



**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD
MINUTES OF THE OCTOBER 30, 2023 REGULAR MEETING**

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

Present: Mayor Gina Leichty, Orv Myers, Barb Swartley and Mary Nichols
Absent: Mike Landis

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. 16, 2023 Regular Meeting prepared by Clerk-Treasurer Aguirre. **Board Member Barb Swartley moved to approve the minutes as presented and the motion was seconded by Board Member Mary Nichols. Motion passed 4-0.**

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

1) Police Department request: Approve the resignation of Officer Tyler D. Smoker, effective Nov. 1, 2023
City Police Chief José Miller asked the Board to approve the resignation of **Officer Tyler D. Smoker**, effective Nov. 1, 2023. Officer Smoker has accepted a position with the Noble County Sheriff's Office.
Chief Miller said Officer Smoker stated that his work schedule for the Noble County Sheriff's Office will be much more conducive for him and his family. Chief Miller thanked Officer Smoker for the time he served our community and wished him only the best in his law enforcement career.
In his letter of resignation, **Officer Hooley** wrote, "I appreciate all that the City of Goshen has provided me and will take the great experience I have gained to further pursue my law enforcement career with a schedule better suiting my family."
Mayor Leichty asked what **Officer Smoker's** work schedule will be. **Chief Miller** said he will work 12-hour shifts. **Swartley/Nichols moved to approve the resignation of Officer Tyler D. Smoker, effective Nov. 1, 2023. The motion passed 4-0.**

2) Police Department request: Approve the retirement of Officer Jeremy Hooley, effective Nov. 17, 2023
City Police Chief José Miller asked the Board to approve the retirement of **Officer Jeremy Hooley**, effective Nov. 17, 2023. Officer Hooley has accepted a position in the private sector in another state.
Chief Miller said Officer Hooley's last working day will be Nov. 16, 2023. He said Officer Hooley started his full-time career at the Goshen Police Department on Oct. 8, 2010. Prior to coming to Goshen, Officer Hooley was a full-time police officer with the Nappanee Police Department.
Chief Miller said Officer Hooley started his career in the patrol division and was later assigned to the Training Department as a Lieutenant. He served the department as a patrol Sergeant and was an instructor for various topics which include, but are not limited to, firearms and defensive tactics. Officer Hooley served on Goshen's tactical team and later on the multijurisdictional S.W.A.T. team.
Chief Miller also said, "The knowledge and abilities Officer Hooley brought to our department are second to none. He has a passion for teaching officers to be the best they can be all while being as safe as possible while performing their duties. I would like to thank Officer Hooley for his service and commitment to this department and our community. I wish him the absolute best in his retirement and in his future endeavors."



In his letter of retirement, **Officer Hooley** wrote, in part, " This will bring a major shift in my life, and was not a decision made lightly. While certain aspects will be easy to leave behind, there is much that will not. Those officers that have been driven to do better, be better, and to train hard, I will definitely miss ... It is no secret that officer safety and standards have been my focus, even if it was a point of contention. I can say unequivocally that I am comfortable with that being part of my legacy, as my focus has always been improving officers' ability to be safe as well as their knowledge of the law."

Mayor Leichty asked **Chief Miller** to extend the Board's thanks to **Officer Hooley**.

Swartley/Nichols moved to approve the retirement of **Officer Jeremy Hooley**, effective Nov. 17, 2023. The motion passed 4-0.

3) Police Department request: Approve the resignation of Reserve Officer Nicholas McCloughen, effective Oct. 24, 2023

City Police Chief José Miller asked the Board to approve the resignation of **Reserve Officer Nicholas McCloughen**, effective Oct. 24, 2023.

Chief Miller said **Officer McCloughen** worked as a full-time police officer in Goshen for approximately 15 years and left the profession for the private sector. Although he left full-time status, he wished to remain as a reserve police officer and was sworn in effective November 2022.

On Oct. 24, **Chief Miller** said **Officer McCloughen** contacted him and stated that his work schedule has consumed more time than anticipated and that he does not have the time to keep up with the required training. Even though he would love to remain on the department, **Chief Miller** said **Officer McCloughen** feels he must resign.

