

**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD  
MINUTES OF THE AUGUST 7, 2023 REGULAR MEETING**

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

**Present:** Mayor Gina Leichty, Mike Landis and Mary Nichols

**Absent:** Barb Swartley

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

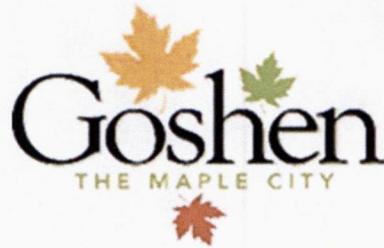
**REVIEW/APPROVE MINUTES:** Mayor Leichty presented the minutes of the July 31, 2023 Regular Meeting. Board Member Mary Nichols moved to accept the minutes as presented and the motion was seconded by Board Member Mike Landis. Motion passed 3-0.

**REVIEW/APPROVE AGENDA:** Mayor Leichty presented the meeting agenda with three additions as submitted by the Clerk-Treasurer's Office: 15) *Maple Indiana Cuisine request: Retroactive approval for placement of two dumpsters in parking spaces at 120 N. Main Street;* 16) *Community Development Department request: Approval of the agreement for the Completion of the Construction Project at 1585 Brinkley Way East (Brinkley RV);* 17) *Fire Department Request: Approve the Memorandum of Agreement between the Indiana Army National Guard Aviation Office and the City of Goshen for usage of City property for training on Aug. 16, 2023.* Board member Nichols moved to approve the agenda as amended. Board member Landis seconded the motion. Motion passed 3-0.

**1) Fire Department request: Approve the resignation of Sergeant Michael Masbaum, effective Aug.19, 2023**  
City Fire Chief Dan Sink said that after serving the Goshen Fire Department and Goshen community since June 16, 2015, Sergeant Michael Masbaum has submitted his resignation, effective Aug.19, 2023.  
Chief Sink said, "We have enjoyed working with Sergeant Masbaum during his time at GFD and appreciate his service to our community. Our GFD family would like to wish Michael and his family the very best in their new endeavors."  
Mayor Leichty thanked Sgt. Masbaum for his service.  
Nichols/Landis moved to approve the resignation of Sergeant Michael Masbaum of the Goshen Fire Department, effective Aug. 19, 2023. Motion passed 3-0.

**2) Fire Department request: Approve the promotion of Kyle R. Stamm to the rank of Sergeant for the Goshen Fire Department, effective Aug.19, 2023**  
City Fire Chief Dan Sink said Kyle R. Stamm has passed all of the required tests and standards required for promotion at the Goshen Fire Department.  
Chief Sink added, "It is my pleasure to request your approval for the promotion of Kyle to the rank of Fire Sergeant for the Goshen Fire Department, effective Aug. 19, 2023."  
Nichols/Landis moved to approve the promotion of Kyle R. Stamm to the rank of Fire Sergeant for the Goshen Fire Department, effective Aug. 19, 2023. Motion passed 3-0.  
*After the approval of his promotion, Mayor Leichty swore Kyle R. Stamm into office as a Fire Sergeant.*

**3) Fire Department request: Approve the promotion of Bryant Lehman to the rank of Sergeant for the Goshen Fire Department, effective Aug. 20, 2023**



**City Fire Chief Dan Sink** said **Bryant Lehman** has passed all of the required tests and standards required for promotion at the Goshen Fire Department.

**Chief Sink** added, "It is my pleasure to request your approval for the promotion of Bryant to the rank of Fire Sergeant for the Goshen Fire Department, effective Aug. 20, 2023."

**Nichols/Landis** moved to approve the promotion of **Bryant Lehman** to the rank of **Fire Sergeant** for the Goshen Fire Department, effective Aug. 20, 2023. Motion passed 3-0.

*After the approval of his promotion, Mayor Leichthy swore Bryant Lehman into office as a Fire Sergeant.*

**4) Fire/Legal Departments request: Approve conditional offer of employment to Colin D. Loe as a probationary firefighter**

On behalf of the Fire Department, **Shannon Marks**, the **Legal Compliance Administrator for the City Legal Department**, recommended that the Board extend a conditional offer of employment to Colin D. Loe as well as approve a Conditional Offer of Employment Agreement and authorize the Mayor to execute the agreement.

In a memorandum to the Board, **Marks** wrote that the agreement sets forth the conditions that Loe must meet prior to beginning employment with the Fire Department as a probationary firefighter, which includes being approved by the board of trustees of the Indiana Public Retirement System for membership to the 1977 Police Officers' and Firefighters' Pension and Disability Fund

**Marks** wrote that Loe possesses a Firefighter I/II certification and Basic EMT certification. Once employed, he will be required to successfully complete a paramedic training program, obtain an Indiana paramedic license, and serve as an active paramedic with the Department a minimum of three years. The Fire Department will ask the Board to confirm the offer of employment when a position opening becomes available in the Department.

**Nichols/Landis** moved to extend a conditional offer of employment to **Colin D. Loe** as a probationary firefighter, approve the Conditional Offer of Employment Agreement with Loe, and authorize the Mayor to execute the agreement. Motion passed 3-0.

**5) Community Foundation of Elkhart County request: Reservation of 10 parking spots in the 200 block of South Main Street the evening of Aug. 22, 2023 for use by elderly and mobility-challenged people attending "An Evening with Friends" at the Goshen Theater**

**Rebekah Houff**, the **Special Events Manager for the Community Foundation of Elkhart County**, asked the Board to reserve 10 parking spots in the 200 block of South Main Street for the evening of Aug. 22, 2023.

