to be assessed and outlet repaired or replaced so it functions as designed.
4	The building has windows and exterior doors that have not been kept reasonably weather tight and in good repair. The front door had broken windows. There were several broken windows.	§6.3.1.1(d) Windows and Doors	The glass needs to be replaced to make weathertight and rodent proof. All broken glass needs to be replaced to make weathertight and rodent proof.

During the **February 6, 2023** re-inspection, the Goshen Building Department discovered that the heating system was not working properly and identified additional issues relating to flooring stability and several other new violations of the NPO.

It is therefore **ORDERED** by the Board of Public Works and Safety as follows:

The Board affirms the previous Order of the City of Goshen Building Commissioner issued **December 21, 2022**, and finds that there are four (4) ongoing violations of the NPO, as listed in the table above, that continue to exist at the Property.

You are ordered to complete all repairs set forth in the "Corrective Action Ordered" section of the table above so that the Property is in compliance with Title 6 of the Goshen City Code by **March 10, 2023**.

You are hereby notified that the Goshen Building Department identified several new violations of the NPO during the re-inspection conducted on **February 6, 2023**, including issues relating to flooring stability and the heating system, which is most concerning given the winter temperatures.

The Goshen Building Department is Ordered to begin enforcement action relating to all new violations discovered on **February 6, 2023**, with priority focus on bringing the heating system into compliance as soon as possible.

The compliance hearing shall be continued for thirty (30) days to allow time for: (1) completion of repairs to correct the four (4) ongoing violations listed in the table above; and (2) service of Notices of Violation and other enforcement action Ordered by the Board relative to the new NPO violations discovered on **February 6, 2023**.

In the event that you fail to comply with this Order, the City of Goshen may take action to complete the Ordered repairs and will bill you for the costs of such work, including, but not limited to, the actual cost of the work performed and an amount equal to the average processing expense the City will incur in pursuing this matter. Such amounts can become a lien upon the Property and can ultimately be enforced in the same manner as any other judgment.

You are further notified that the compliance hearing will be re-convened before the Board on **Monday, March 13, 2023 at 2:00 p.m.**, or soon thereafter, for the purpose of reviewing compliance with this Order. The hearing will be held at the Goshen Police & Court Building in the Court Room/Council Chambers at 111 East Jefferson Street, Goshen, Indiana 46528.

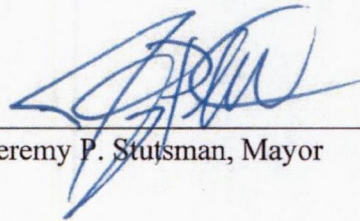
You have the right to appear at this hearing with or without counsel, to present evidence, cross-examine opposing witnesses and present arguments. Should you fail to appear on the day and time set forth above, the hearing will be conducted in your absence. The Goshen Board of Public Works and Safety will have the right to affirm, rescind or modify this Order.

Pursuant to Indiana Code §36-7-9-27, if you transfer or agree to transfer your interest or any portion of your interest in the Property to another person, you must supply the other person with details regarding this Order prior to transferring or agreeing to transfer that substantial interest. Within five (5) days after transferring or agreeing to transfer a substantial interest in the Property, you must supply the Goshen Building Commissioner, Myron Grise, with: (1) full name; (2) mailing address; and (3) telephone number

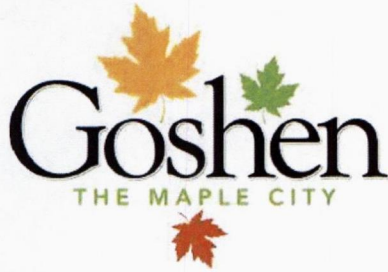
of the other person taking a substantial property interest in the unsafe building and/or premises, along with written copies of the legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished. Mr. Grise's office is located at 204 East Jefferson Street, Goshen, Indiana 46528, or you may contact him at (574) 534-2104. Should you fail to comply with these provisions, then you may be liable to the City of Goshen for any damage that the City of Goshen may suffer in the event that judgment is entered against the City by the other person to whom the transfer was made.

This Order of the City of Goshen Board of Public Works and Safety is issued on **February 6, 2022.**

City of Goshen Board of Public Works and Safety

A handwritten signature in blue ink, appearing to read 'Jeremy P. Stutsman', is written over a horizontal line.

Jeremy P. Stutsman, Mayor



**Building Department  
CITY OF GOSHEN**

204 East Jefferson Street, Suite 5 • Goshen, IN 46528-3405

Phone (574) 534-1811 • Fax (574) 533-8626 • TDD (574) 534-3185  
building@goshencity.com • www.goshenindiana.org

EXHIBIT #2

## MEMORANDUM

**TO: BOARD OF PUBLIC WORKS**

**FROM: RYAN CONRAD, BUILDING DEPARTMENT**

**DATE: MARCH 13, 2023**

**SUBJECT: 518 E. JEFFERSON**

I conducted a re-inspection of the property located at 518 E. Jefferson St. this morning and determined that the following violations still exist on the property:

- There is a bedroom window that is broken and as a result, covered with foam board, which is preventing egress
- The front door window is broken and covered with plastic
- Numerous extension cords are being used throughout the dwelling due to inoperable electric outlets, creating a fire hazard
- There are gaps in the wood siding and there are other exterior wood surfaces which have not been properly coated

The owner stated that he intends to complete the needed repairs by March 15. I recommend the City give the property owner until March 17. If the repairs are not completed by that date, the City move forward with repairs and bill the property owner for the work, as per the order of February 6.

Respectfully,

A handwritten signature in black ink, appearing to read "Ryan Conrad".

Ryan Conrad  
Rental Housing Inspector  
Building Department





2/6/2023: 9:49:10 AM



2/6/2023: 9:49:26 AM