Chief Miller added, "I would like to thank **Reserve Officer McCloughen** for the time he has served both as a full-time police officer and as a reserve police officer on the Goshen Police Department. I wish him only the best in his career."

Mayor Leichty asked the number of hours of training a reserve officer is required to have. **Chief Miller** said the state requires that reserve officers have the same number of training hours as regular officers.

Swartley/Nichols moved to approve the resignation of **Reserve Officer Nicholas McCloughen**, effective Oct. 24, 2023. Motion passed 4-0.

4) Legal & Police Departments request: Approve and execute Resolution 2023-34 Approving Transfer of Police Dog from City to the County of Noble at the cost of \$4,500 effective upon the County's passage of a substantially identical resolution

Brandy Toms, a paralegal with the **City Legal Department**, told the Board that the City of Goshen and Noble County have negotiated an agreement for the transfer of a police dog ("Jedi") from the City to Noble County.

Toms said Indiana Code §5-22-22-10 allows for the exchange of property between governmental entities for any amount of property or cash upon terms and conditions agreed upon by the governmental bodies as evidenced by adoption of a substantially identical resolution by each entity. As such, **Toms** said attached to the Board's meeting packet for the Board's approval and execution was **Resolution 2023-34**, approving the transfer of **Jedi** to Noble County effective upon the County's passage of a substantially identical resolution.

Swartley/Nichols moved to approve and execute **Resolution 2023-34 Approving Transfer of a Police Dog from City to Noble County at the cost of \$4,500 effective upon the County's passage of a substantially identical resolution**. Motion passed 4-0.

After the vote, **Mayor Leichty** joked, "May the Force be with Jedi." **Toms** responded, "That is the second time I've heard that. I felt it was necessary to put his name in there." The **Mayor** said, "Totally appropriate."



5) **Legal & Police Departments request: Pass and adopt Resolution 2023-36, Authorizing the Special Purchase of Taser Equipment, Accessories and Training Certification for the Police Department from Axon Enterprise, Inc. at a net purchase price of \$325,799.20 paid over five annual installments of \$65,159.84 each** Brandy Toms, a paralegal with the City Legal Department, told the Board that on behalf of the Goshen Police Department, she was presenting for the Board's approval **Resolution 2023-36, Authorizing the Special Purchase of Taser Equipment, Accessories and Training Certification for the Police Department from Axon Enterprise, Inc.** Toms said that due to proprietary issues, this equipment (energy weapons) and certification is only available for purchase from a single source, Axon Enterprise, Inc. Toms said the net purchase price will be \$325,799.20, paid in five (5) annual installments of \$65,159.84 starting February 2024 through and including February 2028. The quote and sole source letter were attached to Resolution 2023-36.

According to Resolution 2023-36:

- The Goshen Police Department has tasers and equipment that are outdated and no longer supported.
- The City wishes to purchase new tasers and accessories to replace the outdated equipment from Axon Enterprise, Inc, a sole-source supplier of this equipment.
- The City, through its purchasing agent, may make a special purchase under Indiana Code § 5-22-10 without soliciting bids or proposals if it determines in writing the basis for the special purchase and the selection of a particular contractor.
- Indiana Code § 5-22-10-13 allows the City to make a special purchase when, subject to Indiana Code § 5-22-10-14 and 15, there is only one source for the supply and the purchasing agent determines in writing that there is only one source for the supply.
- The special purchase of tasers and equipment shall be made from Axon Enterprise, Inc under Quote No.: Q-519191-45216.744BW for the total sum of \$325,799.20, to be paid in five annual installments of \$65,159.84 starting February 2024 through and including February 2028.
- The records for the special purchase authorized by this resolution shall be maintained by the Goshen Board of Public Works and Safety in a separate file in the Clerk/Treasurer's Office for a minimum of five (5) years in accordance with Indiana Code § 5-22-10-3.

Swartley/Nichols moved to pass and adopt Resolution 2023-36, Authorizing the Special Purchase of Taser Equipment, Accessories and Training Certification for the Goshen Police Department from Axon Enterprise, Inc., at a net purchase price of \$325,799.20 paid over five (5) annual installments of \$65,159.84 each. The motion passed 4-0.