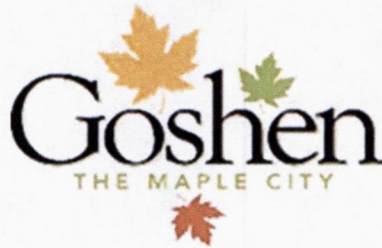
The Community Foundation will be hosting an exclusive event for Elkhart County's donors and grant makers, "An Evening with Friends," at the Goshen Theater. In a written request, Foundation staff included a photo indicating the parking spaces it wanted to reserve for elderly guests with mobility challenges.

In response to a recommendation from City staff, **Houff** said the Foundation was modifying its original request and asked to reserve six spaces to the north of the handicap parking spaces in front of the Goshen Theater and four spaces to the south of the theater. In response to a question from **Board member Landis**, Houff clarified that the 10 parking spots were separate from the handicap spaces.

**Mayor Leichthy** wished **Houff** and the Foundation a successful event.

**Nichols/Landis** moved to approve the reservation of 10 parking spaces in the 200 block of South Main Street in front of the Goshen Theater, on Aug. 22, 2023, from 6 p.m. to 9 p.m. Motion passed 3-0.

**6) Shanklin Millrace Neighborhood Association request: Approve closure of South 2<sup>nd</sup> Street, between West Monroe Street and West Purl Street, on Aug. 26 for an ice cream social**



**Melanie Helmuth** asked the Board to approve the closure of South 2<sup>nd</sup> Street, between West Monroe Street and West Purl Street, parallel to River Race, from 2 p.m. to 6 p.m. on Saturday, Aug. 26 for an ice cream social by the Shanklin Millrace Neighborhood Association.

**Helmuth** said no driveways or homes will be affected by this closure. She also requested barricades for each end of the street.

In response to a question from **Mayor Leichty**, **Helmuth** said she would get in touch with the Street Department and request the use of the street barricades.

**Nichols/Landis** moved to approve the closure of South 2<sup>nd</sup> Street, between West Monroe Street and West Purl Street, from 2 p.m. to 6 p.m. on Saturday, Aug. 26. Motion passed 3-0.

**7) Planning & Zoning Department request: Approve and authorize Mayor Leichty to sign the amended Homeownership Assistance Agreement for the Community Development Block Grant with Lacasa for Program Year 2022**

**Theresa Cummings, City Community Development Specialist**, told the Board that the Program Year 2022 Homeownership Assistance Agreement for the Community Development Block Grant has been amended and needed approval by the Board.

In a memorandum to the Board, **Cummings** wrote that the section being amended was as follows: "2. Scope of Services – (e) Claims will be limited to the sum of \$60,000.00 for the homeownership assistance project. The maximum CDBG contribution per household/property shall generally not exceed \$15,000. The Sub-Recipient will be reimbursed by the City after closing for the direct homeownership assistance funding only."

**Cummings** wrote that when the homeownership assistance program was first developed last year, the City budgeted \$40,000 of assistance with the goal of helping four homebuyers. Since the launch of the program, the market has changed and interest rates have doubled, making it even more financially difficult for a low/moderate income qualified buyer to be able to afford a home.

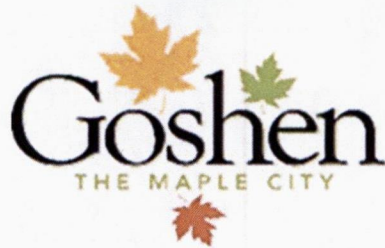
**Cummings** wrote that the City requested to increase the budget from \$40,000 to \$60,000 in order to help offset the cost of higher interest rates and mortgage prices by offering up to \$15,000 of assistance per household if warranted. This change will not give Lacasa additional CDBG funds. The City will transfer unallocated 2022 funds from the owner occupied rehab activity into the homeownership assistance program. Attached to the agenda packet was a copy of the amended agreement with the specified changes

**Nichols/Landis** moved to approve and authorize **Mayor Leichty** to sign the amended Homeownership Assistance Agreement with Lacasa for Program Year 2022. Motion passed 3-0.

**8) Legal Department request: Approve Resolution 2023-23, Authorizing the Transfer of Regent Street Real Estate, and authorize the Mayor to execute the warranty deed transferring the subject real estate to the Goshen Redevelopment Commission**

**Shannon Marks, the Legal Compliance Administrator for the City Legal Department**, told the Board that attached to the agenda packet for the Board's approval and execution was Resolution 2023-23 to transfer title to and control of 26 acres of real estate to the Goshen Redevelopment Commission. Marks said that before the meeting she submitted to the Board a revision of Resolution 2023-23, which included an aerial photograph of the real estate (**EXHIBIT #1**) The real estate transfer furthers the ongoing development of the Cherry Creek housing project; part of the property transferred will be sold to Cherry Creek (with an additional land swap returned to the City) in furtherance of the Cherry Creek development.

**Nichols/Landis** moved to approve the Resolution as presented and authorize the **Mayor** to execute the Warranty Deed transferring the subject real estate to the Goshen Redevelopment Commission. Motion passed 3-0.



