



**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD  
MINUTES OF THE OCTOBER 16, 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, Orv Myers 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 Oct. 9, 2023 Regular Meeting prepared by Clerk-Treasurer Aguirre. Board Member Mary Nichols moved to accept the minutes as presented and the motion was seconded by Board Member Orv Myers. Motion passed 4-0.

**REVIEW/APPROVE AGENDA:** Mayor Leichty presented the meeting agenda as submitted by the Clerk-Treasurer. Board member Nichols moved to approve the agenda as presented. Board member Myers seconded the motion. Motion passed 4-0.

**1) Opening of sealed bids: Reliance & Peddlers Village Road Improvements project**

On behalf of the City Engineering Department, the Board of Public Works & Safety was asked to open all sealed bids submitted by contractors to the City for the **Reliance & Peddler's Village Road Improvements project**.

This project includes, but is not limited to reconstruction of Reliance Road and Peddler's Village Road, including a new roundabout at the intersection, curbs, sidewalks, stormwater drainage improvements, relocation of water and sewer utilities, and other related work as required by the detailed plans and specifications included in the specification and contract documents.

***All bids were due to be submitted to the Clerk-Treasurer's Office by 1:45 p.m. on Oct. 16, 2023.***

Mayor Leichty announced that offers from four companies were received:

- C & E Excavating, Inc. of Elkhart, Indiana, a base bid of \$4,867,150.00.
- Milestone Contractors North, Inc. of South Bend, Indiana, a base bid of \$5,627,000.00.
- Niblock Excavating, Inc. of Bristol, Indiana, a base bid of \$4,159,355.90.
- Rieth-Riley Construction Co., Inc. of South Bend, Indiana, a base bid of \$6,678,883.74.

Nichols/Myers moved that the bids be referred to the City Engineering Department for further review. Motion passed 4-0.

**2) Opening of proposals: Regent Square Court Redevelopment Property**

On behalf of the City Redevelopment Commission, the Board of Public Works & Safety was asked to open requests for proposals (RFPs) to purchase real property for the **Regent Square Court Redevelopment Property**.

The real property to be purchased consists of undeveloped real estate located east and south of Regent Street, north of Waterford Mills Parkway, and west of Dierdorff Road consisting of part of Parcel Nos. 20-11-27-426-027.000-015 and 20-11-27-326-003.000-015, consisting of approximately 7.15 acres in Goshen, Indiana.

The subject real estate will be utilized to incorporate its existing trailway to the construction and development of the Cherry Creek Trailway located within the Cherry Creek Development.





The existing trailway will be relocated to connect to the Cherry Creek Trail. In addition, a new public trailway will be designed and constructed to connect the relocated existing trail and the Cherry Creek Trail to the Maple City Greenway adjacent to Bethany Christian School on the west side of the Norfolk Southern Railroad.

The first deadline for full-priced offers was Sept. 12, 2023, but no proposals were received. The second deadline for any other offers was Oct. 16, 2023, by 1:30 p.m., with bids to be opened at the Board of Works meeting,

**Mayor Leichty announced an offer from one company was received: Cherry Creek, LLC of Goshen, Indiana, a preliminary cost estimate of \$407, 217.**

**Nichols/Myers moved that the bids be referred to the City Redevelopment Commission for further consideration. Motion passed 4-0.**

**3) Police Department request: Approve the promotion of Austin M. Everage #187 to the rank of Captain**

**City Police Chief José Miller** asked the Board to approve the promotion of **Austin M. Everage** from the rank of Lieutenant to the rank of Captain assigned to the midnight shift.

**Chief Miller** said Everage has been an officer at the Goshen Police Department for over six years and serves as a Lieutenant assigned to day shift. Chief Miller said Everage has moved up through the ranks of the department quickly and has demonstrated great leadership skills. Chief Miller asked that the promotion be effective Friday, Oct. 20, 2023.

**Nichols/Myers** moved to approve the promotion of **Austin M. Everage** from the rank of Lieutenant to the rank of Captain assigned to the Police Department's midnight shift, effective Oct. 20, 2023. Motion passed 4-0.

