

GOSHEN COMMON COUNCIL

Minutes of the MARCH 6, 2023 Regular Meeting

Convened in the Council Chambers, Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

Mayor Jeremy Stutsman called the meeting to order at 6:02 p.m. Troop #5 of the Boy Scouts was present and a scout helped lead the Pledge of Allegiance.

Mayor Stutsman asked the Clerk-Treasurer to conduct the roll call.

Present: Megan Eichorn (District 4) Julia King (At-Large) Doug Nisley (District 2)
Gilberto Pérez Jr. (District 5) Donald Riegsecker (District 1) Matt Schrock (District 3)
Council President Brett Weddell (At-Large)
Youth Advisor Karen C. Velazquez Valdes (Non-voting)

Absent: None

Approval of Minutes: No minutes were ready for review/approval.

Approval of Meeting Agenda: Mayor Stutsman presented the meeting agenda for approval. Councilor Nisley moved to approve the March 6, 2023 Council meeting agenda as submitted. Councilor King seconded the motion. The motion passed 7-0 on a voice vote.

Privilege of the Floor:

At 6:04 p.m., Mayor Stutsman invited public comments on matters not on the agenda.

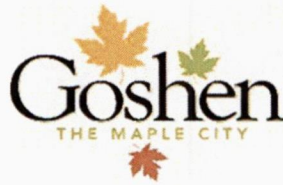
Glenn Null of Goshen said he wanted to offer "all sugar today" – praise for City government. He said last Friday was not a good day for those driving on local roads because of the snowy weather. He said that while driving on County Road 18, he scraped the bottom of his wife's car. He said the same occurred on County Road 18 until he drove into Goshen, which had bare pavement and sidewalks that had been cleared of snow. Null said on Saturday he saw the Mayor and members of the City Street Department in a restaurant and thanked them for their earlier efforts.

Null said earlier today he attended a meeting of Elkhart County Commissioners and told them the County and State had not done as good a job clearing roads of snow as the City. He said he later learned the County does almost all the local plowing for the State. So, he said local residents should contact commissioners if they are unsatisfied about the condition of local roads. He added that he appreciated that the City responded to the snow in such a timely way and said it was good the City hasn't had as severe a winter this year as in the past.

There were no further comments, so the Mayor closed Privilege of the Floor at 6:06 p.m.

1) Council Discussion: Utility Work in the Public Right-Of-Way

Mayor Stutsman said City Director of Public Works & Utilities Dustin Sailor would discuss the City's role in recent work by public utilities. He said fiber optic internet company officials also would make presentations.



BACKGROUND:

Over the past year, **Clerk-Treasurer Richard R. Aguirre** become increasingly aware of the growing frustrations of some Goshen residents because of partial street closures, survey flags in yards and neighborhoods being disturbed by contractors for fiber optic internet providers. Aguirre said some residents complained that multiple fiber companies have worked in the same neighborhoods, causing repeated street closures and neighborhood disruptions.

Aguirre also learned that some contractors have caused problems on City streets that needed to be repaired. Residents upset about some work also have contacted City staff and asked for help to address their concerns.

On Feb. 8, 2023, **Aguirre** said he received postcards at his home notifying him that two internet providers would soon be installing fiber optic conduit in his neighborhood, perhaps at the same time. Aware that this could trigger neighborhood inquiries or complaints to City staff, Aguirre suggested to **Mayor Stutsman** that Common Council members hold a discussion with representatives of the fiber optic companies. He suggested the companies could outline their plans and installation timelines and residents could ask questions and express any concerns.

Mayor Stutsman immediately affirmed the idea and asked **City Director of Public Works & Utilities Dustin Sailor** to invite fiber optic internet provider representatives to an upcoming Council meeting and to also prepare a presentation on the impact of utility work in the City's right-of-way. Sailor invited representatives of **Surf Internet** and **Frontier Communications** to attend the March 6, 2023 Common Council meeting.

In his letter to the fiber optic companies, **Sailor** wrote that "Installations by Frontier and Surf are reaching a point of saturation, where overlap between the two service providers is occurring. With this service overlap, City offices are fielding questions about the need for service duplication and inquiries about restricting access to the public right-of-way ... Residents have voiced concerns about enduring a summer of construction chaos."

Sailor wrote that that besides providing the opportunity for public comment, City staff would be "reviewing municipal code about appropriate uses of the right-of-way, discussing the impacts observed over the last several years from right-of-way damage, utility cross bores, construction cleanliness, and construction work occurring outside the public right-of-way or easements." Sailor also wrote that representatives of Surf and Frontier would have the opportunity to "highlight their company's project timeline and goals, permitting experience, project management strategy, and approach to community outreach and conflict resolution."

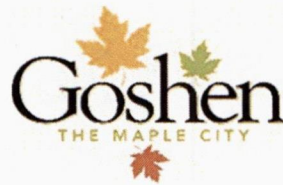
MARCH 6, 2023 PRESENTATIONS, COUNCIL DISCUSSION AND PUBLIC COMMENTS:

City Director of Public Works & Utilities Dustin Sailor said that based on requests from elected officials and comments made to the Common Council and private sessions, there have been concerns about activities in the City right-of-way. So, he said he invited representatives of Surf Internet and Frontier Communications – two of the most active companies working in the City's right-of-way -- to make presentations.

Still, **Sailor** said that he wanted to make clear there is a lot of work by utilities in the public right-of-way, so the fiber optic companies were not being singled out. Sailor said he would be showing photos of recent work in the City that reflected some of the resident complaints received by City staff.

Council President Weddell asked **Sailor** about the other public utilities that work in the City's right-of-way. Sailor said the other utilities include NIPSCO, for gas and electric service, Comcast, New Paris and other fiber optic companies, although none as extensive as Surf or Frontier.

Mayor Stutsman said he wanted to make clear that it was exciting that fiber optic companies were seeking to provide service in Goshen because that is something all communities are seeking. Still, he said the City also wanted to address issues that have been raised by the public.

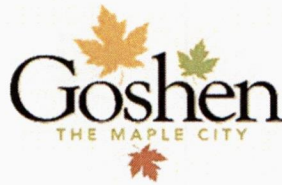


In delivering his report to the Common Council, **Sailor displayed a PowerPoint presentation, "City of Goshen Public Works Use of Public Right-of-Way" (EXHIBIT #1). There were among the key points Sailor made:**

- The Utility permitting process is outlined in City Ordinance 3659, "*An Ordinance Setting Forth Requirements for a Right-of-way Cut in the City of Goshen, Indiana,*" which was passed in 1996 and hasn't been updated.
- Companies that want to work in the right-of-way must apply for a permit, pay a fee of \$20 for the first 100 feet and \$15 for each additional 100 feet, and post a \$5,000 utility bond. Some file a \$5,000 bond for a year. Permits are good for three months.
- A major question the City receives is why the City isn't better managing activity in the right-of-way. He said the Engineering Department has only one person to oversee this work, and that person has other duties.
- The actual process is that a utility permit is requested through an online portal, the permit is reviewed by Goshen Engineering, the utility permit is issued, and the City conducts inspections. He said utility work receives spot inspections and sidewalks and driveways are fully inspected.
- One typical right-of-way issue is utility companies parking vehicles and trailers in bike paths. However, bike paths have pavement only four inches thick and are not designed for vehicles with heavy equipment.
- Another complaint received is about potholing. Whenever a utility company is putting conduit underground, it drills potholes at every utility crossing in the pavement and sometimes holes near crosswalks are not filled appropriately afterward.
- Winter is a difficult time for restoration after utility work in the right-of-way. A frequent comment from residents is that utility companies have not restored yards after work.
- Utility boxes sometimes have been placed too close to the curb line or to water lines.
- Holes also have been left adjacent to pavement, posing a safety concern. At other times, holes in yards have only been filled with sand and not dirt.
- In one case, a utility line was broken and service was needed across the street, so the company drilled under the sidewalk and ran a temporary line into the City storm sewer and exited across the street.
- In a case of directional drilling, some drilling fluid or gel ran down a street and flowed into the storm sewer, and could not be easily cleaned out.
- There have been numerous "utility line hits," which caused sink holes in roads. There have been 64 utility hits over the past two years, the majority by Surf and Frontier.
- What the Engineering Department has documented gives credence to the concerns of residents.
- Finally, City Ordinance 3659 focuses on the permitting process, but doesn't allow the City to issue a stop work order "unless things get really bad."

Mayor Stutsman asked if Ordinance 3659 reflected state statutes regarding utilities – what the state allows cities to regulate. **Sailor** said that would be a question better addressed by the City Attorney.

City Attorney Bodie Stegelmann said the answer is generally "yes." He said public utilities have the right to work in right-of-way. He said cities can "manage the right-of-way," but this isn't well defined. Stegelmann said the original statute was written in 1913 and was amended a few times since, but the law doesn't reflect what's happening today. He said if the City tried to impose too many conditions on a public utility, the company could appeal to the Indiana Utility Regulatory Commission. So, Stegelmann said it's not possible to know what would be reasonable conditions to impose. He added that the City also is limited in setting the cost of permits for utility work in the right-o-way.



Stegelmann said he and Sailor have been discussing the possibility of revising the ordinance and raising fees to help cover the cost of increased staff time dealing with right-of-way issues.

Sailor said besides right-of-way issues, the City is often asked about easements for utility work. He said the City Engineering Department doesn't issue permits for work in easements. When subdivisions were created, he said, easements were prepared as part of that process. When each person purchased their property, they accepted the encumbrances on those properties for those easements. So, Sailor said the City doesn't get involved in utilities being placed in utility easements.

Asked by **Council President Weddell** if permits were required for utility work in easements, Sailor said they are not. Permits only are required for utility work in the right-of-way, he said.

In response to a question from **Councilor Nisley**, **Sailor** said the City can still stop utility work in the right-of-way if it gets "really bad." **Councilor Eichorn** asked what constituted "really bad" work. **Sailor** said in one recent case, a contractor left potholes near sidewalks and covered them with boards and caution tape overnight. He said that didn't constitute adequate traffic controls for pedestrians, and so the City contacted the contractor and said a stop-work order would be sought if the situation was not corrected immediately.

Councilor King asked if the current ordinance allows for stop-work orders. **Sailor** said it does, but nothing in the ordinance specifies what a violation would be. So, he said working without a permit would justify a stop-work order. There could be other violations based on mandates in the federal Americans with Disabilities Act, **Sailor** said, but nothing in the ordinance describes what a violation would be.

Councilor Riegsecker asked Sailor to define a right-of-way. **Sailor** said it varies throughout the City. He said the right-of-way is established by the original plats. In some areas annexed from the County, the right-of-way may extend to the center line of the road. In other areas, he said, the right-of-way is not as well defined. **City Attorney Stegelmann** said generally in the County, the property extends to the center line of the road, and 20 feet on either side is the right of way for utility purposes.

Sailor clarified the general right-of-way in other parts of the City. He said in some subdivisions, questions often are raised about work in the right-of-way.

In response to a question from **Councilor Nisley**, **Sailor** said the City would prefer that potholes not be drilled in sidewalks. He said an increasing number of residents are complaining about utility work in the right-of-way.

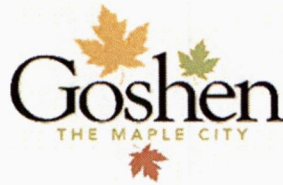
In response to a question from **Councilor Pérez**, **Sailor** said the City residents are welcome to express their concerns or complaints about utility work in their neighborhoods, but also are encouraged to contact the utility companies. He also pointed out that utility companies generally hire contractors to install fiber optic cable. He said some contractors do a good job and others do not.

Councilor Nisley said he believes residents understand and generally accept the disruptions of utility-related work, but just want the companies to do as good a job as possible.

Councilor Riegsecker asked if the City can deny permits for utility work in the right-of-way. **Sailor** said as long as the company plans to restore the corridor after its work, the City cannot deny permits. **Councilor Riegsecker** asked if homeowner associations can deny utility work. **Sailor** said as long as the utility is working within a utility easement, they cannot stop this work.

There were further comments and questions from **Councilor King** and **Council President Weddell** about utility work in the right-of-way, which were briefly addressed by Sailor.

Mayor Stutsman said he wanted to allow the representatives of the Surf and Frontier fiber optic internet providers to comment, adding that the City was grateful for the expansion of their service in Goshen.



Mayor Stutsman invited a presentation from a representative of Surf Internet.

Gene Crusie, Chief Executive Officer of Surf internet, made a presentation to the Common Council using a six-page PowerPoint presentation titled, "Surf Internet; Goshen City Council Meeting – Surf Build Updates, March 6th, 2023." Crusie said he lives in Elkhart County and his company began with an office in downtown Goshen.

Crusie introduced **Patrick McCauley, Fiber Implementation Manager of Surf Internet**, who was sitting in the audience. Crusie said Surf, which is now based in Elkhart, "is growing like crazy" and now serves about 73,000 households across Indiana, Michigan and Illinois.

Crusie said Surf serves about 6,000 households in Goshen and basically concluded construction in Goshen in 2021. He displayed three PowerPoint slides which showed areas with Surf fiber that is in place today and planned expansion areas for 2023. One of those neighborhoods, Terrace Park, is by the Elkhart County Fairgrounds. He said another is the Historic Racemere Peninsula Neighborhood, near Goshen Hospital. In both areas, Crusie said residents asked for Surf internet service, which required the installation of fiber optic conduit.

Crusie said Surf also is installing fiber optic for Greencroft Communities. And in a partnership with Lacasa, Crusie said Surf will be providing free internet service to a home at 409 East Madison Street.

Finally, **Crusie** said Surf makes the following "ongoing commitment" to neighbors when fiber is being installed:

- Engage with local homeowners association(s) or neighborhood group(s) when possible;
- Establish regular communication with residents via social media, neighborhood signage, postcards, pre-construction letters, email, texts, etc.;
- Designate a construction manager for each project;
- Designate a local contact specifically for homeowner/business issue resolution such as yard damage, dog fence, sprinkler systems and other disruptions;
- Hold regular meetings with the city engineer department, and as needed, during the duration of the project.