**9) Legal Department request: Adopt Resolution 2023-24, Acquisition of Real Estate at 1723 Reliance Road, and authorize the Mayor to execute the Agreement**

**Shannon Marks, the Legal Compliance Administrator for the City Legal Department**, told the Board that the City is planning to make roadway improvements at the intersection of Reliance Road and Peddler's Village Road and needs to acquire certain real estate for this project.

**Marks** said the Board's adoption of Resolution 2023-24 would approve the terms and conditions of an Agreement with Samuel S. Perri and Sue A. Perri for the City's acquisition of real estate at 1723 Reliance Road, and would authorize the Mayor to execute the Agreement and any other documents on behalf of the Board and the City of Goshen for the purpose.

**Nichols/Landis moved to adopt Resolution 2023-24, Acquisition of Real Estate at 1723 Reliance Road. The motion passed 3-0.**

**10) Legal Department request: Approve and execute the agreement with OJS Building Services, Inc., for the replacement of a spacepak unit located in the Annex Building, in the Engineering Department, for \$6,600**

**Brandy Toms, a paralegal with the City Legal Department**, told the Board that attached to the meeting packet for the Board's approval and execution was an agreement with OJS Building Services, Inc. for the replacement of a spacepak unit located in the Annex Building, in the Engineering Department. OJS Building Services, Inc., will be paid \$6,600 this service.

Under the terms of the agreement, OJS Building Services, Inc. will provide the City the following work, which shall include the provision of all labor, supplies, materials, tools, equipment, supervision, insurance and all other items necessary to replace the complete spacepak in the Engineering Department. These duties include:

- (A) Remove old unit and leave with City for a parts unit.
- (B) Install a new Spacepak 45ESP3642KJ4MB indoor unit.
- (C) Rework condensate, electrical and ductwork as needed to change out the unit.
- (D) Include new line dry.
- (E) Leak test system.
- (F) Recharge and adjust the refrigerant system.
- (G) Install new Honeywell T6 thermostat.
- (H) Start up and test system.
- (I) Remove any waste and clean work area.

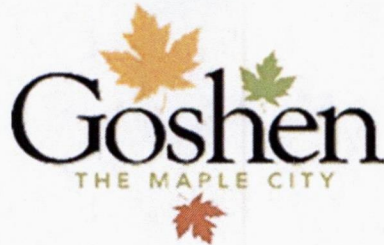
If this system does not operate at the static pressure mandated by the manufacturer, the alterations made to the duct system will be an additional cost not included in the estimated price, according to the agreement.

**Nichols/Landis moved to approve and execute the agreement with OJS Building Services, Inc., for the replacement of a spacepak unit located in the Annex Building, in the Engineering Department, at a cost of \$6,600. Motion passed 3-0.**

**11) Legal Department request: Approve and authorize the Mayor to execute the agreement with Community Fiber Network (CFN) for the rebuild and replacement of equipment with the SCADA Network System at a cost of \$24, 672.71 to perform all services**

**Brandy Toms, a paralegal with the City Legal Department**, recommended that the Board approve and authorize Mayor Leichy to execute an agreement with Community Fiber Network (CFN) for the rebuild and replacement of equipment with the SCADA Network System at a cost of \$24, 672.71 to perform all services.

Under the terms of the agreement, Community Fiber Network will provide City with the following services, which shall include the provision of all labor, supplies, materials, tools, equipment, supervision, insurance and all other items necessary to rebuild and replace equipment with the SCADA Network System:



(A) Contractor will replace City's Allan Bradley Din Rail Network devices in a one for one fashion. Some of the Adtran Switches will be replaced with Trendnet units to ensure all network equipment regarding the SCADA system is on one vendor's platform.

(B) The new equipment does support newer loop technology, ERPS. This would be available to the local ring at the Wastewater location and the larger city-wide SCADA network.

(C) Contractor will install new fiber leads from each termination point to the City's cabinet where the network devices described above will be installed. These fibers will eliminate current copper facilities with intent of minimizing failure points within the SCADA network that exist today.

(D) The labor does include the gathering of the Allan Bradley and Adtran configurations, programming of the new Trendnet units, the replacement of the units by CFN technicians and the running of the fiber drops.

**Nichols/Landis moved to approve and authorize the Mayor Leichty to execute the attached agreement with Community Fiber Network (CFN) for the rebuild and replacement of equipment with the SCADA Network System at a cost of \$24, 672.71 to perform all service. Motion passed 3-0.**

**12) Engineering Department request: Approve the closure of the Lincoln Avenue bridge on Aug. 12 or Aug. 19 for Elkhart County to perform bridge maintenance**

**City Director of Public Works & Utilities Dustin Sailor** told the Board that Elkhart County is requesting the closure of the Lincoln Avenue Bridge #408, Lincoln Avenue by Roger's Park on Saturday, Aug. 12 to perform deck sealing. If it rains on August 12, Sailor said the County would perform the work on Saturday, Aug. 19.