**Mayor Leichty then swore Austin M. Everage into office as a Captain for the Goshen Police Department.**

**4) Police Department request: Approve the promotion of Nicolas M. Kauffman #174 to the rank of Captain**  
**City Police Chief José Miller** asked the Board to approve the promotion of **Nicolas M. Kauffman** from the rank of Sergeant to the rank of Captain.

**Chief Miller** said Kauffman, who will be assigned to the afternoon shift, has been a Goshen Police Department officer for over eight years and currently serves as an appointed Lieutenant in the Proactive Investigation Team. Prior to this appointment to the team, he was a Sergeant assigned to midnight shift. Chief Miller said Kauffman has demonstrated repeatedly that he will be a great asset to the department. Chief Miller asked that the promotion be effective Friday, Oct. 20, 2023.

**Nichols/Myers** moved to approve the promotion of **Nicholas M. Kauffman** from the rank of Sergeant to the rank of Captain for the Police Department's afternoon shift, effective Oct. 20, 2023. Motion passed 4-0.

**Mayor Leichty then swore Nicholas M. Kauffman into office as a Captain for the Goshen Police Department.**

**5) Police Department request: Approve the hiring of Nicholas R. Perry as a probationary patrol officer**  
**City Police Chief José Miller** asked the Board to approve the hiring of **Nicholas R. Perry** for the position of probationary patrol officer, effective Oct. 16, 2023.

**Chief Miller** said Perry has passed all exams and has been approved by both the local and State pension boards. Chief Miller added, "We are thrilled to have Nick as a new police officer serving our community."

**Nichols/Myers** moved to approve the hiring of **Nicholas R. Perry** for the position of probationary patrol officer, effective Oct. 16, 2023. Motion passed 4-0.

**Mayor Leichty then swore Nicholas R. Perry into office as a Probationary Patrol Officer for the Goshen Police Department.**





**6) Dale Klassen/Bev Lapp request: Approve credit on water bills at 417 Gra-Roy for \$217.90**

**Dale Klassen** asked the Board to approve two months of flat sewer charges at 417 Gra-Roy Drive to be credited on future water bills or that charges of \$217.90 for the months of July and August 2023 be forgiven for the house that he is renovating and that is still unoccupied.

In a letter to the Board, **Klassen** wrote that in January 2023, he and his wife, Bev Lapp, were given release of flat sewer charges for six months as Klassen continued working on the home, with the understanding that more time could be granted if needed. The agreement ended in June 2023.

**Klassen** wrote that the new water line was installed by a licensed plumber at the end of July 2023. A water meter was installed by the City Water Department a couple of weeks later. The home currently now has an active water meter. While the installation was not completed within six months, **Klassen** wrote that the situation regarding the house has not changed; there is no one occupying this home.

**Klassen** wrote that although he feels that due to previously agreed upon terms he is within his rights to a credit to his account for the July and August bills, at a minimum he requested a credit for the flat sewer August bill and re-billed the metered fee for that month. He also noted that the previous well and pump have been abandoned and will be properly closed and the home will rely exclusively on water provided by the City of Goshen. He wrote that he hoped that if the water meter is ever removed, that this home will not revert to the flat sewer charges.

**Mayor Leichty** asked if there was a staff response to **Klassen's** request.

**City Water & Sewer Office Manager Kelly Saenz** said that on Jan. 23, 2023, **Klassen's** flat sewer account for 417 Gra-Roy Dr. was placed "on hold with the Board's approval. She said on Jan. 23, Klassen purchased a water meter, meter horn and smart point reader at the Utility Billing Office. On Sept. 7, 2023, she said Klassen scheduled an appointment with Goshen Utilities to have the water meter installed, and it was installed.

**Saenz** said utility bills were placed "on hold" at 417 Gra-Roy Drive for billing dates Jan. 1 through July 1. She said Klassen is now seeking relief for utility bills issued July 1 through Sept. 7, when the water meter was installed.

**Saenz** said the Utility Billing Office does not have the authority to grant such a request. The amount of credit would be \$217.90. In response to **Board member Landis**, **Saenz** clarified the period the bill was on hold.