Crusie concluded his presentation by stating that neighbors can track Surf's work online and ask for any concerns to be addressed. He also said the company is anxious to conclude work in a few remaining neighborhoods in Goshen.

Councilor Pérez asked about the level of communication with local residents during construction. **Patrick McCauley, Fiber Implementation Manager of Surf Internet**, said the work extended over several weeks, but he didn't have that information tonight. **Crusie** said 100% of Surf's infrastructure was installed underground and there may have been more issues regarding the location of infrastructure and additional noise complaints.

In response to a question from **Councilor King** about customer outreach during the construction, **Crusie** said Surf contacts neighbors at least seven times during the process. He also said the company works diligently to clean up after work in neighborhoods and does not work again with contractors that have cause persistent problems.

In response to a question from **Councilor Pérez**, **Crusie** said Surf had more complaints and problems before 2022 because of the large amount of underground work involved in installing fiber optic conduit for 6,000 homes.

Councilor Pérez asked **Dustin Sailor** if the City tracked the number of complaints for all of the utility companies.

Sailor said City staff has not tracked the number of complaints. **Mayor Stutsman** said that would take a considerable amount of time for the staff to track complaints.

Mayor Stutsman invited representatives of **Frontier Communications** to address the Common Council.



Michael O'Keefe of Fort Wayne, the Vice President of External Affairs for Frontier Communications, said he has 35 years of experience in the industry, including 17 years of experience with fiber optic and time with Verizon. **O'Keefe** said Frontier is building in Goshen. He displayed a yard sign that is posted in neighborhoods to inform people about future fiber optic installation. He said information cards are left at every residence alerting people of the work. The cards were recently modified to allow direct contact with a Frontier complaint response team. He said the card includes an online link to information about the installation process.

O'Keefe said Frontier is in the process of installing fiber optic conduit to serve 13,500 households in Goshen and the surrounding area. He said the company's goal is to cover 100% of Goshen's households as well as businesses.

O'Keefe said Frontier will be offering fast internet service based on equipment developed by Verizon. He said the equipment is smaller, faster and easier to upgrade. He said this equipment is being installed throughout the country and most of it will be buried and some will rely on aerial installations.

O'Keefe said work began in the area in August 2022. He introduced a Frontier colleague and **Mike McFadden**, the president of TCS Communications, a company that will be installing fiber optic conduit for Frontier. He also introduced a Frontier colleague who will be overseeing Frontier's work in the Goshen area. **O'Keefe** said Frontier has processes to ensure any installation-related problems are resolved quickly.

O'Keefe said Frontier has provided services in Goshen through predecessor companies for 70 years, and the existing copper cable is being replaced by faster fiber optic.

O'Keefe said Frontier isn't aware of any right-of-way or easement issues and follows comprehensive work rules. He said a few crews didn't meet Frontier's standards and were replaced. Frontier is hiring a second inspector for Elkhart and Goshen to ensure work is done correctly. Although he said construction is often messy, Frontier is seeking to minimize any problems in Goshen, **O'Keefe** concluded.

Asked by **Councilor Pérez** about the tracking of complaints, **O'Keefe** said Frontier is now doing so and responding quickly to complaints.

Councilor Nisley said most of the current complaints are coming from the Clover Trails neighborhood. He suggested Frontier send a crew to the neighborhood and respond to any concerns. **O'Keefe** acknowledge the suggestion.

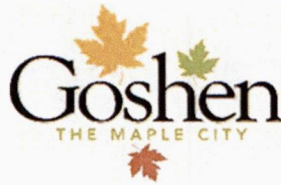
Mayor Stutsman said he appreciated the efforts by the companies to address residential complaints, noting that the City has received many complaints from residents, which is why tonight's discussion was scheduled.

At 6:59 p.m., Mayor Stutsman invited public comments on Utility Work in the Public Right-Of-Way. He said speakers would be limited to two minutes and 20 minutes overall.

Pamela Weishaupt of Goshen said she may have missed up to 80% of what was said because it was hard to hear comments in the back of the Council chamber. She asked people to speak louder. She also asked if residents had a choice which company would provide their internet service.

Mayor Stutsman said it would depend on which company or companies laid fiber optic cable in front of their homes.

Terry McGregor of Goshen said he is the board president at Keystone Pointe. He said Surf provides internet service in his neighborhood and that the installation, delivery and service were very good and the repair service was "pretty good." **McGregor** said he was concerned about plans by Frontier to install fiber optic, especially about the impact on the neighborhood. He encouraged Frontier to discuss its plans with the neighborhood.



David Daugherty of Goshen said four fiber companies have come through his neighborhood and installed fiber optic conduit with varying levels of efficiency. He said installations have been made in various locations. Daugherty said workers for the two most recent companies left mud on sidewalks and some workers left food and trash in some yards and needed closer supervision. He said workers also left ruts in yard, which were a fall hazard for older residents. Daugherty added that caps on ground-installed fiber optic boxes can break if run over by a lawn mower and need to be repaired more quickly.

Forrest D. Miller of Goshen said New Paris phone previously declared a service area in Goshen. He asked if more than one company could utilize the same fiber optic conduit. He also asked if the City could regulate the speed of the internet service.

Marshall King of Goshen said he was president of the Historic Racemere Peninsula Neighborhood Association. For "full disclosure," he said he has done freelance work helping Gene Crusie and Surf Internet to communicate. King said tonight he was representing his neighborhood association, whose members asked Surf to offer fiber internet service in the neighborhood. He said people want fast internet service. He said he appreciated the Mayor and the Council discussing this issue. He said it might not be possible tonight to resolve the competition-related issues raised by two companies installing fiber optic conduit in the same neighborhood, but was glad representatives of Frontier and Surf could hear about the importance of good installation and responding to neighborhood complaints. King said how well a company responds to complaints may be a deciding factor in people choosing one internet company over another. King added that the arrival of multiple fiber internet companies was a "nice problem for Goshen to have." And he said he wasn't personally worried about the coming installations.

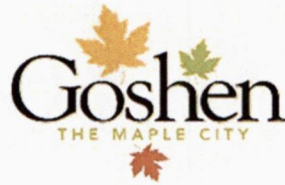
Glenn Null of Goshen said he lives on Dewey Avenue and that anyone walking down the street can see fiber optic cables coming out of boxes and crossing over streets. In front of his home, Null said the company drilled under the sidewalk and left a cable with a lot of slack. He also said the companies need to do a better job restoring yards after the installation of fiber optic conduit.

Mary Lehman Yoder of Goshen said she is part of the Millrace co-housing neighborhood. She said she and her neighbors are concerned about Frontier's plans to install fiber optic conduit in the neighborhood. Although grateful that Goshen is getting more fiber optic internet service, Yoder said her neighborhood already has it through another company. She said she understands the desire to allow competition, but she and her neighbors don't want service from Frontier or other companies. Yoder also said she believes yards will be disrupted and not restored as they were before new installations. She said it would be more honest for companies to not ensure full restoration.

Council President Weddell reminded speakers to address Council members and not members of the audience.

Steve Minnich of Goshen said his water main was hit during the recent installation of fiber optic conduit in front of his house. He said he is grateful that City workers worked all night to restore his water service. Minnich said the fiber optic contractor also dug a deep hole beside a big maple tree in front of his home, in the easement, and cut roots on both sides of the tree. He also suspects the gas line was damaged by workers.

Mayor Stutsman and Council President Weddell said City workers could visit and check for possible damage.



Zack Bontrager of Goshen, a member of the City Economic Development Commission, said he was contacted by a few people on the north side of Goshen who expressed the concern that tonight's Council meeting could lead to a cessation of fiber optic internet service for them because there are no expansion plans in their neighborhoods. He said there is a lack of service on the north side and people there are nervous that they will be forgotten.

Council President Weddell announced that 20 minutes had now passed. He asked, by show of hands, who else wanted to address the Council. Two people raised their hands. In response to the Council President's inquiry, Councilors affirmed allowing them to also speak.

Josh Barba of Goshen said company representatives have stated that they provide information to residents. However, Barba said based on his experience, the information isn't very helpful and it's difficult to get additional information. Barba said he was glad the Council was holding the companies accountable for providing better service.

Kelly Williams of Goshen said it's clear that companies want to add their own fiber optic cable to add to the company's assets. Still, she challenged the City to require the companies to share the same fiber optic conduit.

Mayor Stutsman said he appreciated everyone who spoke tonight, including the representatives of Surf and Frontier. He said the City wants to continue to be the advocates for residents, so he encouraged people with concerns or complaints to call the Mayor's Office or the City Engineering Department. He said City staff can connect people with the companies or will contact them directly.

Mayor Stutsman also said that the Engineering Department was contacted last week and informed that AT&T plans to install fiber optic conduit in Goshen next year. The City cannot force the companies to use the same fiber optic conduit, but now will have two staff members monitoring work in the public right-of-way.

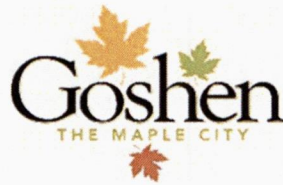
Mayor Stutsman asked follow-up questions to City staff. First, he asked **City Attorney Stegelmann** if homeowner associations had to allow utilities to work in the right-of-ways or utility easements. **Stegelmann** responded that it depended on how the plat was recorded and what was in the plat.

Mayor Stutsman then asked **City Director of Public Works & Utilities Dustin Sailor** what happens if a utility company's work in the right-of-way causes a tree to die or gas lines are ruptured. **Sailor** said the City first need to identify the company involved. He said the City has 50-50 tree program for trees in the right-of-way, so both the homeowner and the resident would be responsible for buying a replacement tree unless it died quickly. **Sailor** said if the tree took a few years to die, it would be difficult to prove that utility work cause the tree to die.

Councilor Nisley asked if the homeowner is responsible for replacing a tree in the right-of-way if it is cut down. **Sailor** said he didn't think so. However, he said the goal would be to replace the tree.

Councilor Schrock asked if the City provides a way for people to go online and determine the right-of-way by their property. **Sailor** said there is no accurate way to do that and that plats must be checked along with a follow-up survey. He also said rights-of-ways are difficult to determine. He also said people can check with the Engineering Department or order a survey.

Mayor Stutsman asked what people can do if they suspect gas lines have been damaged. **Sailor** said NIPSCO representatives met with City staff last week and reported growing concerns about gas line damage due to fiber optic work. However, he said NIPSCO has state support for quickly addressing gas line damage.



Mayor Stutsman expressed appreciation, again, for all who participated in tonight's discussion.

Councilor Pérez thanked the public for coming to the meeting and sharing concerns and questions. He said such feedback was helpful and advised them to be in touch with state elected officials. He also asked **City Attorney Stegelmann** if there was pending legislation to address utility-related concerns. **Stegelmann** said he was not aware of any pending legislation that could help. **Mayor Stutsman** said he would be in touch with local legislators.

Clerk-Treasurer Aguirre briefly reported on how tonight's discussion came about. He said that after taking minutes at many Board of Works and Council meetings, he became aware of growing concerns among Goshen residents about problems related to fiber optic conduit installation. Aguirre said in February, he received postcards from two companies stating that they would be installing fiber optic conduit in his neighborhood.

Aguirre said he knew some of his neighbors would be happy about that, but others would be upset about the disruptions in the neighborhood. So, he suggested to the **Mayor** that a Council discussion be held on the issue. Aguirre said the Mayor quickly endorsed the idea and **Dustin Sailor** immediately contacted Frontier and Surf and invited officials to address the Council. Aguirre thanked the Mayor and Sailor for their quick response.

Mayor Stutsman called for a five-minute recess.

2) Ordinance 5152: An Ordinance to Amend The Crossing Planned Unit Development (PUD), Ordinance 4426

Mayor Stutsman called for the introduction of Ordinance 5152, *An Ordinance to Amend The Crossing Planned Unit Development (PUD), Ordinance 4426* on First Reading. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5152 by title only, which was done.

Weddell/Pérez moved to approve Ordinance 5152 on First Reading.

BACKGROUND:

In a March 6, 2023 memorandum to the Common Council, **City Planning & Zoning Administrator Rhonda Yoder** reported that the Goshen Plan Commission met on Feb. 21, 2023, in regular session, and considered a request for a PUD (Planned Unit Development) major change for The Crossing PUD to remove the requirement for a sidewalk along a section of the east side of Lighthouse Lane in the area where retention (basin) is being constructed, for the proposed The Crossing Second subdivision, zoned Residential R-3PUD, part of The Crossing PUD, generally located east of Greene Road and south of Plymouth Avenue, with the following outcome: Forwarded to the Goshen Common Council with a favorable recommendation by a vote of 9-0.

Yoder wrote that the recommendation was based upon the following, with the following conditions:

1. The request fulfills the sidewalk crossing requirement of Ordinance 5117.
2. The sidewalk crossing provides continued connectivity.
3. The removal of a short section of sidewalk is needed based on final design factors that were not anticipated at the time of the preliminary PUD approval.
4. The approval is based on the preliminary plan titled The Crossing Second, Overall Subdivision Layout, Sheet 4 of 20, by Abonmarche, dated 07-13-2022, with the final sidewalk crossing location to be reviewed and approved by Goshen Engineering as part of the secondary subdivision.
5. All developmental requirements not varied by the major change shall be met.



Yoder further reported that there were no comments/questions at the Plan Commission meeting. One inquiry was received prior to the Plan Commission meeting, with concerns about the means to safely cross the street and the need to slow traffic once the street connection is complete. She added that the comments related to the design of the sidewalk crossing will be discussed during the subdivision review.

MARCH 6, 2023 DISCUSSION AND COUNCIL ACTION ON ORDINANCE 5152:

Mayor Stutsman called on City Planning & Zoning Administrator Rhonda Yoder to provide the background and context of Ordinance 5152. Yoder summarized her memorandum to the Council.