**Sailor** added that the Board considered this request before, but the County believes these dates will work.

**Nichols/Landis moved to approve the closure of the Lincoln Avenue bridge on Aug. 12 or Aug. 19 (rain date) for Elkhart County to perform bridge maintenance. Motion passed 3-0.**

**13) Engineering Department request: Approve the closure of College Avenue near Horn Ditch Bridge, from Aug. 14 until Oct. 16, 2023**

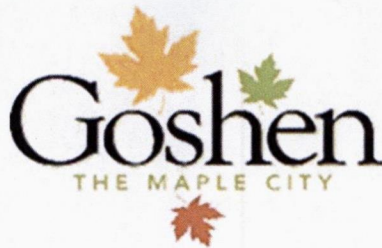
**City Director of Public Works & Utilities Dustin Sailor** told the Board that he was back before the Board to request the closure of College Avenue. He said College Avenue was reopened for the Elkhart County Fair, but Niblock Excavating has requested permission to close College Avenue, on either side of Horn Ditch bridge (Bridge No. 410). The road will be closed from Monday, Aug. 14 until Monday, Oct. 16.

In a memorandum to the Board, **Sailor** wrote that Niblock Excavating is requesting this closure to finish planned utility relocations in preparation for the Elkhart County replacement of Bridge No. 410. The traffic control plan was attached to the agenda packet. All appropriate traffic control devices will be utilized.

**Rhonda Gibson of Goshen, representing the Springbrooke Homeowners Association**, said the last time College Avenue was closed there was no adequate signage on U.S. 33 and many truck drivers made U-turns in their neighborhood. Gibson said she was hoping there could be extra signage this time.

**Sailor** said additional signage was put up along U.S. 33 and will be used again, but there is a limit to what the City can do. He said trucks need to use College Avenue to reach a manufacturing plant and once they make the turn on College Avenue, there is not much they can do to reverse course. Sailor asked Gibson to notify him if truck traffic becomes a problem again. He also said that he would consider placing additional signage if necessary.

**Nichols/Landis moved to approve the closure of College Avenue near Horn Ditch Bridge, from Aug. 14 until Oct. 16, 2023. Motion passed 3-0.**



**14) Engineering Department request: Authorize Mayor Leichty to sign an agreement with Roberts Environmental for a time and material fee not to exceed \$4,000 to evaluate the lagoon's current condition and begin communication with IDEM**

**City Director of Public Works & Utilities Dustin Sailor** told the Board that the City Wastewater Department would like to engage Roberts Environmental to work through the closure requirements necessary to fill-in the wastewater treatment plant's former bio-solids handling lagoon.

In a memorandum to the Board, **Sailor** wrote that Phase 1 of Roberts' services will entail survey work, review of existing documents, and outreach to the Indiana Department of Environmental Management (IDEM). Additional work phases are anticipated with Robert Environmental once the scope of work is confirmed with IDEM, and agreement amendments will be brought back before the Board.

Under the terms of the agreement, Roberts Environmental Services, LLC will provide the City with general consulting services reviewing initial documents from the previous lagoon closure activities and respond to IDEM comments regarding lagoon closure activities completed to date at the former wastewater lagoon located at 1000 West Wilden Ave. The consultant's duties under the agreement include:

A. Initial site meeting;

B. Review previous documents pertaining to past closure activities found online in IDEM's Virtual File Cabinet (VFC) and documents provided by City and/or their contractor(s);

C. Obtain general elevations of lagoon bottom and sU1Tounding grade;

D. Prepare an email response to IDEM of proposed additional sampling activities for their approval/comment;

**Nichols/Landis moved to authorize Mayor Leichty to sign an agreement with Roberts Environmental for a time and material fee not to exceed \$4,000 to evaluate the lagoon's current condition and begin communication with IDEM. Motion passed 3-0.**

**15) Maple Indian Cuisine request: Retroactive approval for placement of two dumpsters in parking spaces at 120 N. Main Street**

**Rosie Morales Singh, the owner of Maple Indian Cuisine,** asked the Board for retroactive approval to place two dumpsters in parking spaces in front of 120 N. Main Street, a building that is being remodeled. She said the contractor forgot to request permission for the dumpsters to be placed in the public right-of-way. She said the dumpsters would be removed Aug. 8 and she asked for forgiveness and permission.

**Nichols/Landis moved to retroactively approve the placement of two dumpsters in parking spaces at 120 N. Main Street. Motion passed 3-0.**

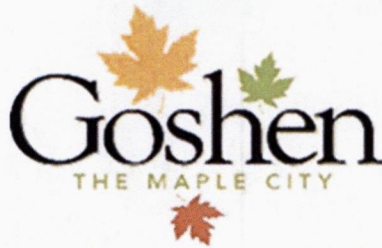
**Clerk- Treasurer Aguirre** said that City staff had raised an issue related to the placement of the dumpsters and asked if anyone wanted to comment.

**City Street Commissioner David Gibbs** said he asked for this matter to come before the Board of Works, and especially dumpsters on Main Street, to make certain there is no damage to the pavement when dumpsters are placed. Gibbs said there are some marks in the pavement from these dumpsters being set. He said he believes it will be OK, but will evaluate the pavement after the dumpsters are removed.

**16) Community Development Department request: Approval of the agreement for the Completion of the Construction Project at 1585 Brinkley Way East (Brinkley RV)**

**City Redevelopment Director Becky Hutsell** told the Board that Brinkley RV has completed construction of its new facility at 1585 Brinkley Way East and is requesting permission to occupy the building prior to the completion of the permanent stabilization and landscape planting. All other construction items have been completed.

Before the meeting, the **Clerk-Treasurer** presented the Board with a copy of Hutsell's memorandum and six-page proposed Agreement for the Completion of the Construction Project at 1585 Brinkley Way East (**EXHIBIT #2**).