**Board member Landis** asked **Klassen** why the meter was not installed until Sept. 7. **Klassen** said it was a scheduling issue with a plumber. He said the installation didn't happen during a six-month time frame, adding that the installation of the water line cost more than \$2,000.

**Board member Landis** said he recalled that the Board granted **Klassen** a six-month suspension of fees on the condition he install the water meter within six months. He said if Klassen had come to the Board sooner and asked for a time extension, it could have been granted but perhaps not in these circumstances.

**Klassen** said this case could also be viewed another way – that he was given six months to install the meter, but was also told he could return and seek additional time if needed because the home is being renovated. He said he believed it was appropriate to seek a suspension of payments now, noting that the City will be getting payments going forward.

**Board member Landis** responded that if **Klassen** was the only user of City utilities, the Board could make many exceptions. However, he said an approval in these circumstances could set a precedence for others seeking a suspension of payments.

**Mayor Leichty** said there was a precedence of the City granting an approval after a project has been completed but added that Landis made a valid point that the City "doesn't want to establish poor practices."

**Klassen** said he could take the blame for not having notified the City that he needed more time to install the water meter, but pointed out that someone from the City could have checked in with Klassen and asked if he needed more time. **Mayor Leichty** responded, "I think that's on you, Dale. It's totally on you."

**Klassen** said the second part of his request is that if the water meter is ever removed, will the City charge a flat sewer rate? So, he said he was asking that the City mandate that the home must remain on City water.





**Klassen** said if the water meter was ever removed, the new homeowner would be required to pay a flat sewer charge, which currently is \$109 per month. Along with forgiveness of the bill, Klassen asked for a finding that the well be abandoned and that there be a finding that the home must remain on a City water meter.

**Board member Landis** said he wasn't sympathetic to Klassen's request, adding that it didn't seem appropriate for the Board to prohibit a future owner of the home from removing the meter, using the home's water well and paying a flat sewer charge. **Klassen** said he intends to rely on City water.

In response to a question from **Board member Landis**, **Saenz** said if the meter is pulled, there will be a \$30 reconnection fee and no more water will flow into the home. She also clarified the costs of removing the meter and no longer using it.

**Board member Landis** and **Mayor Leichty** discussed the components of a motion to resolve the situation.

**Superintendent of the City Water Treatment and Sewer Department Kent Holdren** said that people who want to formally abandon a well must file an application with the County and pass an inspection.

**Mayor Leichty/Board member Nichols** moved to remove the current sewer charges of \$217.90, but that there is no guarantee of no flat sewer rate in the future and that the Board will request verification from Elkhart County that the existing well has been abandoned. Motion passed 4-0.

**7) Water & Sewer Office request: Move \$2,974.04 in uncollected finalized accounts from active to collection, sewer liens and write offs**

**Kelly Saenz, Manager of the Goshen City Utilities Office**, said that the original amount of unpaid final Water/Sewer accounts for this period, through July 31, 2023, was \$3,123.33. Collection letters were sent out and payments of \$149.28 were collected. The uncollected amount was \$2,974.05. So, Saenz asked the Board to move the office's uncollected final accounts from active to Collection, Sewer Liens and Write offs.

**Nichols/Myers** made a motion to move the Goshen Water and Sewer Office's uncollected finalized accounts from active to Collection, Sewer Liens and Write offs. Motion passed 4-0.

**8) Legal Department request: Approve the license and service agreement with Blue Dot Equity, LLC, for the installation of an information kiosk downtown on the sidewalk near Main and Washington streets**

**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 a license and service agreement with Blue Dot Equity, LLC.

**Toms** said the agreement provides for the installation of an information kiosk on the sidewalk near the intersection of South Main Street and Washington Street. The City is permitting the placement of the kiosk in the City's right-of-way, installing the base, and providing power to the unit. Toms said Blue Dot Equity will be providing advertisements and information displays, with certain space and time reserved for City-sponsored content concerning upcoming events, programs, services, and other public notices/information.