6) **Legal Department request: Move to approve and execute the agreement with the Goshen Firefighters Association Local No. 1443, International Association of Firefighters**

City Attorney Bodie Stegelmann told the Board that the City and the Goshen Firefighters Association Local No. 1443, International Association of Firefighters, have concluded negotiations of a new agreement.

In a memorandum to the Board, **Stegelmann** provided the following summary of the changes in the agreement: **Effective Dates** – The agreement is effective from Jan. 1, 2024, through Dec. 31, 2026.

Wages – The base salaries are increased 7% for 2024, and 3% for 2025 and 2026. Increases for 2025 and 2026 have been estimated and either side may open up the agreement as to wages for those years.

Pension Contribution – The City will not pay 1% of the employee's contribution to the pension plan, as it did during the current contract.

Health Insurance – The City will continue to pay 80% and the employee will continue to pay 20% of the weekly health insurance premium cost. The weekly premium rates are \$507.08 effective Dec. 31, 2023; \$532.40 per week, effective Dec. 29, 2024, and not to exceed \$564.30 per week, effective Jan. 4, 2026.



Holidays – Firefighters shall not be required to engage in training or schooling on any holiday established by the Goshen Common Council in the annual compensation ordinance for civil city and utilities employees.

Working out of Classification – Any member carrying out the duties of a Chief, Assistant Chief, Battalion Chief, or Chief Inspector for an aggregate amount of more than 45 consecutive calendar days in a calendar year shall receive the rank differential of member's current rank pay and chief officers pay for the days the member carried out the duties of the chief officer.

Sick Leave - All new firefighters shall be assigned sick leave in the amount of 720 hours; however, sick leave shall not accrue during the first 5 years of employment. Firefighters with less than 5 years of experience shall receive 720 hours of sick leave, less sick time already used. After a firefighter has completed 5 years of active employment, all firefighters shall begin earning 12 hours of sick leave for each month of continued active employment.

Tuition Reimbursement – All full-time sworn members may receive tuition reimbursement for successful completion of college undergraduate or graduate courses that will benefit the City, and that the Chief approves.

In his brief presentation to the Board, **Stegelmann** summarized the above changes.

Swartley/Nichols moved to approve and execute the agreement with the Goshen Firefighters Association Local No. 1443, International Association of Firefighters. Motion passed 4-0.

7) Goshen Historical Society request: Permission to block alley for one day and two parking spaces for four months to install an elevator

Dustin Miller, Manager of Project Development for DJ Construction, presented requests for a project underway for the Goshen Historical Society, 124 South Main St. He said the scope of the project is limited to the installation of a new elevator inside the Society's existing building. Miller requested:

1. Closure of the alley directly behind or to the east of the building for one day. He said this was needed because the hydrovac truck (for elevator pit excavation) is too tall to pull directly behind the Goshen Historical Society due to low power lines. This is expected to happen on Nov. 1, 2023.

2. Two public parking spots to place a dumpster. The parking lot is located directly behind or to the east of building. These spots are needed for the duration of the project (approximately Oct. 30, 2023 to Feb. 29, 2024).

The company presented architectural buildings of the Goshen Historical society and a map showing the location of the building, alley and parking spaces that would be closed for the placement of the dumpster.

In response to a question from **Mayor Leichty**, Miller said the Historical Society notified neighbors of the project.

In response to a question from **City Street Commissioner David Gibbs**, Miller clarified the dates of the work.

Swartley/Nichols made a motion to close the alley behind the Goshen Historical Society on Nov. 1 and the use of two parking spaces for the placement of a dumpster for four months. Motion passed 4-0.

8) Lacasa Inc. request: Approve the partial closure of Cottage Avenue, immediately north of East Madison Street, for two weeks, between Nov. 6-17, 2023, for a sewer line replacement

Aaron Lehman, Housing Development Manager for Lacasa, Inc., said Lacasa, Inc. asked to temporarily close Cottage Avenue immediately north of East Madison Street for up to two weeks to replace the sewer line from 409 East Madison Street into the sewer main under Cottage Street.