**Hutsell** said the City's contractors have completed a majority of the sidewalk installation adjacent to their property line and Brinkley is having the irrigation system installed this week. She said the contractors were planning to complete soil stabilization and topsoil placement and seeding next week and install landscaping in early October once weather is more suitable. Hutsell asked the Board to approve the Agreement for the Completion of the Construction Project at 1585 Brinkley Way East.

**Mayor Leichty** said she understood that there was general City staff approval for this request. **Hutsell** said there was. She noted that she met with the Engineering, Planning and Zoning, Stormwater, Legal and Building departments, and all were in agreement with this request.

**Nichols/Landis** moved to approve the Agreement for the Completion of the Construction Project at 1585 Brinkley Way East. Motion passed 3-0.

**17) Fire Department request: Approve the Memorandum of Agreement between the Indiana Army National Guard Aviation Office and the City of Goshen for usage of City property for training, Aug. 16-17, 2023**

On behalf of City staff, **City Attorney Bodie Stegelmann** asked the Board to approve the City entering into an agreement with the Indiana Army National Guard State Army Aviation Office to allow the Indiana Army National Guard Helicopter Aquatic Rescue Team (HART) to perform training exercises at the City's Fidler Pond Park. He said the training will be on Aug. 16 or Aug. 17, 2023, from approximately 8 a.m. through 5 p.m., and would include Goshen Fire Department personnel.

**City Attorney Stegelmann** provided Board members with a memorandum about this request. The **Clerk-Treasurer** provided the Board with the proposed Memorandum of Agreement between the Indiana Army National Guard State Army Aviation Office and the City of Goshen (**EXHIBIT #3**).

**Mayor Leichty** confirmed that a press release has been prepared to circulate to the public about this event.

**Nichols/Landis** moved to approve the Private Property Utilization Agreement with the Indiana Army National Guard State Army Aviation Office, for the Indiana Army National Guard Helicopter Aquatic Rescue Team (HART) to conduct training exercises at the City's Fidler Pond Park on Aug. 16 and Aug. 17, 2023, during the approximate hours of 8 a.m. through 5 p.m., and authorize Mayor Leichty to sign on behalf of the Board of Works & Safety. Motion passed 3-0.

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

**Mayor Leichty** opened Privilege of the Floor at 2:31 p.m. There was no comments from the public.

At 2:31 p.m., Mayor Leichty temporarily closed the Board of Works & Safety meeting and convened the City of Goshen Stormwater Board to consider one Stormwater agenda item.

## **CITY OF GOSHEN STORMWATER BOARD MINUTES OF THE AUGUST 7, 2023 REGULAR MEETING**

**Convened at 2:31 p.m. in the Goshen Police & Court Building, 111 East Jefferson Street, Goshen, Indiana**

**Members Present:** Mayor Leichty, Mike Landis and Mary Nichols

**Members Absent:** none



**18) Stormwater Department: Accept the post-construction stormwater management plan for North Meadow Third Apartments as it has been found to meet the requirements of City Ordinance 4329**

**City Stormwater Coordinator Jason Kauffman** told the Board that the developer of the North Meadow Third Apartments (aka Delgado Apartments), affecting one (1) or more acres of land as part of a larger common plan of development and located at 420 Johnston St., has submitted a sufficient post-construction plan that is compliant with Ordinance 4329, "Uniform Requirements for Post-Construction Stormwater Management."

The Stormwater Department requested the Stormwater Board's acceptance of the plan.

**Nichols/Landis moved to accept the post-construction stormwater management plan for North Meadow Third Apartments as it has been found to meet the requirements of City Ordinance 4329. Motion passed 3-0.**

**Mayor Leichty adjourned the City of Goshen Stormwater Board and reconvened the Board of Works & Public Safety meeting at 2:32 p.m.**

#### **Approval of Civil City and Utility Claims**

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

#### **Adjournment**

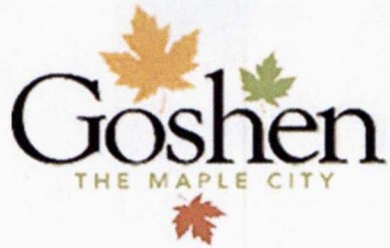
**Mayor Leichty adjourned the Board of Works meeting at 2:32 p.m.**

**EXHIBIT #1: A revision of Resolution 2023-23, which included an aerial photograph of the real estate. The revision was distributed to Board members before the meeting in support of agenda item #8, Legal Department request: Approve Resolution 2023-23, Authorizing the Transfer of Regent Street Real Estate, and authorize the Mayor to execute the warranty deed transferring the subject real estate to the Goshen Redevelopment Commission.**

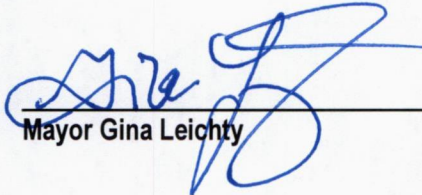
**EXHIBIT #2: One-page memorandum and six-page proposed Agreement for the Completion of the Construction Project at 1585 Brinkley Way East, dated Aug. 7, 2023 and prepared by City Redevelopment Director Becky Hutsell. These documents were distributed to Board members before the Aug. 7 meeting in support of new agenda item #16) Community Development Department request: Approval of the agreement for the Completion of the Construction Project at 1585 Brinkley Way East (Brinkley RV).**