There were no comments or questions from the Council, so Mayor Stutsman invited public comments on Ordinance 5152 at 7:37 p.m. There was none, so Mayor Stutsman closed the public comment period. In response to a question from Councilor King, Yoder briefly discussed the public comments received before the Plan Commission meeting. She said they would be considered during the City's design review process.

There were no further Council questions. Council President Weddell said Councilors were ready to vote.

On a voice vote, Councilors approved Ordinance 5152, *An Ordinance to Amend The Crossing Planned Unit Development (PUD), Ordinance 4426 on First Reading*, by a 6-0 margin, with all Councilors present voting "yes" at 7:38 p.m. Youth Advisor Velasquez Valdes also voted "yes." Perez was not present for this vote.

Councilors gave unanimous consent to the Mayor to proceed with the Second Reading of Ordinance 5152.

Mayor Stutsman called for the introduction, on Second Reading, of Ordinance 5152, *An Ordinance to Amend The Crossing Planned Unit Development (PUD), Ordinance 4426*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5152 by title only, which was done.

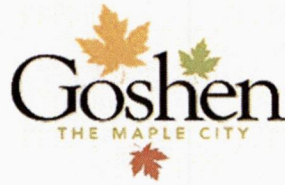
Weddell/Nisley moved for passage of Ordinance 5152 on Second and Final Reading.

There were no further comments by the public or Councilors. Council President Weddell said Councilors were ready to vote.

On a roll call vote, Councilors approved Ordinance 5152, *An Ordinance to Amend The Crossing Planned Unit Development (PUD), Ordinance 4426 on Second Reading*, by a 7-0 margin, with all Councilors present voting "yes" at 7:39 p.m. Youth Advisor Velasquez Valdes also voted "yes."

3) Resolution 2023-06: Resolution of the Common Council of the City of Goshen Approving the Order of the Goshen Plan Commission for Creation of a New 9th Street Corridor Allocation Area

Mayor Stutsman called for the introduction of Resolution 2023-06, *Resolution of the Common Council of the City of Goshen Approving the Order of the Goshen Plan Commission for Creation of a New 9th Street Corridor Allocation Area*. Council President Weddell asked the Clerk-Treasurer to read Resolution 2023-06 by title only, which he did.



Weddell/Eichorn moved to approve Resolution 2023-06.

BACKGROUND:

In a March 6, 2023 memorandum to the Common Council, **City Redevelopment Director Becky Hutsell** reported that on Feb. 14, 2023, the Goshen Redevelopment Commission passed Resolution 03-2023, which was the first step in establishing the former Western Rubber property as its own allocation area to support the Ariel Cycleworks project. This amending resolution achieved the following:

- i. Removed Parcel No. 20-11-15-153-001.000-015 from the Original Allocation Area (Consolidated River Race/US 33 Area);
- ii. Designated the Parcel as a new tax allocation area to be identified as the 9th Street Corridor Allocation Area; and
- iii. Added the New Projects, as included in the resolution, to the Original Plan ("2023 Plan").

Hutsell wrote that on Feb. 21, 2023, the Goshen Plan Commission issued an order confirming that the Amending Declaratory Resolution and the "2023 Plan" conform to the City's Comprehensive Plan and approved the resolution. **Hutsell** requested that the City Council adopt Resolution 2023-06, approving the Order of the Goshen Plan Commission related to the creation of a new 9th Street Corridor Allocation Area. If approved by the Council, a public hearing will be held before the Redevelopment Commission on Tuesday, March 14, 2023 regarding this matter prior to adoption of a Confirmatory Resolution finalizing the establishment of the new allocation area.

MARCH 6, 2023 DISCUSSION OF RESOLUTION 2023-06:

At the **Mayor's request**, **City Redevelopment Director Hutsell** summarized her memorandum to the Council and asked the Council to approve Resolution 2023-06.

There were no comments or questions from the Council, so Mayor Stutsman invited public comments on Resolution 2023-06 at 7:41 p.m. There was none, so Mayor Stutsman closed the public comment period.

There were no Council questions or comments. Council President Weddell indicated that Councilors were ready to vote.

On a voice vote, Councilors unanimously approved Resolution 2023-06, Resolution of the Common Council of the City of Goshen approving the order of the Goshen Plan Commission, at 7:41 p.m. by a 7-0 margin.

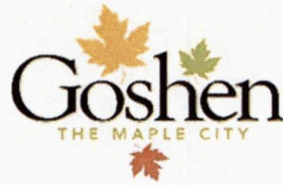
NOTE: A copy of the approved and signed Resolution 2023-06 is attached to these March 6, 2023 Council minutes, as required by Resolution 2023-06

4) Resolution 2023-07: Resolution regarding the Establishment of the Southeast Housing TIF Allocation Area and the Amendment to the Southeast Economic Development Area

The Mayor called for the introduction of Resolution 2023-07, *Resolution regarding the Establishment of the Southeast Housing TIF Allocation Area and the Amendment to the Southeast Economic Development Area*.

Council President Weddell asked the Clerk-Treasurer to read Resolution 2023-07 by title only, which he did.

Weddell/Eichorn moved to approve Resolution 2023-07.



BACKGROUND:

In a March 6, 2023 memorandum to the Common Council, **City Redevelopment Director Becky Hutsell** reported that Resolution 2023-07 was being presented for approval as the final step in the process of amending the Consolidated Southeast Tax Increment Financing (TIF) area to establish the new Southeast Housing TIF Allocation Area as its own, independent allocation area.

Hutsell wrote that this TIF boundary amendment has been approved by the Goshen Redevelopment Commission, the Goshen Plan Commission, and the plan for this was previously presented to the Council and approved. She requested the Council's approval of Resolution 2023-07.

MARCH 6, 2023 DISCUSSION OF RESOLUTION 2023-07:

City Redevelopment Director Hutsell summarized her memorandum to the Council. She said this would be the City's first residential TIF and noted that passage of Resolution 2023-07 would be the final step in the process.

There were no questions or comments from Councilors, so at 7:43 p.m., **Mayor Stutsman** invited public comments on Resolution 2023-07. There were none, so **Mayor Stutsman** closed the comment period.

There were no Council questions or comments. Council President **Weddell** indicated that Councilors were ready to vote.

On a voice vote, Councilors unanimously approved Resolution 2023-07, Resolution regarding the Establishment of the Southeast Housing TIF Allocation Area and the Amendment to the Southeast Economic Development Area, at 7:43 p.m., by a 7-0 margin.

5) Ordinance 5151: Amend 2023 Compensation Ordinance 5138 for Civil City and Utilities Employees (to add Wage for Special Firefighter Position)

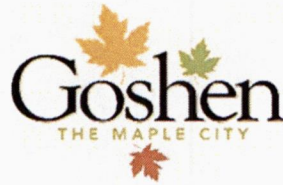
Mayor Stutsman called for the introduction of Ordinance 5151, *Amend 2023 Compensation Ordinance 5138 for Civil City and Utilities Employees (to add Wage for Special Firefighter Position)* on First Reading. Council President **Weddell** asked the Clerk-Treasurer to read Ordinance 5151 by title only, which was done. **Weddell/Nisley** moved to approve Ordinance 5151 on First Reading.

BACKGROUND:

Ordinance 5151, *Amend 2023 Compensation Ordinance 5138 for Civil City and Utilities Employees*, would make changes in the 2023 minimum and maximum compensation, including wages and benefits, for certain Civil City and Utilities employees. More specifically, it would assign different grades to the previously ungraded position of City Attorney and position of Special Firefighter, and increase the grade for the Public Works Director position.

If passed by the Council, Ordinance 5138, 2023 Compensation Ordinance for Civil City and Utilities Employees, would be amended as follows:

- (1) EXHIBIT A, 2023 Positions, Classifications and Grades, shall be amended by:
 - a. Changing the grade for the position of Special Firefighter from ungraded to Grade 9.



- b. Changing the grade for the position of City Attorney from ungraded to Grade 35.
- c. Changing the grade for the position of Public Works Director from Grade 33 to Grade 34.

EXHIBIT A, as amended, was attached to this ordinance.

(2) EXHIBIT B, 2023 Wages for All Grades, would be amended by adding grades and the respective wages for Grades 34 and 35. Exhibit B, as amended, was attached to this ordinance.

(3) EXHIBIT D, 2023 Wages for Ungraded Positions, shall be amended by removing the position of City Attorney. Exhibit D, as amended, was attached to this ordinance.

(4) The wage increase for the position of Special Firefighter would be effective beginning with the first paycheck issued in 2023.

MARCH 6, 2023 DISCUSSION AND COUNCIL ACTION ON ORDINANCE 5151:

Mayor Stutsman said Ordinance 5151 would amend the salary ordinance for Civil City and Utilities employees.

The **Mayor** said that when the City took over responsibility last year for providing fire and ambulance service in the Elkhart Township, the City also hired a township fire employee, who was designated as a “**special firefighter**.”

However, the **Mayor** said City staff failed to add the appropriate pay grades to the salary ordinance before it was passed. So, Ordinance 5151 would correct that oversight.

Mayor Stutsman also said the ordinance would also address two other issues the **Mayor** said he had planned to include in the 2023 salary ordinance – two new pay grades (34 and 35). He said the **City Attorney** position was contracted for many years and has been a full-time position for at least seven years. He said that he had planned to add a pay grade for the City Attorney’s position. Making the change now, he added, would be helpful for the ongoing wage study because it won’t have to be adjusted later.

Mayor Stutsman said he also was recommending that the Council create new pay grade 34 for **Director of Public Works & Utilities Dustin Sailor**, whose pay is currently at the top of grade 33. Besides making sure all of the City pay grades are appropriate, the **Mayor** said Sailor would now be at the mid-point of his new pay grade.

The **Mayor** said this change also will allow for Stegelmann and Sailor to qualify for pay increases.

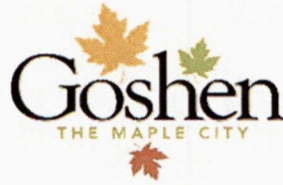
In response to questions from **Council President Weddell**, **Mayor Stutsman** clarified where **Stegelmann** and **Sailor** are currently situated on their pay grades and where they would be if the ordinance was passed. He also said neither Stegelmann nor Sailor would get immediate pay increases. In response to a question from **Councilor Riegsecker**, the **Mayor** further clarified the pay grades for Sailor and Stegelmann.

Council President Weddell asked what it would take for either Sailor or Stegelmann to go from the mid-point of their proposed new pay grades to the top of them. **Mayor Stutsman** said for all City staff, it is up to the employee’s supervisor and in the case, he is the supervisor of both. He said all employees normally get the same citywide pay raise authorized by the Council. He said the pay grades allow for additional raises for those who are doing exemplary work, either at the beginning or end of the year.

Councilor Riegsecker asked if Councilors would be informed of those pay increases. **Mayor Stutsman** said they would, because the raises would be reflected in the annual budget.

Council President Weddell jokingly asked Sailor if he felt “degraded to be going from the top of his current pay grade to the mid-point of his new one. There was no response.

Mayor Stutsman said he wanted to get these new pay grades in place now before the City’s consultant, Baker Tilly, completes work on the City’s salary study, which will include a new pay grade system. In response to a question from **Councilor Eichorn**, the **Mayor** said it’s not known when the salary study will be completed.



Councilor Riegsecker asked if City of Goshen salaries would be compared with those of similar-sized cities in the salary study. **Mayor Stutsman** said Baker Tilly is evaluating salaries for cities the size of Goshen, industries that compete for the same employees as well as communities surrounding Goshen and some larger cities.

Mayor Stutsman said Baker Tilly also will restructure the City's pay grades and will update or rewrite all job descriptions as needed. He added that it's a large and extensive study, which is why it has taken so long. Baker Tilly also had some internal issues that prompted a further delay, the Mayor said.

At 7:50 p.m., Mayor Stutsman invited public comments on Ordinance 5151. There were none, so Mayor Stutsman closed the comment period.

There were no further Council questions or comments. Council President Weddell indicated that Councilors were ready to vote.

On a roll call vote, Councilors approved Ordinance 5151, Amend 2023 Compensation Ordinance 5138 for Civil City and Utilities Employees (to add Wage for Special Firefighter Position) on First Reading, by a 7-0 margin, with all Councilors present voting "yes" at 7:50 p.m. Youth Advisor Velasquez Valdes also voted "yes."

Councilors gave unanimous consent to proceed with a second reading of Ordinance 5151.

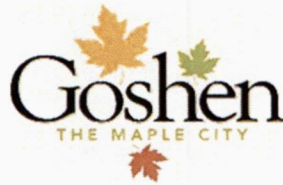
Mayor Stutsman called for the introduction of Ordinance 5151, *Amend 2023 Compensation Ordinance 5138 for Civil City and Utilities Employees (to add Wage for Special Firefighter Position)* on Second Reading. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5151 by title only, which was done. Weddell/Pérez moved to approve Ordinance 5151 on Second and Final Reading.

There were no further questions or comments from the Council or the public. Council President Weddell indicated that Councilors were ready to vote.

On a roll call vote, Councilors approved Ordinance 5151, Amend 2023 Compensation Ordinance 5138 for Civil City and Utilities Employees (to add Wage for Special Firefighter Position) on Second and Final Reading, by a 7-0 margin, with all Councilors present voting "yes" at 7:51 p.m. Youth Advisor Velasquez Valdes also voted "yes."

6) Ordinance 5153: Additional Appropriation

Mayor Stutsman called for the introduction of Ordinance 5153, *Additional Appropriation* on First Reading. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5153 by title only, which was done. Weddell/Pérez moved to approve Ordinance 5153 on First Reading.