In a written request, **Lehman** wrote that the work is dependent on weather but will take place sometime between Nov. 6 to Nov. 17. He said that depending on which days this work takes place, garage/recycling pick-up may be affected. Lacasa staff have offered to move the garbage/recycling bins to the end of that block to minimize the disruption for the trucks and local residents. Lacasa staff dropped off an information notice and map to all six houses that border the section of South Cottage Avenue from East Madison Street to the alley.

In response to a question from **Board member Swartley**, **Lehman** said he will contact the Street Department after the request is approved by the Board.



Swartley/Nichols made a motion to approve the partial closure of Cottage Avenue, immediately north of East Madison Street, for two weeks, between Nov. 6-17, 2023, for a sewer line replacement. Motion passed 4-0.

9) Legal Department request: Accept the easement from Kropf Family Real Estate, LLC

Shannon Marks, the Legal Compliance Administrator for the City Legal Department, recommended that the Board accept the attached easement from Kropf Family Real Estate, LLC, for Goshen City utility purposes. A drawing attached as Exhibit B to the easement depicted the easement area, which is part of the real estate located on County Road 31, Goshen, and part of Parcel Number 20-I-24-426-010.000-014.

Swartley/Nichols made a motion to accept the easement for Goshen City utility facilities from Kropf Family Real Estate, LLC, and authorize the Mayor to execute the acceptance. Motion passed 4-0.

10) Legal Department request: Approve Resolution 2023-37, Declaring Surplus and Authorizing the Disposal of Miscellaneous Furniture and Equipment

Shannon Marks, the Legal Compliance Administrator for the City Legal Department, said City departments and offices wish to dispose of the personal property that is no longer needed or is unfit for the purpose for which it was intended. The estimated total value of the items is less than \$5,000. Some items are worthless or of no market value. Marks said Indiana Code § 5-22-22-6 authorizes selling the property at a public or private sale or transferring the property without advertising provided the estimated value of the Surplus Property is less than \$5,000; and Indiana Code § 5-22-22-8 authorizes junking property that is worthless or of no market value.

Resolution 2023-37 would declare the following property as surplus and authorize its disposal:

- Wood laminated, 2-drawer file cabinet
- Metal, 2-drawer file cabinet with wood top
- Cherry wood cabinet with front door access and 2 shelves
- Dark wood, 2-drawer filing cabinet
- Dark wood office desk with 6 drawers and 1 center drawer
- Dark wood credenza desk with 6 drawers
- Wood, 3-legged modified table
- Wood, 4-drawer lateral file cabinet
- Metal, 4-drawer lateral file cabinet
- 12" x 9" HD monitor stand
- 8.5" x 11" black mesh file holder
- 6 slotted compartment black wall file
- Accordion file, numbered 1-31
- 2, Accordion files, Jan-Dec
- Set of 6 coasters
- Metal, 5 tier shelving unit
- High-back, light blue office chair
- Standard, mauve office chair
- 3, High-back, black office chairs
- Coffee maker

Swartley/Nichols made a motion to pass Resolution 2023-37, *Declaring Surplus and Authorizing the Disposal of Miscellaneous Furniture and Equipment*. Motion passed 4-0.



11) Legal Department: Approve and authorize Mayor Leichty to execute the HVAC maintenance agreement renewals with OJS Building Services, Inc., for \$7,880 for the Police and Courts Building and \$7,300 for the Police Training Facility

Brandy Toms, a paralegal with the City Legal Department, told the Board that attached to the agenda packet for the Board's approval, and to authorize Mayor Leichty to execute, were two amendment agreements with OJS Building Services, Inc. extending for a second year the HVAC Planned Maintenance for the Goshen Police and Courts Building and the Goshen Police Training Facility.

Toms said that OJS Building Services, Inc., will be paid \$7,880 for maintenance of the Goshen Police and Courts Building and \$7,300 for maintenance of the Police Training Facility. This is no increase from the previous year.

Swartley/Nichols made a motion to approve and authorize Mayor Leichty to execute the amendment agreements with OJS Building Services, Inc., for the extension of the HVAC Planned Maintenance Agreement for the Goshen Police and Courts Building and the Police Training Facility for the second year at the same cost of \$7,880 for Police and Courts and \$7,300 Police Training Facility. Motion passed 4-0.