According to the license and service agreement, the term of the agreement will commence upon execution by both parties and terminate on Dec. 31, 2024. This agreement shall continue on a year-to-year basis, Jan. 1 through Dec. 31, unless either party directs written notice of non-renewal to the other given at least 60 days prior to the expiration of the current term. The City will grant the contractor a license to install, maintain, and administer a kiosk in the City's right-of-way and sidewalk at or near the intersection of South Main Street and Washington Street.

The City will be responsible for the initial installation, consisting of a concrete base and pedestal for the kiosk provided by the contractor. Following installation of the kiosk, the City will furnish and supply a 110 volt electrical service for the use of the kiosk. **In exchange, the contractor will provide the following services:**

- The kiosk to be installed;
- Digital displays on the kiosk for the purpose of transmitting City messaging and wayfinding capabilities for visitors;





- Assist in any necessary production or reformatting of existing City content for display on the kiosk;
- Work with the City's Communication Manager to post monthly content, upcoming City events, programs, services, traffic notices, and other public notices as determined by City;
- The displays will equate to a minimum of 500, 10 second messages per day running from the hours of 6 a.m. until 12:00 a.m. (midnight) and will be dispersed equally throughout the running or operating hours.
- Grant administrative controls to the City's Communication Manager and provide necessary training for the production and posting of content for display on the kiosk;
- Create and consistently update an Interactive 3D wayfinding map of the City of Goshen downtown area, generally located between Pike Street and Madison Street (north to south) and 2nd Street and 5th Street (west to east), with said map including attractions, parks, merchants, stores, restaurants, and events;
- Supply the City with analytic monthly reports with respect to messaging runs, impressions, visitor interactions, and other key metrics;
- Comply with all policies, standards, and regulations of City, including local, State, and Federal laws;
- The contractor agrees to maintain the kiosk in good repair and condition;
- Nothing in this agreement shall be construed to control, direct, or otherwise limit the content of other displays on the kiosk, which shall be arranged for in the sole discretion of the contractor.

**Mayor Leichty** asked Toms who will hold the liability for the kiosk. Toms responded that the contractor will be responsible for the liability and for obtaining insurance.

**Nichols/Myers** moved to approve the License and Service Agreement with Blue Dot Equity, LLC, as presented. Motion passed 4-0.

**9) Engineering Department request: Approve an extension of the road closure of College Avenue near Horn Ditch Bridge until Monday, Nov. 6, 2023**

**City Director of Public Works & Utilities Dustin Sailor** told the Board that Niblock Excavating has requested permission to extend the closure of College Avenue on either side of Horn Ditch bridge (Bridge No. 410) until Monday, Nov. 6, 2023.

**Sailor** said Niblock Excavating has encountered unexpected underground utility and dewatering issues. Niblock is requesting this extension to complete planned utility relocations and restore pavement in the College Avenue right-of-way in preparation for the Elkhart County replacement of Bridge No. 410.

**Nichols/Myers** moved to approve an extension of the road closure of College Avenue near Horn Ditch Bridge until Monday, November 6, 2023. Motion passed 4-0.

**10) Engineering Department request: Accept the drainage plan for the Keystone Square Fifteenth**

**City Director of Public Works & Utilities Dustin Sailor** told the Board that pursuant to Ordinance No. 3196, Section 512 of the Goshen Subdivision Control Ordinance, Goshen Engineering has reviewed the drainage plan for Keystone Square Fifteenth on behalf of the Board of Works and Safety.

**Sailor** said that the Goshen Engineering Department finds the proposed drainage plan adequate to maintain on-site runoff from a 1 hour - 100-year rain event, which equates to 3-inches of rainfall in 24-hours.

Goshen Engineering recommends the Board's acceptance of the plan with the understanding that Goshen Engineering reviewed the drainage plan for general adherence to good engineering practice.

**Sailor** said the Board should note in their drainage approval that acceptance of the development's drainage plan in no way guarantees the drainage plan and drainage improvements will work as intended and the City accepts no liability for any design failures. All concerns related to the development's drainage improvement are to be referred back to the development's licensed professional(s).





In response to a question from Board member Landis, Sailor clarified the reason for the recommendation. Nichols/Myers moved to accept the drainage plan for the Keystone Square Fifteenth, which was prepared by the developer's Indiana licensed professional engineer. The City does not warrant the drainage plan will function as intended and accepts no liability for any failure of the drainage design. Motion passed 4-0.