BACKGROUND:

Ordinance 5153, Additional Appropriations, stated that City staff members have determined that it is necessary to appropriate more money than the amount appropriated in the current year's annual budget. A public hearing was scheduled at the Council's March 6, 2023 meeting on the proposed additional appropriation,

If passed by the Council, the following would be ordered appropriated to the General Fund:

101-510-03-413.0300 **MAYOR / Retirement – \$42,700.00**

101-510-09-411.0130 **CEMETERIES / Full Time Personnel – \$77,000.0**

MARCH 6, 2023 DISCUSSION AND COUNCIL ACTION ON ORDINANCE 5153:

Mayor Stutsman said the ordinance would make two additional appropriations, but it is no more money than the City intended to spend in this year's approved budget for the two affected departments. He said that every year a few items are missed in the City's \$55-60 million budget.

The **Mayor** said an additional position was created for the Cemeteries Department, but the funds were not appropriated in the budget. In addition, funding for the retirement line in the Mayor's Office was also missed.

In response to a question from **Councilor Riegsecker**, **Mayor Stutsman** said these would be additional appropriations for the current-year budget. He stressed that this is funding that the Council intended to spend.

There were no additional questions or comments from Councilors, so at 7:53 p.m., **Mayor Stutsman** invited public comments on Ordinance 5153. There were none, so **Mayor Stutsman** closed the comment period.

There were no further Council questions or comments. Council President **Weddell** indicated that Councilors were ready to vote.

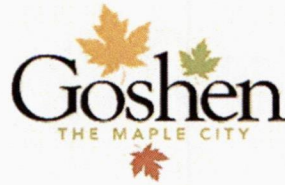
On a roll call vote, Councilors approved Ordinance 5153, *Additional Appropriation on First Reading*, by a 7-0 margin, with all Councilors present voting "yes" at 7:53 p.m. Youth Advisor **Velasquez Valdes** also voted "yes."

Councilors gave unanimous consent to the Mayor to proceed with the Second Reading of Ordinance 5153.

Mayor Stutsman called for the introduction of Ordinance 5153, *Additional Appropriation on Second Reading*. Council President **Weddell** asked the Clerk-Treasurer to read Ordinance 5153 by title only, which was done. **Weddell/Schrock** moved to approve Ordinance 5153 on Second Reading.

There were no further questions or comments from the Council or the public. Council President **Weddell** indicated that Councilors were ready to vote.

On a roll call vote, Councilors approved Ordinance 5153, *Additional Appropriation on Second and Final Reading*, by a 7-0 margin, with all Councilors present voting "yes" at 7:54 p.m. Youth Advisor **Velasquez Valdes** also voted "yes."



7) Resolution 2023-04: Interlocal Agreement with Elkhart County for Animal Control Services
Mayor Stutsman called for the introduction of Resolution 2023-04, *Interlocal Agreement with Elkhart County for Animal Control Services*. Council President Weddell asked the Clerk-Treasurer to read Resolution 2023-04 by title only, which he did.
Weddell/Eichorn moved to approve Resolution 2023-04.

BACKGROUND:

On Feb. 13, 2022, the City Board of Works and Safety adopted Resolution 2023-04, *Interlocal Agreement with Elkhart County for Animal Control Services*.

The City Legal Department reported that the County has negotiated a contract with The Humane Society of Elkhart County, Inc. to provide animal shelter management and animal control services for 2023 for certain areas of the county, including the City of Goshen. Under this Interlocal Agreement, the City would contribute \$85,400 – the same as last year – to reimburse the County for the cost to provide animal control services within the Goshen city limits.

Resolution 2023-04, *Interlocal Agreement with Elkhart County for Animal Control Services*, was the Council's version of the Board's resolution.

MARCH 6, 2023 DISCUSSION OF RESOLUTION 2023-04:

Mayor Stutsman said Resolution 2023-04 was the annual agreement with Elkhart County for animal control services. He said if there were any Council questions, City staff members could address them.

Clerk-Treasurer Aguirre said there was no increase from last year's agreement. Mayor Stutsman said the cost is calculated based on the City's population. Councilor Riegsecker confirmed there was no increase from 2022.

There were no additional comments from Councilors, so at 7:55 p.m., Mayor Stutsman invited public comments on Resolution 2023-04. There were none, so Mayor Stutsman closed the comment period.

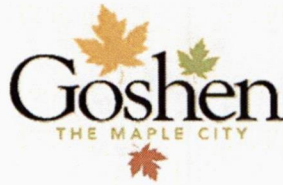
There were no further Council questions or comments. Council President Weddell indicated that Councilors were ready to vote.

On a voice vote, Councilors unanimously approved Resolution 2023-04, *Interlocal Agreement with Elkhart County for Animal Control Services*, by a 7-0 margin, at 7:55 p.m.

8) Resolution 2023-05: Interlocal Agreement with Elkhart County for a Municipal Solid Waste Recycling Station

Mayor Stutsman called for the introduction of Resolution 2023-05, *Interlocal Agreement with Elkhart County for a Municipal Solid Waste Recycling Station*. Council President Weddell asked the Clerk-Treasurer to read Resolution 2023-05 by title only, which he did.

Weddell/Pérez moved to approve Resolution 2023-05.



BACKGROUND:

On Feb. 27, 2023, the City Board of Works & Safety approved Resolution 2023-07, an Interlocal Agreement in which Elkhart County agreed to provide funding for the City to maintain a proposed recycling station.

Mayor Stutsman said that because the County is closing its recycling sites, it offered to support any cities or towns that wished to operate their own recycling sites.

According to Resolution 2023-07, *Interlocal Agreement with Elkhart County for a Municipal Solid Waste Recycling Station*, the County would provide a portion of the funding to the City of Goshen for designing, developing, funding, maintaining and operating a recycling drop-off site in the Goshen city limits.

Under the agreement, the County would provide the following funding:

- \$50,000.00 one-time payment for site development or improvement in 2023
- \$60,000.00 in 2023 for operating and maintaining the site
- \$63,000.00 in 2024 for operating and maintaining the site
- \$66,150.00 in 2025 for operating and maintaining the site
- \$69,457.50 in 2026 for operating and maintaining the site
- \$72,930.38 in 2027 for operating and maintaining the site

Resolution 2023-05, *Interlocal Agreement with Elkhart County for a Municipal Solid Waste Recycling Station*, was the Council's version of the Board's resolution.

MARCH 6, 2023 DISCUSSION OF RESOLUTION 2023-05:

Mayor Stutsman said this is a new interlocal agreement with Elkhart County. He said in recent years the County has been withdrawing from the operation of recycling stations in the City of Goshen and elsewhere. He said the last Goshen station, behind Martin's Supermarket, will close later in March.

The Mayor said Director of Public Works & Utilities Dustin Sailor, the City Environmental Resilience Department and other City staff have been working hard to get the City's recycling station set up in hopes of opening it on April 1. Still, he said the County still wants to participate in recycling.

Mayor Stutsman said the County closed its recycling stations because people persisted in dumping non-recyclable items, including trash, at the recycling stations and they became a mess and expensive to maintain. Although the County is closing its stations, it has agreed to provide five years of funding for Goshen and other cities that open recycling stations.

Mayor Stutsman said the City received good bids from two companies to pick up the recyclable material and transport it to the county recycling facility. He said Republic Services of Elkhart won the bid. So, he said the City is excited to be moving forward and opening a recycling station.

As previously publicly discussed, Mayor Stutsman said he was reminding the public that if the rules (against dumping trash at the recycling station) are not respected, City staff and Councilors will need to discuss whether to keep the site open or close it. He said cameras will be set up at the station and the rules will be posted in a few locations at the site. The Mayor said City staff members will be checking the site daily to ensure things are going well. Republic also will monitor the cameras to determine when the recycling containers need to be emptied. The Mayor said he believes the City will be implementing a good recycling system.



Mayor Stutsman said the City may also place a camera at the site to capture the license plates of vehicles whose operators violate the rules and dump trash. He added that he will be proposing that the Council pass an ordinance to impose "hefty fines" for illegal dumping. He said the City wants to provide this service, and also wants to discourage those who would abuse the system and ruin it for others.

Councilor Schrock asked if there would be warnings for those who break the rules.

Mayor Stutsman said that will all be worked out, but said that if a person intentionally dumps a truck-full of trash, there will be no warning. He said everything will be clearly marked. The Mayor also said if someone leaves behind items they mistakenly believed were recyclable, that situation would be regarded differently.

Councilor King asked what the County's annual funding will cover. The **Mayor** said it will cover the annual cost of taking items to the County's recycling facility. The County also is contributing \$50,000 to help pay for the installation of the station. **Sailor** said the total installation, including cameras, cost about \$65,000.

Asked by **Councilor King** if the County's contribution would cover the cost of City staff time to monitor the site,

Mayor Stutsman said he believes the monitoring of the site won't take a lot of City staff time. However, he said the situation could change if there is a lot of dumping and City staff members have to clean it up frequently.

In response to a question from **Councilor Pérez**, **Mayor Stutsman** said he believes the County's funding is more than adequate and should allow the site to operate for more than the five years specified in the agreement. He added that the County's tipping fees (cost of recycling at the county facility) also should be covered.

There were no additional questions or comments from Councilors, so at 8:01 p.m., Mayor Stutsman invited public comments on Resolution 2023-05. There were none, so Mayor Stutsman closed the comment period.

There were no further Council questions or comments. Council President Weddell indicated that Councilors were ready to vote.

On a voice vote, Councilors unanimously approved Resolution 2023-05, *Interlocal Agreement with Elkhart County for a Municipal Solid Waste Recycling Station*, by a 7-0 margin, at 8:01 p.m.

Elected Official Reports:

Mayor Stutsman said he didn't have anything else to report, but during the meeting he said he sent messages to the City's Technology Services staff, directing them to address the sound difficulties in the Council chamber and fix them as soon as possible. He said he understood that the **Clerk-Treasurer** also was working to replace some microphones in the Council chamber. He said he hoped to get the problems fixed within a month.

There were no further comments by elected officials.

Councilor Nisley made a motion to adjourn the meeting. Councilor Schrock seconded the motion. Councilors unanimously approved the motion to adjourn the meeting.

Mayor Stutsman adjourned the meeting at 8:03 p.m.

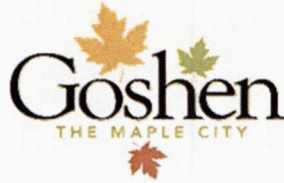
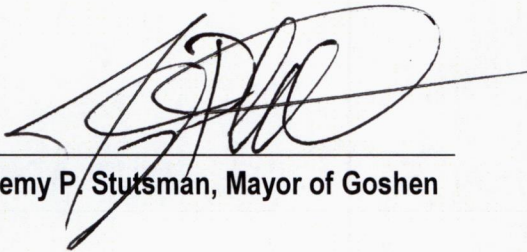


EXHIBIT #1: Ten-page color printout of a PowerPoint presentation titled, “City of Goshen Public Works Use of Public Right-of-Way,” prepared and delivered by City Director of Public Works & Utilities Dustin Sailor in support of agenda # 1) Council Discussion: Utility Work in the Public Right-of-Way.

EXHIBIT #2: Six-page color printout of a PowerPoint presentation titled, “Surf Internet; Goshen City Council Meeting – Surf Build Updates, March 6th, 2023,” delivered by Gene Crusie, Chief Executive Officer of Surf internet, during the Council discussion on utility work in the public right-of-way.

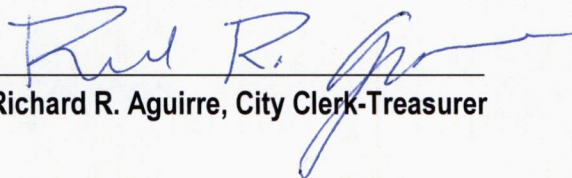
ALSO ATTACHED TO THE MINUTES: Common Council Resolution 2023-06, whose passage on March 6, 2023 required the Clerk-Treasurer to “file a copy of the Amending Declaratory Resolution, the 2023 Plan and the approving Order of the Plan Commission with the permanent minutes of this meeting.”