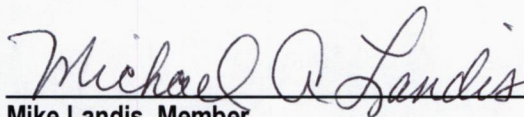
**EXHIBIT #3: A one-page memorandum, dated Aug.7, 2023, prepared by City Attorney Bodie Stegelmann about the proposed Memorandum of Agreement with the Indiana Army National Guard State Army Aviation Office and the City of Goshen and the one-page proposed agreement. Both documents were distributed to the Board before the meeting in support of agenda #17) Fire Department request: Approve the Memorandum of Agreement between the Indiana Army National Guard Aviation Office and the City of Goshen for usage of City property for training, Aug. 16-17, 2023.**



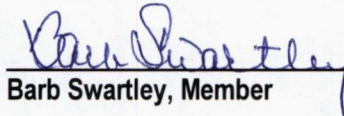


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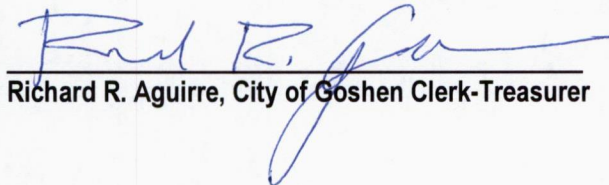
  
\_\_\_\_\_  
Mayor Gina Leichty

  
\_\_\_\_\_  
Mike Landis, Member

\_\_\_\_\_  
Mary Nichols, Member

  
\_\_\_\_\_  
Barb Swartley, Member

ATTEST:

  
\_\_\_\_\_  
Richard R. Aguirre, City of Goshen Clerk-Treasurer

*Exhibit #1*

**RESOLUTION 2023-23**

**Authorizing the Transfer of Regent Street Real Estate**

WHEREAS the City of Goshen, Indiana acquired title to the real estate generally located east and south of Regent Street, north of Waterford Mills Parkway, and west of Dierdorff Road by Corrective Warranty Deed dated January 29, 2001 and recorded December 28, 2001 as Instrument Number 2001-42758, by Warranty Deed December 17, 2001 and recorded December 28, 2001 as Instrument Number 2001-42758, and by Warranty Deed dated December 22, 2000 and recorded December 28, 2000 as Instrument Number 2000-34929, from Waterford Development Corp.;

WHEREAS, the Goshen Board of Public Works and Safety desires to transfer said Regent Street Real Estate as depicted in Exhibit A and control thereof to the Goshen Redevelopment Commission to be held and disposed of under Indiana Code § 36-7-14-22.

NOW, THEREFORE, BE IT RESOLVED that the Goshen Board of Public Works and Safety authorizes the transfer of and control of the Regent Street Real Estate as depicted in Exhibit A to the Goshen Redevelopment Commission.

PASSED and ADOPTED on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Gina M. Leichty, Mayor

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

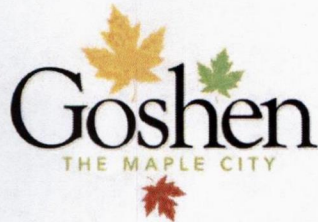
\_\_\_\_\_  
Mary Nichols, Member

\_\_\_\_\_  
Barb Swartley, Member

Exhibit A

Regent Street Real Estate





Department of Community Development  
CITY OF GOSHEN

204 East Jefferson Street, Suite 2 • Goshen, IN 46528-3405

Phone (574) 537-3824 • Fax (574) 533-8626 • TDD (574) 534-3185  
communitydevelopment@goshencity.com • www.goshenindiana.org

## Memorandum

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TO: Board of Public Works & Safety

FROM: Becky Hutsell, Redevelopment Director

RE: Request for Approval of an Agreement for the Completion of the Construction Project for 1585 Brinkley Way East

DATE: August 7, 2023

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Brinkley RV has completed construction of their new facility at 1585 Brinkley Way East and is requesting permission to occupy the building prior to the completion of the permanent stabilization and landscape planting. All other construction items have been completed. The City's contractors have completed a majority of the sidewalk installation adjacent to their property line and Brinkley is having their irrigation system installed this week. Their contractors will complete topsoil placement and seeding next week. They plan to install their landscaping in early October once weather is more suitable.

**Requested Motion: Requesting approval of the Agreement for the Completion of the Construction Project at 1585 Brinkley Way East**

**AGREEMENT FOR THE COMPLETION  
OF THE CONSTRUCTION PROJECT**

THIS AGREEMENT is entered into on \_\_\_\_\_, 2023, between the City of Goshen, Indiana, by and through the Goshen Board of Public Works and Safety, hereinafter referred to as "Goshen," and

Property Owner: Last Dance, LLC  
1655 Brinkley Way East  
Goshen, IN 46528

Company: Brinkley RV  
1655 Brinkley Way East  
Goshen, IN 46528

hereinafter referred to individually or collectively, if applicable, as "Permittee."

Permittee obtained a building permit for the construction of a building on the real estate at

Site: 1585 Brinkley Way East, Goshen, Indiana, hereinafter referred to as "Site."

The construction project is substantially complete except for:

- certain exterior work that cannot be completed due to weather conditions.
- the installation of certain parts or equipment which are not currently available.