12) Water Utility request: Approve closure of South 8th Street, between East Jackson and Franklin Streets, Oct. 31 through Nov. 2, to repair a sewer main

Kent Holdren, Superintendent of City Water Treatment and the Sewer Department, said the City Water and Sewer Department will be repairing a sewer main in front of 1004 South 8th Street. The work will require excavation of the road, with a trench that will be approximately 10 feet in depth.

For the safety of the work crews and the public, **Holdren** requested permission to close South 8th Street between East Jackson Street and Franklin Street to thru traffic, starting at 8 a.m. Tuesday, Oct. 31 and reopening for traffic on Thursday evening, Nov. 2, 2023. City staff will notify Goshen Schools, EMS and ensure that the garbage is moved to the appropriate location for pick up.

Swartley/Nichols made a motion to close South 8th Street between East Jackson Street and Franklin Street to thru traffic, starting at 8 a.m. Tuesday, Oct. 31 and reopening for traffic on Thursday evening, Nov. 2, 2023. The motion passed 4-0.

13) Engineering Department request: Approve an extension of College Avenue closure, near Horn Ditch Bridge, until Nov. 13, 2023

City Director of Public Works & Utilities Dustin Sailor said Niblock Excavating requested permission to extend the closure of College Avenue on either side of Horn Ditch bridge (Bridge No. 410) until Monday, Nov. 13, 2023.

Sailor said Niblock Excavating has experienced delays with underground utility work due to weather. He said the company requested this extension to restore pavement in the College Avenue right-of-way in preparation for the Elkhart County replacement of Bridge No. 410.

Swartley/Nichols made a motion to approve an extension of the road closure of College Avenue near Horn Ditch Bridge until Nov.13, 2023. Motion passed 4-0.

14) Engineering Department request: Approve extending the 10th Street closure from Jackson to Reynolds streets, Oct. 31 to Nov. 14, 2023, for construction work

City Director of Public Works & Utilities Dustin Sailor said Niblock Excavating requested permission to extend the closure of South 10th Street to through traffic from East Jackson Street to East Reynolds Street until Tuesday, Nov.14. He said the road will only be closed when construction work is actively proceeding. He said on-street parking will be restricted during times Niblock is completing removal of tree stumps prior to NIPSCO utility relocations.

Swartley/Nichols made a motion to approve extending the road closure of 10th Street, from Jackson Street to Reynolds Street, from Oct. 31 to Nov. 14, 2023. Motion passed 4-0.



15) Engineering Department request: Approve Change Order No. 8, for \$31,748.26, and provide contractor five additional contract days, for Wilden Avenue reconstruction

City Director of Public Works & Utilities Dustin Sailor said Goshen Engineering was presenting Change Order No. 8 for a contract increase of \$31,748.26, and a contract extension of five (5) days. Because the work is occurring on the sanitary sewer system, it does not qualify for federal funding assistance.

Sailor indicated that during construction, it was determined the north sewer connection from the Moose Lodge was not achievable without lowering the sewer line. A new sanitary structure and drop were required to provide the needed sewer cover. He said with this and previous change orders, representing a total contract increase of 4.91-percent, the amended contract price will be \$7,307,067.18.

Swartley/Nichols made a motion to approve Change Order No. 8 in the amount of \$31,748.26, provide the contractor five (5) additional contract days, and authorize the Mayor to sign the change order. The motion passed 4-0.

16) Engineering Department request: Approve Change Order No. 9, for \$61,098, for the Wilden Avenue reconstruction

City Director of Public Works & Utilities Dustin Sailor said Goshen Engineering was presenting Change Order No. 9 for a contract increase of \$61,098.00, The materials and work associated with this change order were deemed to be participating and non-recoverable; therefore, funding assistance will be requested from the Michiana Area Council of Governments (MAGOG).

Sailor said the contract included a pay item for topsoil. The contractor stockpiled and utilized the material that it could, but much of the soil was determined unsuitable for re-establishment of vegetation. The contract change is \$60,162. He also indicated the contract called for the handrail to be epoxy coated; however, the City has found epoxy coating for exterior metals to be less durable than an oil based primer and paint. The contract change was \$936.