APPROVED:



Jeremy P. Stutsman, Mayor of Goshen

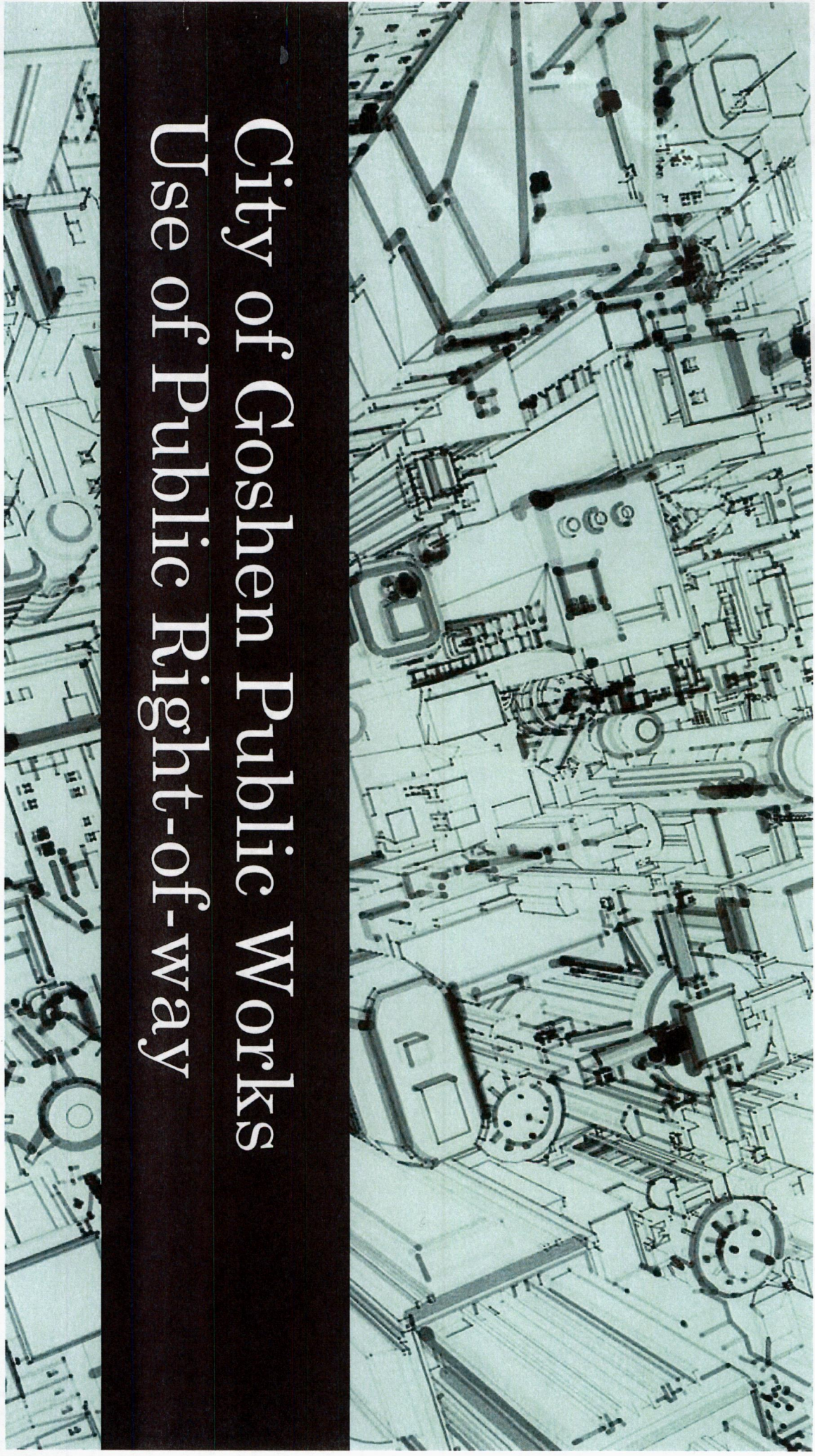
ATTEST:



Richard R. Aguirre, City Clerk-Treasurer

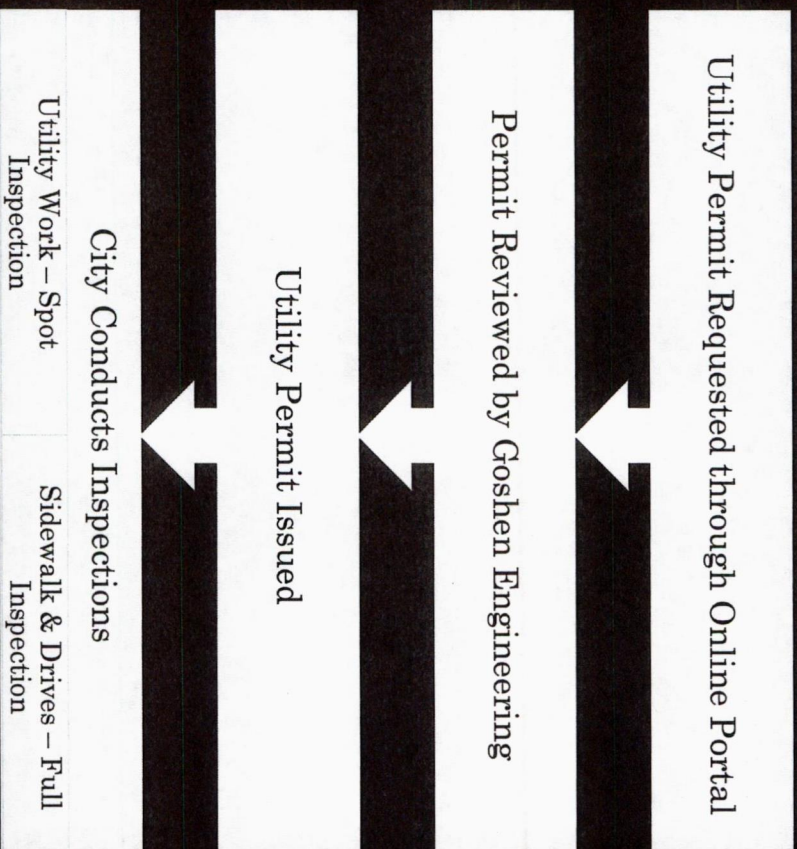
EXHIBIT #1

City of Goshen Public Works Use of Public Right-of-way

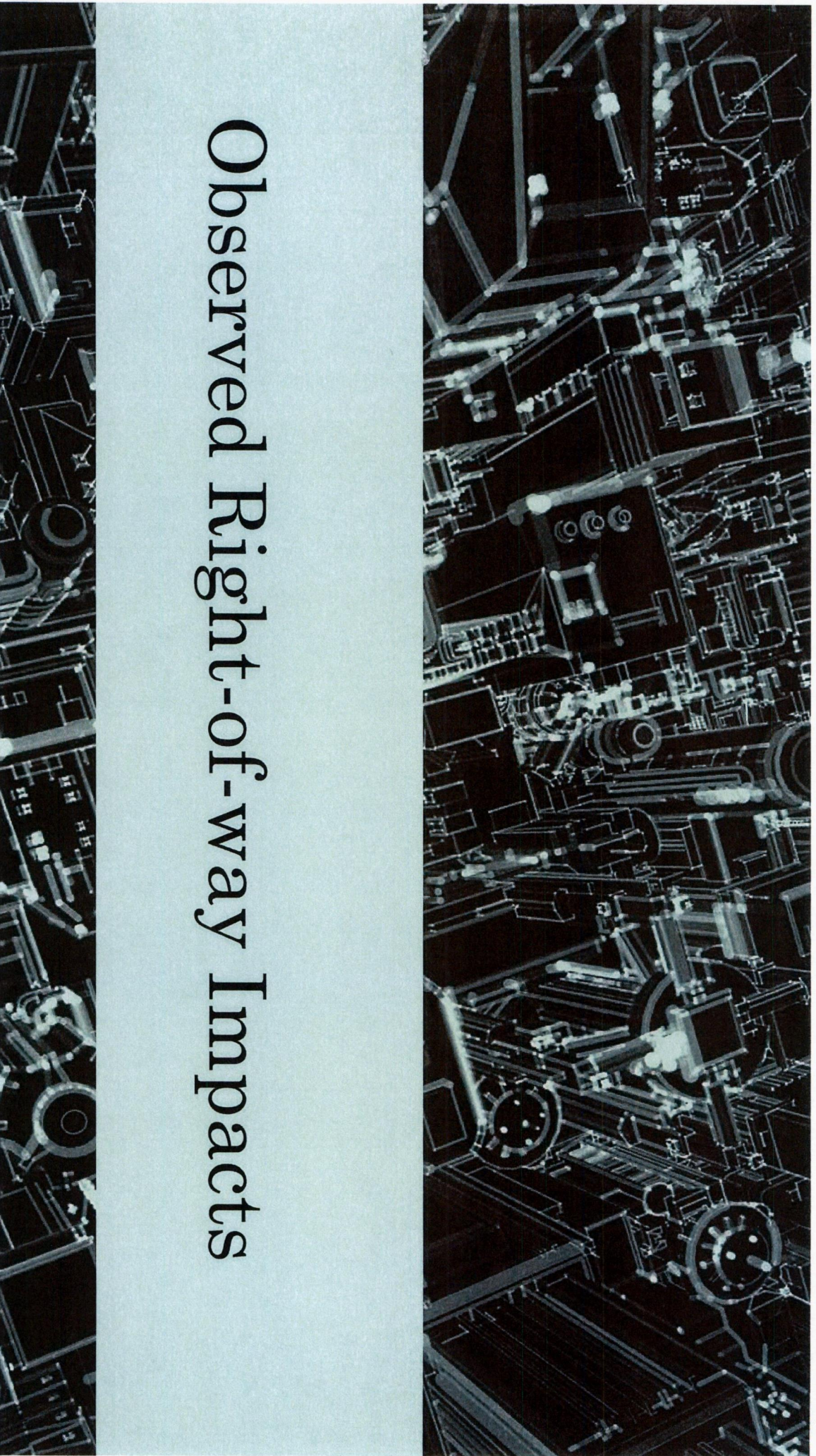


Utility Permitting Process

- City Ordinance 3659, “An Ordinance Setting Forth Requirements for a Right-of-way Cut in the City of Goshen, Indiana”
- Permit Fees are \$20.00 for first 100’ and \$15.00 for each additional 100’
- Utility Bond \$5,000
- Permits are good for 3 months
- Improper Work = Stop Work Order