In consideration of the terms, conditions and mutual covenants contained in this agreement, the parties agree as follows:

1. **WORK.** Permittee agrees to complete the following remaining item(s) of work, hereinafter referred to as "Work," as soon as conditions permit, but no later than October 31, 2023, unless an earlier date is specified below:
  - Permanently stabilize the Site which shall include grading, adding topsoil where needed, seeding and mulching of the grounds. This shall specifically include stabilization of approximately 30,742 square feet of disturbed area with seed and a temporary stabilization measure such as anchored mulch, hydromulch, or erosion control blankets. In addition, all adjacent and/or affected inlets shall be kept covered until the Site has been completely and permanently stabilized. Stabilization shall occur no later than August 25, 2023 for the area between Brinkley Way East and the employee parking area.
  - Plant all required landscaping at the Site according to the plan submitted to the Goshen Planning and Zoning Department. This shall include planting all required trees for Lot #1, Building 3, as detailed on the approved Landscape Plan dated 12-22-2022 (revised 04-20-2023) and attached as Exhibit A.
2. **SURETY.** Permittee is required to provide Goshen a surety to guarantee the timely and proper completion of the Work if the cost of the Work is estimated by Goshen to be at least Two Thousand Dollars (\$2,000), or if the Work includes the installation of a driveway, parking lot, sidewalk, curbing or other hard surface improvement, regardless of cost.

Permittee agrees to provide Goshen a surety in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

to guarantee the timely and proper completion of the Work under the terms of this agreement. The surety may be in the form of a surety bond, letter of credit, or cash bond, including a cashier's check or corporate check (which City Clerk-Treasurer will cash). The surety is to guarantee the timely and proper completion of the obligations under this agreement and is not intended for the benefit of any third party, including Permittee's contractors or subcontractors. Upon satisfactory completion of the Work, Goshen will release the surety. If the surety is in the form of cash or a check, the Permittee must have a current W-9 on file with the City Clerk-Treasurer so a check may be issued to refund the surety.

Permittee is not required to provide Goshen a surety to guarantee the timely and proper completion of the Work. *\*City is already holding a 5% contingency for the overall public infrastructure project from the bond proceeds purchased by the Developer, totaling \$1,220,211.00, which would be available to fund the work if not completed by Brinkley.*

3. **CERTIFICATE OF OCCUPANCY.** Except for the Work yet to be completed as set forth in Section 1 above, once the construction project complies with all applicable City ordinances and requirements, Goshen will issue a Certificate of Occupancy for the Site on the condition that Permittee complies with the terms of this agreement. **It is Permittee's obligation to contact the Goshen Building Department to obtain the Certificate of Occupancy prior to occupying the building.**
4. **INDEMINIFICATION.** Brinkley RV and Last Dance, LLC shall indemnify and hold harmless the City of Goshen and City's agents, officers, and employees from and against any and all liability, obligations, claims, actions, causes of action, judgments, liens, damages, penalties or injuries arising out of Brinkley RV and/or Last Dance, LLC's occupation of the subject real property and improvements. Such indemnity shall include reasonable attorney's fees and all reasonable litigation costs and other expenses incurred by City.
5. **FORCE MAJEURE.** If Permittee's performance under this agreement is prevented because of an occurrence that is beyond the control of the Permittee which could not have been avoided by exercising reasonable diligence, Permittee's time for performance will be extended. Such extension shall be for no longer than necessary given the nature of the occurrence which causes the delay. Examples of such occurrences are tornadoes, floods, or more than a typical number of days where rainfall prohibits the performance required of the Permittee.

If Permittee is delayed, Permittee shall immediately notify Goshen in writing describing the nature of the event delaying performance. Permittee shall make every effort to resume performance as soon as possible.

6. **DEFAULT.** It is mutually agreed that if Permittee fails to perform or comply with the terms of this agreement, Goshen may declare the agreement to be in default without notice to Permittee.

Upon declaration of default, Goshen may take such action as is necessary to complete Permittee's obligations although Goshen is not obligated to do so. If Surety is provided under this agreement, Goshen may use the Surety to pay for the completion of any of Permittee's obligations. Goshen may seek any other remedy available at law or equity in addition to or instead of any remedy provided for in this agreement.

Goshen shall have the right to correct any defect in the Work, and Goshen shall have the right to stabilize the Site in accordance with the Goshen City Construction Site Stormwater Runoff Control Ordinance. The Surety, if required, and/or Permittee shall pay all of Goshen's costs and expenses incurred in taking such actions including, but not limited to engineering, legal and other costs, together with any damages either direct or consequential which Goshen may sustain on account of Permittee's failure to fulfill Permittee's obligations under this agreement.

7. **SUBCONTRACTING OR ASSIGNMENT OF CONTRACT.** Permittee shall not subcontract or assign any right or interest under the agreement without having prior written approval from the Goshen Board of Public Works and Safety, provided, however, that Permittee shall be permitted to independently engage any contractors, subcontractors, or laborers to perform the Work, and such engagement shall not be considered to be an impermissible subcontracting or assignment by Permittee of any right or interest under this agreement. Except as provided herein, any attempt by Permittee to subcontract or assign any portion of the agreement shall not be construed to relieve Permittee from any responsibility to fulfill Permittee's obligations.
8. **AMENDMENTS.** Any modification or amendment to the terms and conditions of the agreement shall not be binding unless made in writing and signed by both parties and such modification is approved by the Goshen Board of Public Works and Safety. Any verbal representations or modifications concerning the agreement shall be of no force and effect.
9. **WAIVER OF RIGHTS.** No right conferred on either party under this agreement shall be deemed waived and no breach of this agreement excused unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.
10. **NOTICES.** All written notices, properly addressed and sent by U.S. mail or delivered personally to the address provided below shall constitute sufficient notice whenever written notice is required for any purpose in this agreement. Notice will be considered given five (5) days after the notice is deposited in the U.S. mail or when received at the appropriate address.