Sailor said with this and previous change orders, representing a total contract increase of 5.33-percent, the amended contract price will be \$7,336,416.92.

Swartley/Nichols made a motion to approve Change Order No. 9 in the amount of \$61,098.00, and authorize the Mayor to sign the change order. Motion passed 4-0.

17) Engineering Department request: Approve agreement with the Michiana Area Council of Governments (MACOG) for \$2,000 for annual traffic counts

City Director of Public Works & Utilities Dustin Sailor said attached to the agenda packet was the annual agreement with the Michiana Area Council of Governments (MACOG) to supply the City of Goshen with Traffic Counts at locations listed in the agreement.

Sailor said MACOG will also complete two intersection analyses of the city's choice, which will include collecting traffic counts at the intersection, turn movements, signal timing data, digital photography, accident data, GPS data and a geometric layout of the intersection. He said Engineering is still determining which intersections the City will ask to be done. He said the agreement is in the amount of \$2,000.

Swartley/Nichols made a motion to approve the agreement with the Michiana Area Council of Governments (MACOG) for \$2,000.00 for annual traffic counts. Motion passed 4-0.

18) Engineering Department request: Award the Elkhart County Courts Consolidation Public Infrastructure Project to Niblock Excavating for a negotiated contract price of \$4,165,762.30



City Director of Public Works & Utilities Dustin Sailor said on Monday, Oct. 16, 2023, the Board of Works and Safety received bids for the Elkhart County Courts Consolidation Public Infrastructure Project, which is required to be substantially completed by Oct. 31, 2024. Four bids were received with the bidders and their bids listed as follows:

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

Sailor said bid items were negotiated with the contractor following the bid. As a result, the City and Niblock made \$6,345 in negotiated price changes. He said in review of the bid documentation, the City has found Niblock Excavating to be the lowest responsible and responsive bid.

At the special Redevelopment Commission meeting on Friday, Oct. 20, 2023, the Goshen Redevelopment Commission, as one of the funding entities, moved to fund its portion of the project as outlined in the interlocal agreement with Elkhart County. Per the interlocal agreement, the project will be jointly funded by the Goshen Redevelopment Commission and Elkhart County.

Sailor said Goshen Engineering recommends the Board of Public Works and Safety awarded the "Elkhart County Courts Consolidation Public Infrastructure Improvements" project to Niblock Excavating for a negotiated contract price of \$4,165,762.30.

Mayor Leichty extended her thanks and appreciation to **City Director of Public Works & Utilities Dustin Sailor** and **City Redevelopment Director Becky Hutsell** for their additional work on the project.

Swartley/Nichols made a motion to award the Elkhart County Courts Consolidation Public Infrastructure Improvement Project to Niblock Excavating for a negotiated contract price of \$4,165,762.30. The 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 2:27p.m.

There were no comments from the public, so **Mayor Leichty** closed the public comment period at 2:27 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 4-0.

Adjournment

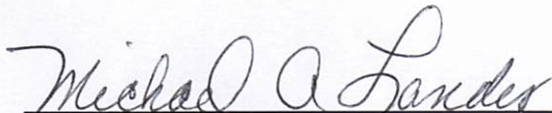
Mayor Leichty adjourned the Board of Works meeting at 2:27 p.m.



APPROVED:




Mayor Gina Leichty

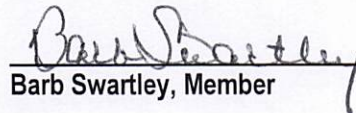


Mike Landis, Member

Orv Myers, Member

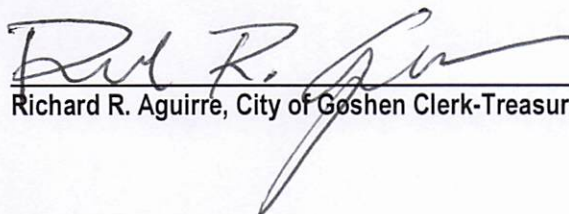


Mary Nichols, Member



Barb Swartley, Member

ATTEST:



Richard R. Aguirre, City of Goshen Clerk-Treasurer