Observed Right-of-way Impacts

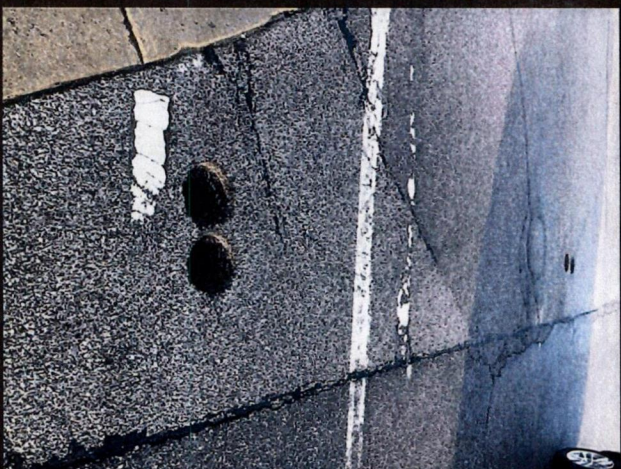


Photos of Typical R/W Issues

Utility company parked on bike path



Potholing – Unfilled pavement cores



Photos of Typical R/W Issues

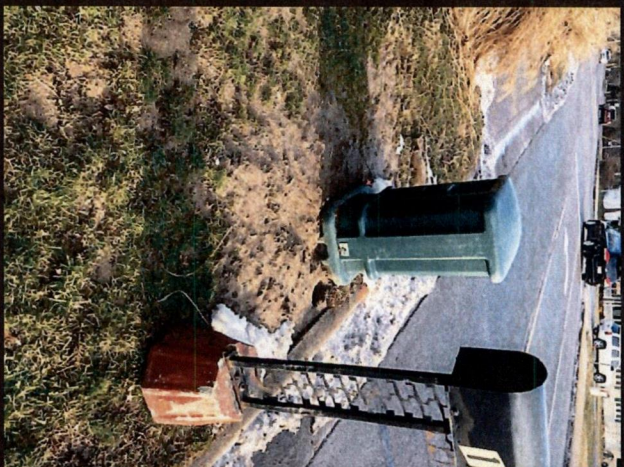
Greene Road

Typical Winter Restoration



Greene Road

Typical Winter Restoration



Photos of Typical R/W Issues

Greene Road

Fiber Box Beside Water Curb Stop



Woodlawn Drive

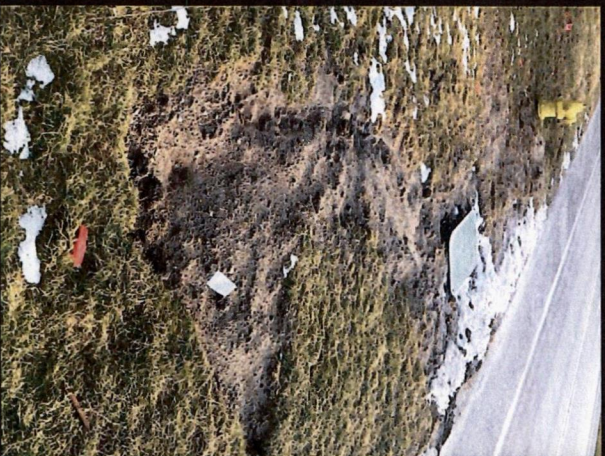
Typical Winter Restoration



Photos of Typical R/W Issues

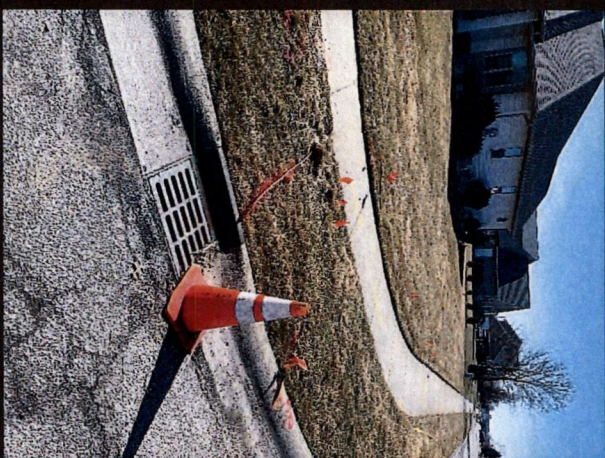
Woodlawn Drive

Typical Winter Restoration



Clover Trails

Utility Co. Ran a Temporary Line



Photos of Typical R/W Issues

Clover Trails

Drilling Fluid to Storm Sewer



Clover Trails

Drilling Fluid in Storm Sewer



Photos of Typical R/W Issues

Colonial Farms

Utility Hit – Road Sink Hole



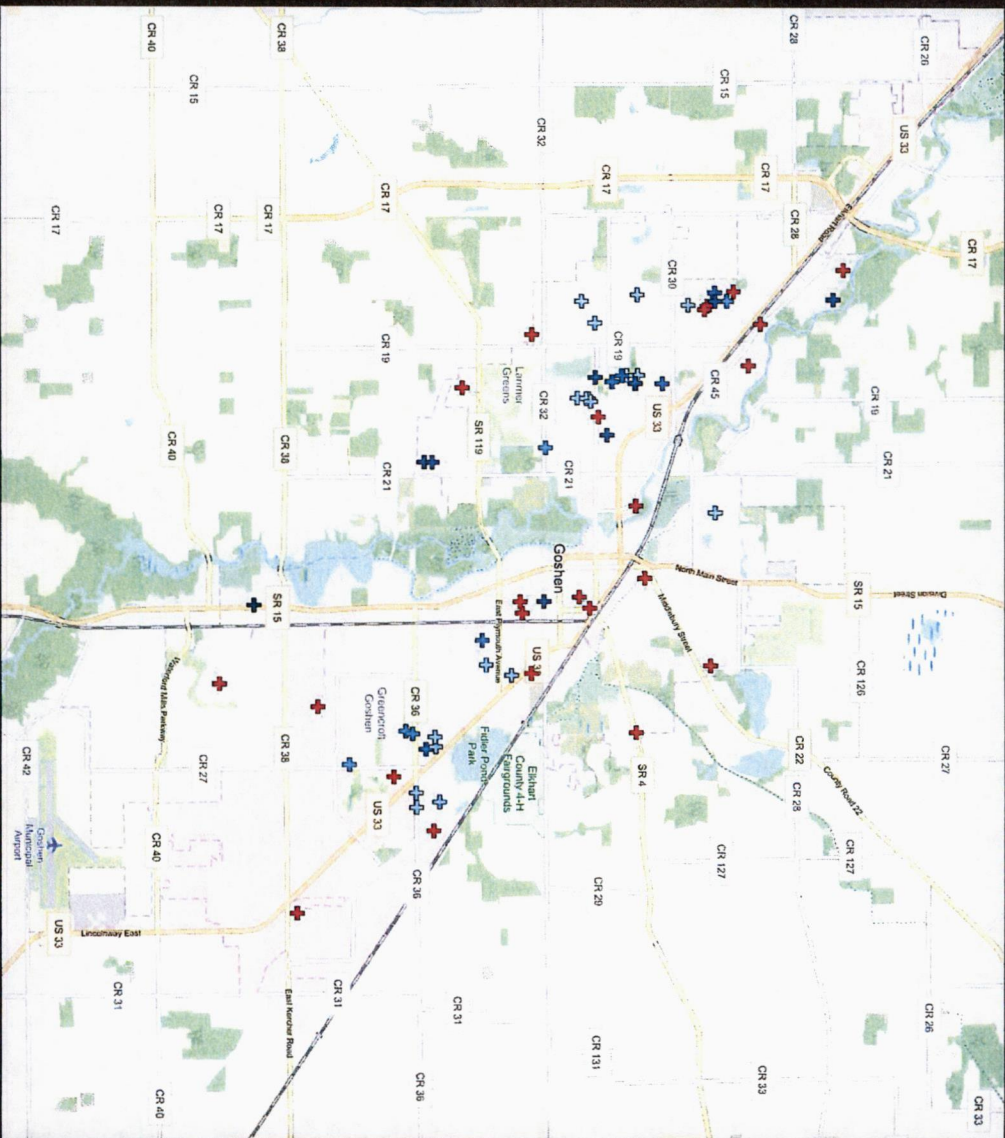
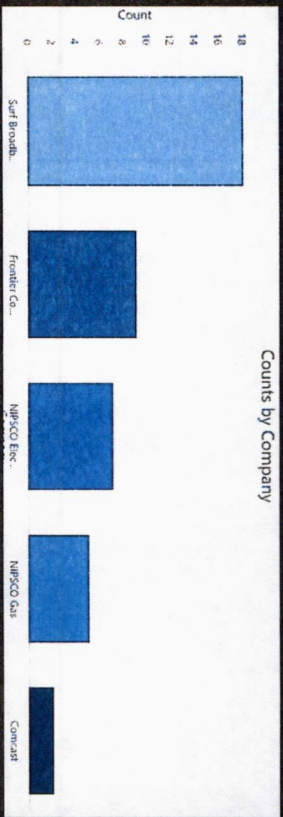
Colonial Farms

Fiber Through Storm Sewer



Known Utility Hits

64 Identified Utility Hits



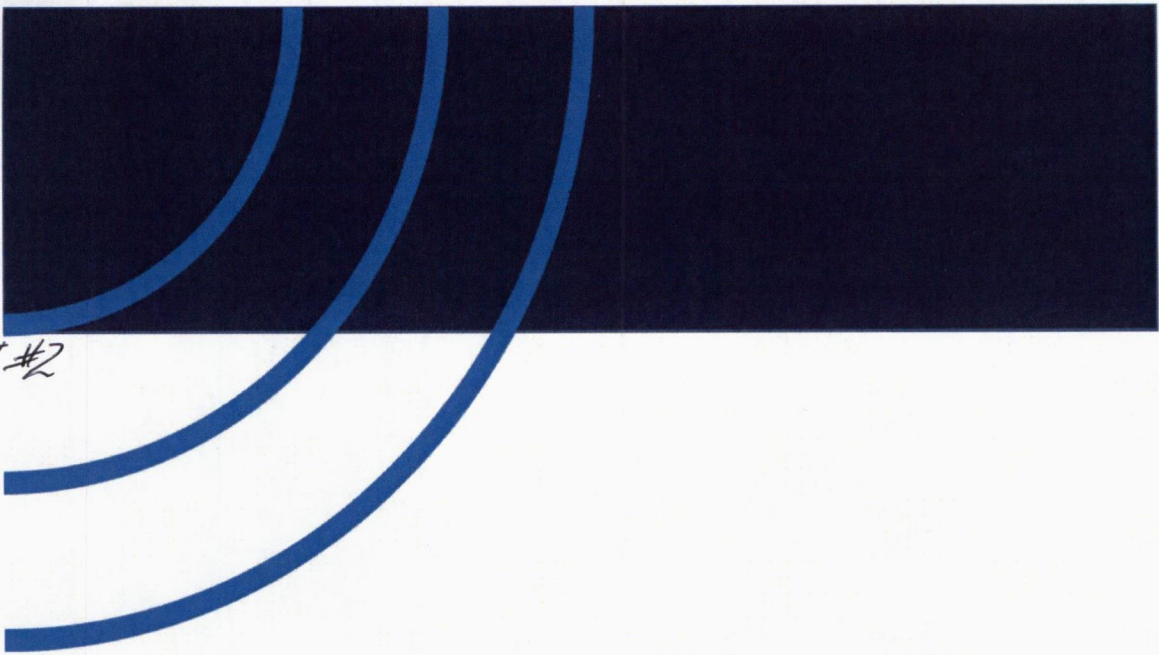
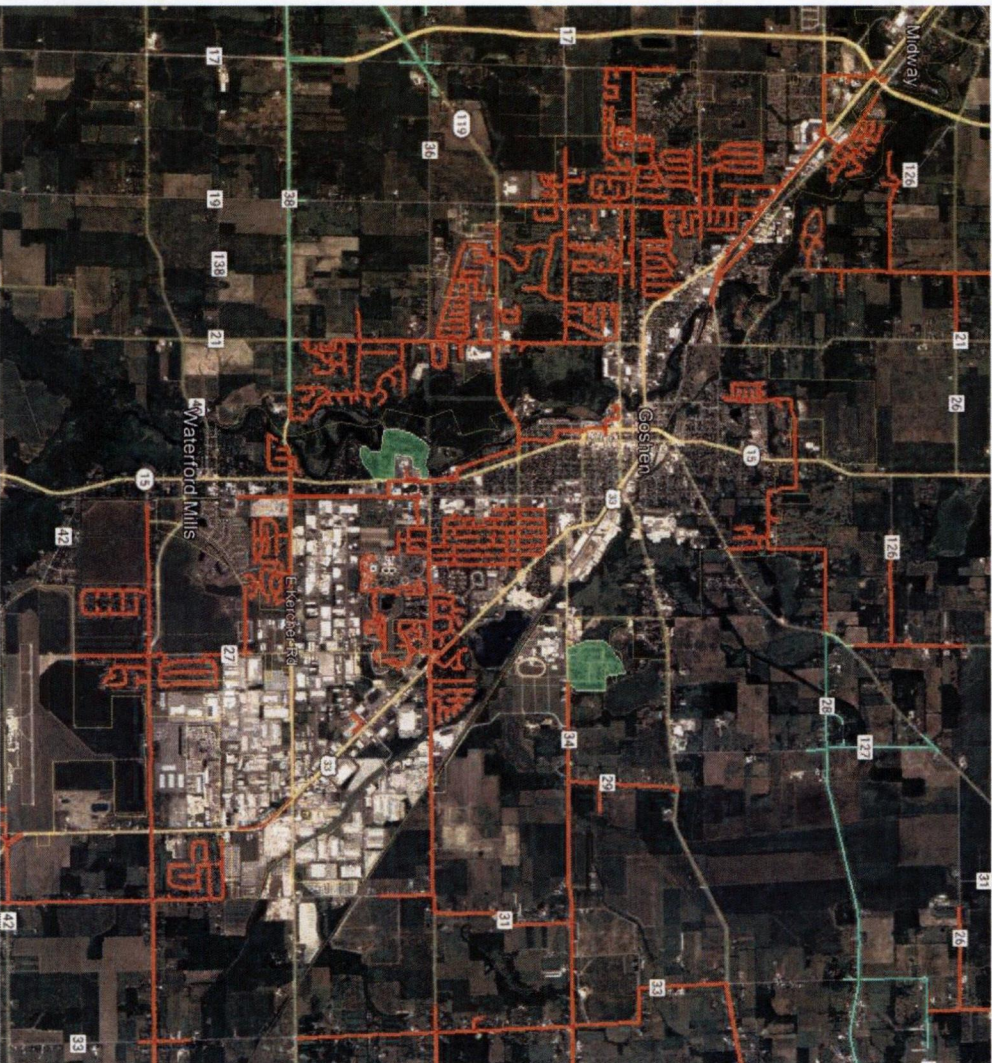


EXHIBIT #2

SURF Internet

Goshen City Council Meeting – Surf Build Updates
March 6th, 2023

Surf Internet Goshen Network and 2023 Expansion Areas



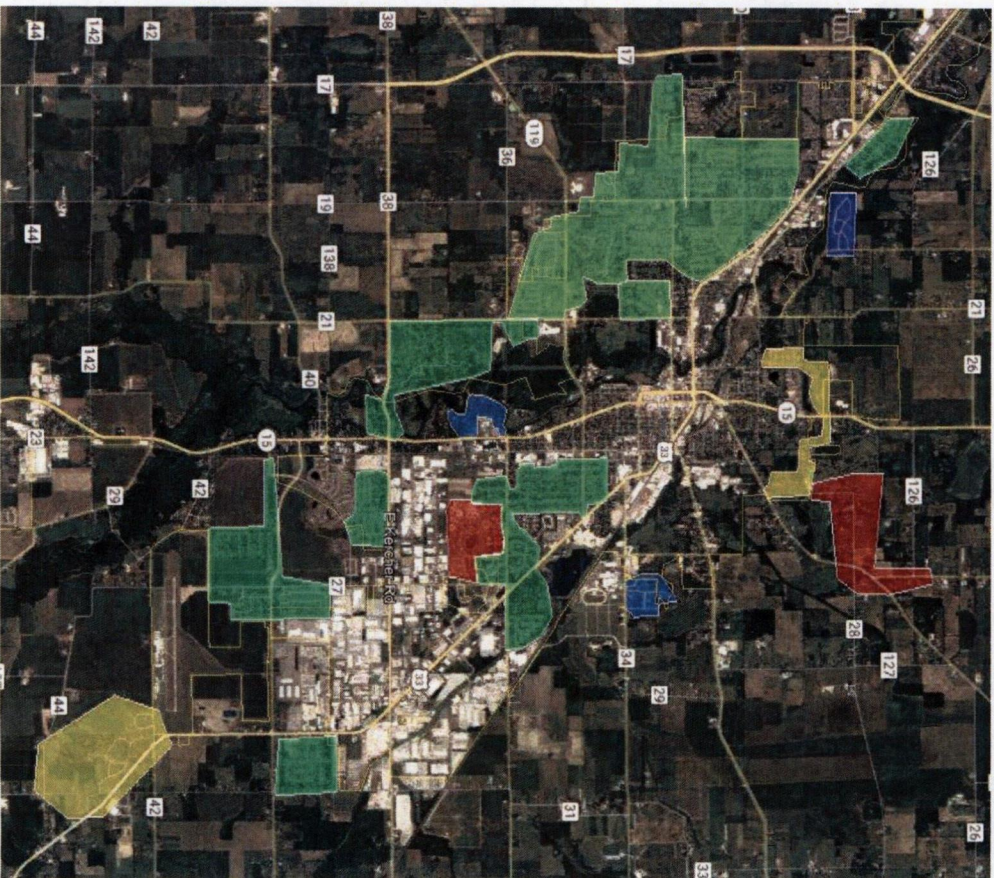
- **Orange lines and grids** represent Surf fiber that is in place today
- **Green areas** represent Surf's planned expansion areas in 2023
- **Green lines** represent the 250 mile Next Level Connection network to serve rural Elkhart County

Surf's network construction within the city of Goshen is essentially complete, unless there are specific areas of concern by the residents.