Address for Goshen: City of Goshen, Indiana  
Attention: Goshen Legal Department  
204 East Jefferson Street, Suite 2  
Goshen, IN 46528

Property Owner: Last Dance, LLC  
1655 Brinkley Way East  
Goshen, IN 46528

Company: Brinkley RV, LLC  
Attn: Ryan Thwaites, Managing Partner  
1655 Brinkley Way East  
Goshen, IN 46528

11. **APPLICABLE LAWS.** Permittee agrees to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances.

In the event of a conflict between this agreement and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.

This agreement shall be construed in accordance with and governed by the laws of the State of Indiana, and suit, if any, must be brought in a court of competent jurisdiction in Elkhart County, Indiana.

12. **ATTORNEY FEES.** In the event legal action is brought to enforce or interpret the terms and conditions of this agreement, the non-prevailing party will pay all costs and expenses expended or incurred by the prevailing party, including reasonable attorneys' fees.
13. **SEVERABILITY.** In the event that any provision of the agreement is found to be invalid or unenforceable, then such provision shall be reformed in accordance with applicable law. The invalidity or unenforceability of any provision of the agreement shall not affect the validity or enforceability of any other provision of the agreement.
14. **BINDING EFFECT.** All provisions, covenants, terms and conditions of the agreement apply to bind the parties and their legal heirs, representatives, successors and assigns.
15. **ENTIRE AGREEMENT.** This agreement constitutes the entire agreement between the parties and supersedes all other agreements or understandings between Goshen and Permittee.
16. **AUTHORITY TO EXECUTE.** Each person executing this agreement represents that he or she is duly authorized and has legal authority to execute and deliver this agreement on behalf of the respective party, and upon execution and delivery of this agreement, bind the respective party to the terms and conditions of the agreement.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates as set forth below.

**Permittee:**

Property Owner:

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_

Title (if any): \_\_\_\_\_

Date: \_\_\_\_\_

Company:

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_

Title (if any): \_\_\_\_\_

Date: \_\_\_\_\_

**Goshen:**

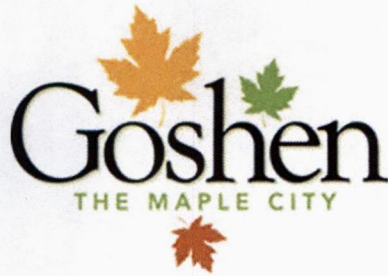
\_\_\_\_\_  
Gina Leichty, Mayor

Date: \_\_\_\_\_





EXHIBIT #3



**CITY OF GOSHEN LEGAL DEPARTMENT**

City Annex  
204 East Jefferson Street, Suite 2  
Goshen, Indiana 46528-3405

Phone (574) 537-3820 • Fax (574) 537-3817 • TDD (574) 534-3185  
[www.goshenindiana.org](http://www.goshenindiana.org)

To: The Board of Public Works & Safety  
From: Bodie J. Stegelmann  
Date: August 07, 2023  
Subject: Agreement with Indiana Army National Guard State Army Aviation Office for Joint Training at City's Fidler Pond

City staff requests that the City enter into an agreement with the Indiana Army National Guard State Army Aviation Office to allow the Indiana Army National Guard Helicopter Aquatic Rescue Team (HART) to perform training exercises at the City's Fidler Pond Park. The training will be on August 16, 2023, and August 17, 2023, during the approximate hours of 8:00 am through 5:00 pm, and would include Goshen Fire Department personnel.

**Suggested Motion:** To approve the Private Property Utilization Agreement with the Indiana Army National Guard State Army Aviation Office, for the Indiana Army National Guard Helicopter Aquatic Rescue Team (HART) to conduct training exercises at the City's Fidler Pond Park, on August 16, 2023, and August 17, 2023, during the approximate hours of 8:00 am through 5:00 pm, and authorize Mayor Leichty to sign on behalf of the Board of Public Works & Safety.

MEMORANDUM OF AGREEMENT  
BETWEEN  
INDIANA ARMY NATIONAL GUARD STATE ARMY AVIATION OFFICE  
AND

City of Goshen, Indiana

(Name of Property Owner)

SUBJECT: Private Property Utilization Agreement

1. The property owner, listed above, authorizes Indiana Army National Guard aircraft usage of mentioned property for the use of conducting military helicopter landings. The **Indiana Army National Guard State Army Aviation Office** and Property Owner agree to usage of the property on 16 AUG 23, 17 AUG 23 (insert specific date or dates of usage). Usage of property will not be for indefinite periods, will be without charge and each party agrees to be responsible for its own negligent acts or omissions.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(LTC Scott A. Oden / SAO)

\_\_\_\_\_  
(Printed Name of Property Owner)

317-247-3300 ext. 85477  
(Telephone Number with Area Code)

\_\_\_\_\_  
(Telephone Number with Area Code)

State Army Aviation Office  
(Organization)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

Enclosure  
Property Diagram