11) Engineering Department request: Approve the Mayor to sign Change Order No. 5 for a cost increase and 473 additional days added to the contract for the Wastewater Treatment Plant (WWTP) Improvements Project City Director of Public Works & Utilities Dustin Sailor told the Board that Donohue and Associates has kept a log of project changes for the Wastewater Treatment Plant (WWTP) Improvements Project and has prepared a change order at the request of the Engineering Department. The change order includes a total of six changes to the project; five are additional costs and one is a cost reduction. Sailor said the changes include the following:

1. Provide handrail modifications to accommodate the grit tank stairway detailed in RFP No. 114, dated Nov. 17, 2021 (\$6,176.00).
2. Provide additional structural steel for the center of the upflow clarifier for structural integrity as detailed in RFI 123 dated Feb. 23, 2022 (\$26,600.00).
3. Relocate the lime sludge pump meter connection and welded outlet per a verbal field order in April of 2023 (\$3,597.00).
4. Recalibrate the scaling on the aeration air flow meters as detailed in RFP No. 32 date June 20, 2022 (\$1,632.00).
5. Waive the PWTech screw press final round of performance testing as proposed by Kokosing Industrial on June 6, 2022 (-\$45,500.00).
6. Claim resolution agreement between Kokosing Industrial, Inc. and the Board of Public Works (\$350,000.00).

Sailor said the change order is for a cost increase of \$171,401, which increases the total project cost to \$19,502,906.00. This change order is an increase of 2.71% over the original contract amount. The change order also adds 473 additional days to the contract as part of the negotiated settlement to allow for the closure of the contract. Sailor said the Engineering Department has reviewed this change order and recommends its approval.

In response to a question from Board member Landis, Sailor clarified the amount of the change order. Nichols/Myers moved to approve the Mayor to sign Change Order No. 5 for a cost increase of \$342,505.00, with 473 additional days added to the contract. Motion passed 4-0.

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

Mayor Leichty opened Privilege of the Floor at 2:42 p.m.

On behalf of the VFW 985 Auxiliary, Board of Works member Orv Myers presented checks for \$500 to the Goshen Police Department Honor Guard and the Goshen Fire Department. Police Chief Jose Miller and Fire Chief Dan Sink accepted the donations. The audience responded with applause. There were no comments from the public.

**Approval of Civil City and Utility Claims**

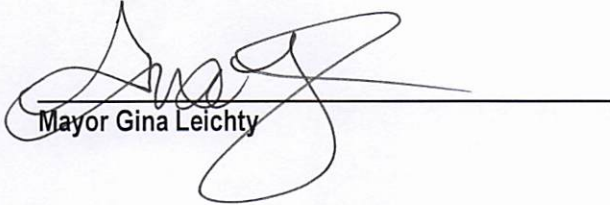
As all matters before the Board of Public Works & Safety were concluded, Mayor Leichty/Board member Nichols moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 5-0.

**Adjournment**

Mayor Leichty adjourned the Board of Works meeting at 2:44 p.m.




APPROVED:

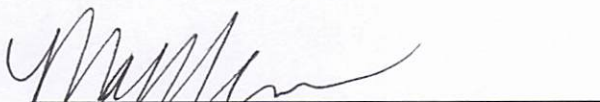


Mayor Gina Leichty

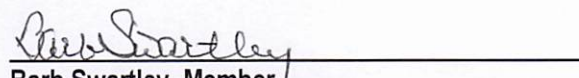
Mike Landis, Member



Orv Myers, Member

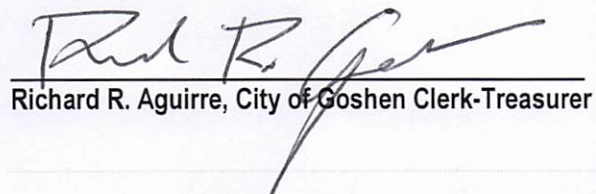


Mary Nichols, Member



Barb Swartley, Member

ATTEST:



Richard R. Aguirre, City of Goshen Clerk-Treasurer