2020-2023 Surf Construction History in Goshen



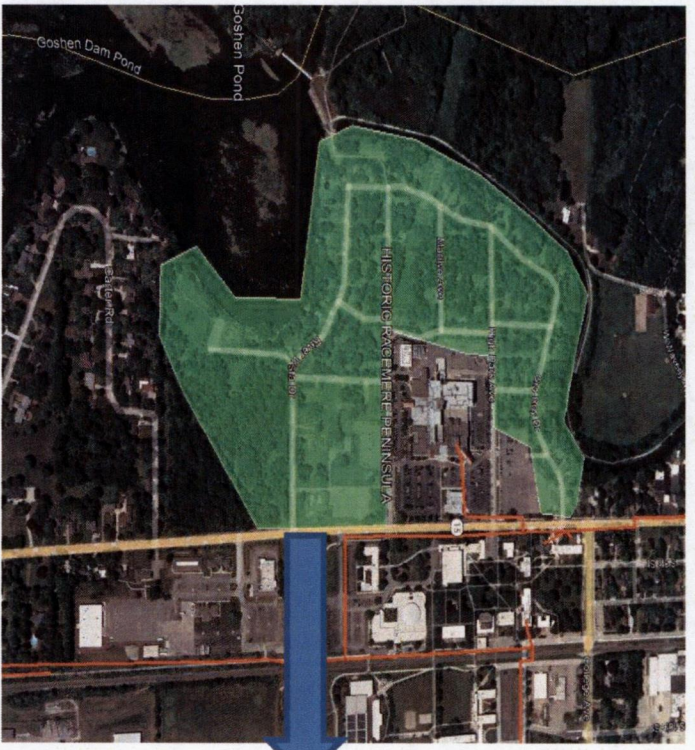
Yellow areas : 2020
Green areas: 2021
Red areas: 2022
Blue areas: 2023



Goshen 2023 Expansion Areas



Terrace Park



Historic Racemere Peninsula
aka *Graroy*

**Fiber service for Goshen College Cabin

2023-08-08 9:20:22
 Gina Chiles
 Surf Internet
 225 Woodland Dr
 Elkhart, IN 46516

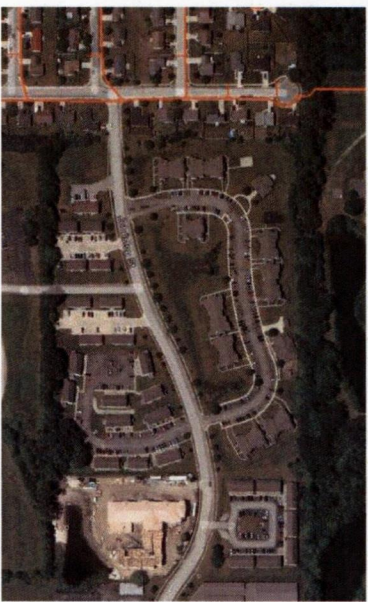
Dear Gina —
 The historic Racemere Peninsula is a geographically well defined area on the south side of Goshen. Residents of this neighborhood include a vibrant neighborhood of owner-occupied homes. In addition, the neighborhood on the east side of the Mill Race, Shields Dr 15 and the Mill Race Canal and Goshen Dam Pond has a jewel of a city park, the only public access to the Goshen Dam Pond, the dam itself, Stroud-Purpus Woods and the south end of the Mill Race Park, all used heavily by residents of Goshen.

Recently a lot of fiber is in the neighborhood spurring a conversation that residents would like to see a local business offering the service which has nearly 100 residences a single service and offer internet service to our neighborhood. As you continue to expand and grow, we are excited to support local and local Goshen Hospital and Goshen College, we hope that Surf Internet can offer the service to us.

Sincerely,
 Neill Kelly and Beth Lange 605 Elm Bay
 246 Elm Street 302 Ellettsville, IN
 Jeff and Kim's 1807 Maplewood Dr Ellettsville, IN
 Dale and Tracie 1710 Woodland Drive Ellettsville, IN
 Steve and Amy 1807 Maplewood Dr Ellettsville, IN
 Suzanne and Sunday 1805 Woodland Dr Ellettsville, IN
 Amy Child 1900 Maplewood Ellettsville, IN

John Swartzlander - Linda 1705 Maplewood Drive
 Andrew / Lisa New 101 Elm Bay Goshen
 Dan Anderson 611 Elm Bay Drive
 Michelle & Debra Miller 418 Westwood Rd
 Kelly & Eric 2109 Elm Bay Drive
 Allen W. Howard and Carl Miller 305 Elm Bay Drive
 Marcia Good 424 Marlow Ave

Surf's Partnership with La Casa



Arbor Ridge Apartments



5

The Hawks



409 E Madison

April 25, 2022

To whom it may concern:


Surf Broadband Solutions (surfbroadband.com) is in the business of transforming communities by providing Fiber Optic broadband internet access to communities in the Great Lakes Region. Surf believes that ready, affordable access to broadband internet is one of the greatest equalizers available today. That access can break down barriers to work, education or community giving the same opportunities to everyone regardless of their income, background or where they choose to live.


In order to support LaCasa's mission to provide affordable, connected housing in Elkhart County, Indiana, Surf Air Wireless, LLC dba Surf Broadband Solutions commits to provide 100 Mb symmetrical internet access to the tenants at LaCasa's development - 409 E Madison St. We will ask all tenants to fill out a guaranteed application for service, but beyond that, there will be no change to the tenant, nor to LaCasa for provision of the 100 Mb service.

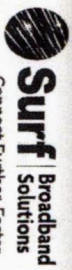
Further, it is our intent to furnish each unit with a whole home Wi-Fi unit so that the residents may be able to access the internet from anywhere within their home.

Surf is committed to offering 100 Mb symmetrical service at no cost to the residents for a period of 15 years.

We look forward to this partnership with LaCasa and providing opportunity to all residents of Elkhart County.


Gano Cruise
Chief Executive Officer
Surf Broadband Solutions


Chris Kingsley
Chief Executive Officer
LaCasa, Inc.



Connect Further, Faster.

Surf's Ongoing Commitment:

- Engage with local homeowners association(s) or neighborhood group(s) when possible
- Establish regular communication with residents via social media, neighborhood signage, postcards, pre-construction letters, email, texts, etc.
- Designate a construction manager for each project
- Designate a local contact specifically for homeowner/business issue resolution such as yard damage, dog fence, sprinkler systems and other disruptions
- Hold regular meetings with the city engineer department, and as needed, during the duration of the project

Aguirre, Richard

From: Gene Crusie <gene@surfinternet.com>
Sent: Monday, March 6, 2023 11:18 AM
To: Sailor, Dustin
Cc: Gene Crusie; pmccauley@surfbroadband.com; Stutsman, Jeremy; Aguirre, Richard; Corwin, Josh; Meade, Melissa; Hetler, Tara; Stegelmann, Bodie; Brinson, Mark
Subject: Re: Goshen Engineering - Invitation to Represent your Companies at the Goshen City Council on March 6, 2023
Attachments: Surf Internet Goshen City Council Presentation.pdf

Goshen team,

Attached is our presentation for tonight. If you wish to present this could you get it to the appropriate person?

We will bring printed copies for the city council.

See you tonight.

Gene

On Mon, Feb 13, 2023 at 6:01 AM Sailor, Dustin <dustinsailor@goshencity.com> wrote:

Dear Fiber Communication Providers:

See the attached invitation to participate in the Goshen City Council meeting on March 6, 2023. This correspondence is being sent to your companies on behalf of Mayor Jeremy Stutsman. If you are not the appropriate contact, please forward the message to the appropriate representative.

Regards,

Dustin K. Sailor, P.E.

Director of Public Works

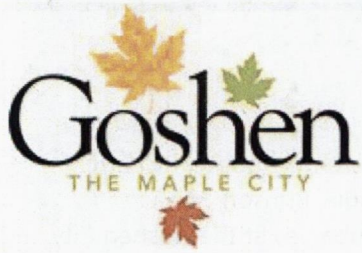
City of Goshen

204 E. Jefferson Street

Goshen, IN 46528

Ph: 574.534.2201

Cell: 574.202.0062



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Gene Crusie
CEO
Surf Broadband Solutions
3325 Middlebury St
Elkhart, IN 46516

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

RESOLUTION NO. 2023-06

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
GOSHEN APPROVING THE ORDER OF THE GOSHEN PLAN
COMMISSION FOR CREATION OF A NEW 9TH STREET
CORRIDOR ALLOCATION AREA

WHEREAS, the City of Goshen ("City") Redevelopment Commission ("Commission") has created, consolidated and enlarged the Consolidated River Race/US 33 Economic Development Area ("Area"), and an allocation area coterminous with the Area known as the Consolidated River Race/US 33 Allocation Area ("Original Allocation Area") in accordance with IC 36-7-14-39 for the purpose of capturing real property taxes generated from the incremental assessed value of real property located in the Original Allocation Area, and adopted an economic development plan, as amended (collectively, "Original Plan"), pursuant to Declaratory Resolution No. 02-2012 (as amended to date), as confirmed by Confirmatory Resolution No. 26-2012 (as amended to date), following statutory public hearings (collectively, "Area Resolution");

WHEREAS, on February 14, 2023 the Commission adopted a resolution amending the Area Resolution ("Amending Declaratory Resolution") and the Original Plan to: (i) remove Parcel No. 20-11-15-153-001.000-015 from the Original Allocation Area ("Parcel"); (ii) designate the Parcel as a new tax allocation area to be identified as the 9th Street Corridor Allocation Area as set forth on the map attached thereto as Exhibit A; and (iii) add the Projects defined therein to the Original Plan ("2023 Plan");

WHEREAS, the Goshen Plan Commission ("Plan Commission") adopted an order on February 21, 2023 finding that the Amending Declaratory Resolution and 2023 Plan conform to the plan of development for the City; and

WHEREAS, the Act requires approval of the action of the Plan Commission by the Common Council of the City prior to the Commission holding a public hearing on the amendments;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF GOSHEN, INDIANA, THAT:

Section 1. The action of the Plan Commission on February 21, 2023 is hereby in all respects approved by the Common Council.

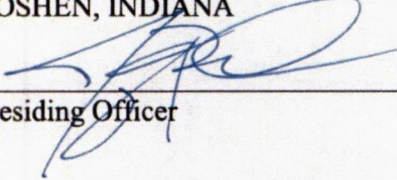
Section 2. The Amending Declaratory Resolution and 2023 Plan are hereby in all respects approved by the Common Council.

Section 3. The Clerk-Treasurer is hereby directed to file a copy of the Amending Declaratory Resolution, the 2023 Plan and the approving Order of the Plan Commission with the permanent minutes of this meeting.

Section 4. This resolution shall be effective from and after its passage.

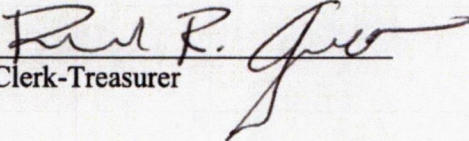
PASSED AND ADOPTED by the Common Council of the City of Goshen, Indiana, this 6th day of March, 2023.

COMMON COUNCIL OF THE CITY OF
GOSHEN, INDIANA



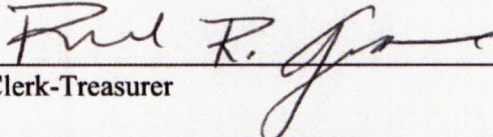
Presiding Officer

ATTEST:



Clerk-Treasurer

Presented by me to the Mayor of the City of Goshen, Indiana, on the 6th day of March, 2023, at 7:40.m.



Clerk-Treasurer

Signed and approved by me, the Mayor of the City of Goshen, Indiana, this 7th day of March, 2023, at 9:21 AM.



Mayor

ORDER OF THE GOSHEN PLAN COMMISSION
DETERMINING THAT AN AMENDING DECLARATORY RESOLUTION
AND ECONOMIC DEVELOPMENT PLAN APPROVED AND ADOPTED BY THE
GOSHEN REDEVELOPMENT COMMISSION CONFORM TO THE
COMPREHENSIVE PLAN AND APPROVING SAID
RESOLUTION AND ECONOMIC DEVELOPMENT PLAN

WHEREAS, the City of Goshen ("City") Redevelopment Commission ("Commission") has created, consolidated and enlarged the Consolidated River Race/US 33 Economic Development Area ("Area"), and designated two allocation areas within the Area, including the Consolidated River Race/US 33 Allocation Area ("Original Allocation Area") in accordance with IC 36-7-14-39 for the purpose of capturing real property taxes generated from the incremental assessed value of real property located in the Original Allocation Area ("Tax Increment"), and adopted an economic development plan, as amended (collectively, "Original Plan"), pursuant to Declaratory Resolution No. 02-2012 (as amended to date), as confirmed by Confirmatory Resolution No. 26-2012 (as amended to date), following statutory public hearings (collectively, "Area Resolution");

WHEREAS, on February 14, 2023 the Commission adopted a resolution amending the Area Resolution ("Amending Declaratory Resolution") and the Original Plan to: (i) remove Parcel No. 20-11-15-153-001.000-015 (commonly known and referred to as 620 East Douglas Street, Goshen, Indiana 46526) from the Original Allocation Area ("Parcel"); (ii) designate the Parcel as a new tax allocation area to be identified as the 9th Street Corridor Allocation Area as set forth on the map attached thereto as Exhibit A; and (iii) add the Projects defined therein to the Original Plan ("2023 Plan"); and

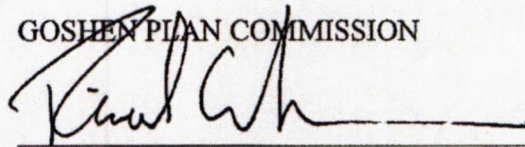
WHEREAS, the Act requires approval of the Amending Declaratory Resolution and the 2023 Plan by the Goshen Plan Commission ("Plan Commission");

NOW, THEREFORE, BE IT ORDERED BY THE GOSHEN PLAN COMMISSION, AS FOLLOWS:

1. The Amending Declaratory Resolution and 2023 Plan for the Area conform to the Comprehensive Plan of the City.
2. The Amending Declaratory Resolution and 2023 Plan are in all respects approved.
3. The Secretary of the Plan Commission is hereby directed to file a copy of the Amending Declaratory Resolution and 2023 Plan with the permanent minutes of this meeting.

Passed by the Goshen Plan Commission, this 21st day of February, 2023.

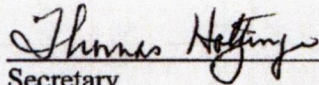
GOSHEN PLAN COMMISSION



President

Richard Worsham

ATTEST:



Secretary

Thomas Holtzinger

RESOLUTION NO. 03-2023

AMENDING DECLARATORY RESOLUTION OF THE
GOSHEN REDEVELOPMENT COMMISSION AMENDING
THE CONSOLIDATED RIVER RACE/US 33 ALLOCATION
AREA TO CREATE A NEW ALLOCATION AREA WITHIN
THE CONSOLIDATED RIVER RACE/US 33 ECONOMIC
DEVELOPMENT AREA AND AMENDING THE ECONOMIC
DEVELOPMENT PLAN

WHEREAS, the City of Goshen ("City") Redevelopment Commission ("Commission") has created, consolidated and enlarged the Consolidated River Race/US 33 Economic Development Area ("Area"), and designated two allocation areas within the Area, including the Consolidated River Race/US 33 Allocation Area ("Original Allocation Area") in accordance with IC 36-7-14-39 for the purpose of capturing real property taxes generated from the incremental assessed value of real property located in the Original Allocation Area ("Tax Increment"), and adopted an economic development plan, as amended (collectively, "Original Plan"), pursuant to Declaratory Resolution No. 02-2012 (as amended to date), as confirmed by Confirmatory Resolution No. 26-2012 (as amended to date), following statutory public hearings (collectively, "Area Resolution");

WHEREAS, there are no outstanding bond obligations payable from Tax Increment collected in the Original Allocation Area;

WHEREAS, the Commission now desires to amend the Area Resolution to: (i) remove Parcel No. 20-11-15-153-001.000-015 (commonly known and referred to as 620 East Douglas Street, Goshen, Indiana, 46526) from the Original Allocation Area ("Parcel"); (ii) designate the Parcel as a new tax allocation area to be identified as the 9th Street Corridor Allocation Area as set forth on the map attached hereto as Exhibit A; and (iii) add the hereinafter defined Projects to the Original Plan ("2023 Plan"); and

WHEREAS, IC 36-7-14-17.5 authorizes the Commission to amend the Area Resolution and Original Plan, after conducting a public hearing, if it finds that:

- (a) The amendments are reasonable and appropriate when considered in relation to the Area Resolution, the Original Plan and the purposes of IC 36-7-14; and
- (b) The Area Resolution and Original Plan, with the proposed amendments, conform to the comprehensive plan for the City;

NOW, THEREFORE, BE IT RESOLVED BY THE GOSHEN REDEVELOPMENT COMMISSION, THAT:

Section 1. The Area Resolution is hereby amended to: (i) remove the Parcel from the Original Allocation Area in order to create a new allocation area; (ii) designate the Parcel as a new tax allocation area to be designated the "9th Street Corridor Allocation Area," as shown on Exhibit A attached hereto; and (iii) add the Projects to the 2023 Plan.

Section 2. The Commission finds that the construction of the Projects as set forth on Exhibit B attached hereto to facilitate the development of approximately 138 multi-family housing units, together with all necessary appurtenances, related improvements and equipment, will further the Original Plan, as amended; that the Projects will be located in or physically connected to the Area and provide a substantial economic benefit to the Area, the 9th Street Corridor Allocation Area and the residents of the City by creating needed multi-family residential housing due to the current housing shortage in the Area and offering twenty (20%) percent of the housing units to first responders, health care workers and teachers (collectively, "Essential Workers"); therefore, it will be of public utility and benefit to amend the Area Resolution and the Original Plan to include the Projects. The Commission further finds that the public health and welfare will be benefited by the amendments to the Area Resolution, Original Plan and the implementation of the 2023 Plan through providing much needed housing to address the housing shortage and providing housing to Essential Workers.

Section 3. The Commission now finds and determines that the amendments described in Section 1 above are reasonable and appropriate when considered in relation to the Area Resolution, the Original Plan and the economic development purposes set forth in IC 36-7-14. The Commission finds that the creation of the 9th Street Allocation Area and the adoption of the 2023 Plan conform to the comprehensive plan for the City.

Section 4. The Original Allocation Area shall maintain its original base assessment date and the 9th Street Allocation Area shall have a base assessment date of January 1, 2023.

Section 5. The allocation provisions in effect when the Original Allocation Area was designated as a part of the Area shall continue to apply to the Original Allocation Area.

Section 6. This paragraph shall be considered the allocation provision for the 9th Street Corridor Allocation Area for purposes of IC 36-7-14-39. The Parcel shall constitute an allocation area as defined in IC 36-7-14-39, separate and apart from the Original Allocation Area designated the 9th Street Corridor Allocation Area. Any property taxes levied on or after the effective date of this resolution by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the 9th Street Corridor Allocation Area shall be allocated and distributed in accordance with IC 36-7-14-39 or any applicable successor provision. This allocation provision shall expire no later than 25 years after the date on which the first obligation is incurred to pay principal and interest on bonds or lease rentals on leases payable from tax increment in the 9th Street Corridor Allocation Area.

Section 7. The presiding officer of the Commission is hereby authorized and directed to submit this resolution to the Goshen Plan Commission ("Plan Commission") for its approval. The Commission further directs the presiding officer to submit this resolution and the approving order of the Plan Commission to the Common Council for its approval of the amendments to the Area Resolution and the Original Plan.

Section 8. The Commission also directs the presiding officer, after receipt of the written order of approval of the Plan Commission which has been approved by the Common Council, to publish notice of the adoption and substance of this resolution in accordance with IC 5-3-1-4 and to file notice with the Plan Commission, the Board of Zoning Appeals, the building

commissioner and any other departments or agencies of the City concerned with unit planning, zoning variances, land use or the issuance of building permits. The notice must state that maps and plats have been prepared and can be inspected at the office of the City's department of redevelopment and must establish a date when the Commission will receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the proposed Projects and the amendments to the Original Allocation Area, and will determine the public utility and benefit of the proposed amendments to the Original Area, Original Allocation Area and Original Plan. Copies of the notice must also be filed with the officer authorized to fix budgets, tax rates and tax levies under IC 6-1.1-17-8 for each taxing unit that is either wholly or partly located within the proposed 9th Street Corridor Allocation Area.

Section 9. The Commission also directs the presiding officer to prepare or cause to be prepared a statement disclosing the impact of the creation of the 9th Street Corridor Allocation Area, including the following:

(a) The estimated economic benefits and costs incurred by the 9th Street Corridor Allocation Area, as measured by increased employment and anticipated growth of real property, personal property and inventory assessed values; and

(b) The anticipated impact on taxes revenues of each taxing unit that is either wholly or partly located within the 9th Street Corridor Allocation Area.

A copy of this statement shall be filed with each such taxing unit with a copy of the notice required under Section 17 of the Act at least 10 days before the date of the hearing described in Section 8 of this resolution.

Section 10. The Commission hereby finds that the creation of the 9th Street Corridor Allocation Area will reasonably result in new property taxes that would not have been generated without this new allocation provision because the incentive needed for the construction of the Projects is essential to the development of multi-family residential housing to alleviate the housing shortage in the Original Area and the 9th Street Corridor Allocation Area, and growth of the Original Area and the 9th Street Corridor Allocation Area will result in new property taxes through the capture of increases in real property taxes to be generated by the proposed development.

Section 11. The Commission hereby finds that the initial estimated costs of the Projects to be partially funded by the Commission through the use of Tax Increment from the 9th Street Corridor Allocation Area are approximately \$6,250,000.

Section 12. The Commission hereby finds that all property in the 9th Street Corridor Allocation Area will positively benefit from the 2023 Plan.

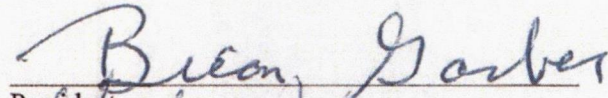
Section 13. The Commission further directs the presiding officer to submit this resolution to the Common Council for its approval of the amendments to the Area Resolution and Original Plan.

Section 14. In all other respects, the Area Resolution, the Original Plan and actions of the Commission consistent with this resolution are hereby ratified and confirmed.

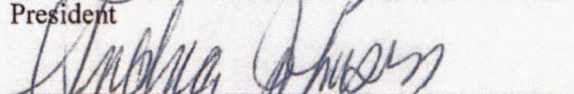
Section 15. This resolution shall be effective upon passage.

Adopted at a meeting of the Commission held February 14, 2023, in Goshen, Indiana.

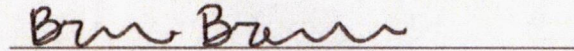
GOSHEN REDEVELOPMENT COMMISSION



President



Vice President



Secretary

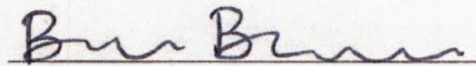


Member



Member

ATTEST:

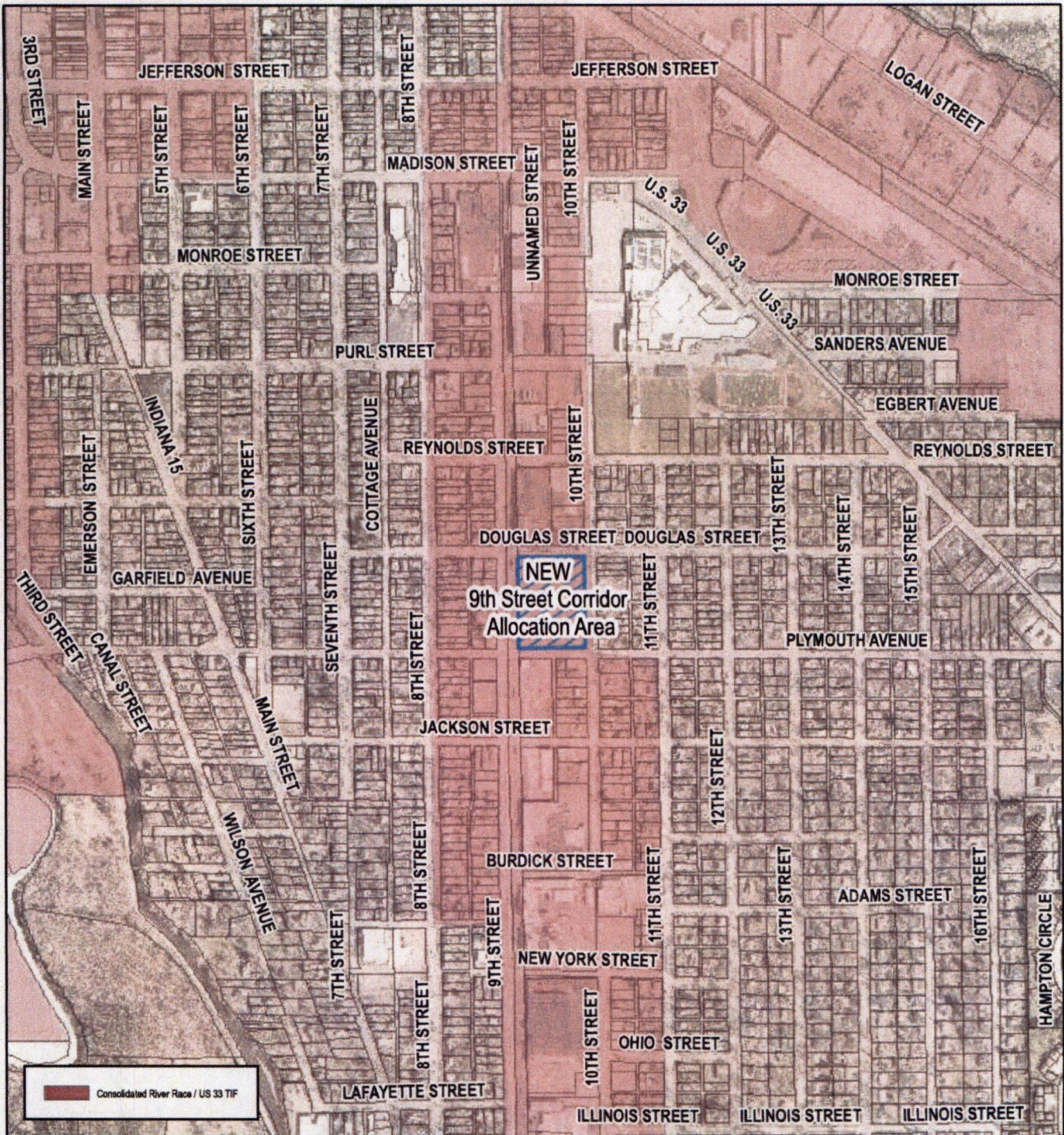


Secretary

EXHIBIT A

**Map of Consolidated River Race/US 33 Economic Development Area
And 9th Street Corridor Allocation Area**

(Attached)



The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.

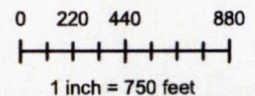


Exhibit A
Map of a portion of the Consolidated River Race/US 33 Economic Development Area
and Proposed 9th Street Corridor Allocation Area
February 2023

The City of Goshen
 Department of Public Works & Safety
 Office of Engineering
 204 East Jefferson Street, Goshen, Indiana 46528
 Phone: 574-534-2201 Fax: 574-533-8626

EXHIBIT B

The Projects consist of the following:

- Public Infrastructure; and
- Stormwater retention/detention facilities, including but not limited to in ground and underground facilities, permeable hard surfaces and landscaping to manage stormwater on site; and
- Demolition; and
- Environmental remediation; and
- Water main installation, including but not limited to connection to the existing public water main and service lines to the residential and commercial units within the Project;
- Sewer main installation, including but not limited to connection to the existing public sewer main and service lines to the residential and commercial units within the Project; and
- Sidewalk construction, including but not limited to construction of all sidewalks within the Project as approved and agreed to by the Developer; and
- Roadway improvements and construction, including but not limited to construction of all roadway improvements required by City departments and agreed to in writing by the Developer prior to such improvements being undertaken for the adjacent public roadways, including entrances into the Project, roadway and parking improvements within the Project and repair and restoration of roadways following any utility work required for the Project; and
- Construction of footers and building slabs associated with the Project; and
- Installation of all underground plumbing associated with the Project; and
- Installation of all underground water and sewer lines associated with the Project; and
- Installation of underground electrical services associated with the Project.