

REPORT OF SUB-COMMITTEE ON MINUTES

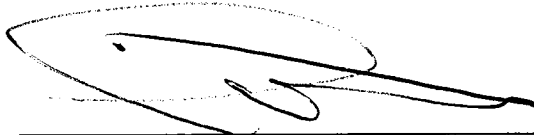
TO THE COMMON COUNCIL OF THE CITY OF SOUTH BEND:

THE SUB-COMMITTEE HAS INSPECTED THE MINUTES OF THE

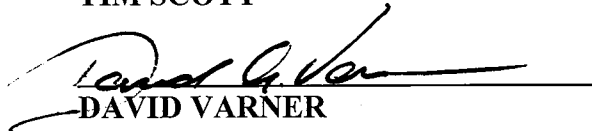
November 28, 2016

MEETING OF THE COUNCIL AND FOUND THEM TO BE CORRECT.

THEREFORE, WE RECOMMEND THE SAME BE APPROVED:

A handwritten signature in black ink, appearing to read 'Tim Scott', written over a horizontal line.

TIM SCOTT

A handwritten signature in black ink, appearing to read 'David Varner', written over a horizontal line.

DAVID VARNER

APPROVED BY THE COMMON COUNCIL ON: December 12, 2016

ATTEST:

A handwritten signature in black ink, appearing to read 'Kareemah Fowler', written over a horizontal line.

KAREEMAH FOWLER, CITY CLERK

Be it remembered that the Common Council of the City of South Bend, Indiana met in the Council Chambers of the County-City Building on Monday, November 28, 2016 at 7:00 p.m. The meeting was called to order by Council President Tim Scott and the Invocation was given by Reverend Diana Thompson of First Baptist Church South Bend, and the Pledge to the Flag was given.

ROLL CALL

COUNCIL MEMBERS

PRESENT

Tim Scott	1 st District, President
Regina Williams-Preston	2 nd District
Randy Kelly	3 rd District
Jo M. Broden	4 th District
Dr. David Varner	5 th District
Oliver J. Davis	6 th District, Vice President
John Voorde	At-Large
Karen L. White	At-Large

ABSENT

Gavin Ferlic	At-Large, Chairperson Committee of the Whole
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OTHERS PRESENT

Kareemah Fowler	City Clerk
Jennifer Coffman	Chief Deputy Clerk
Alkeyna Aldridge	Deputy Clerk
Joseph Molnar	Ordinance Violations Bureau Clerk
Michael Passavoir	Clerk Executive Assistant
Kathleen Cekanski-Farrand	Council Attorney
Adriana Rodriguez	Legal Research Assistant

REPORT FROM THE SUB-COMMITTEE ON MINUTES

Councilmember John Voorde made a motion that the minutes of the November 28, 2016 meeting of the Council be accepted and placed on file. Councilmember Dr. David Varner seconded the motion which carried by a voice vote of eight (8) ayes.

SPECIAL BUSINESS

16-91

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, PUBLICLY COMMENDING AND HONORING KATHLEEN CEKANSKI FARRAND FOR 42 YEARS OF DEDICATED AND DISTINGUISHED SERVICE AS THE COUNCIL ATTORNEY FOR THE SOUTH BEND COMMON COUNCIL

All eight (8) Councilmembers present read a segment apiece of the resolution, one (1) after the next. The floor was opened to the public to speak in favor of the bill. The following spoke in favor: *

Samuel Brown, 222 East Navarre Street, South Bend, IN;

Mayor Pete Buttigieg, with offices on the 14th Floor of the County-City Building;

Former Councilmember Dr. Fred Ferlic;

City Clerk Kareemah Fowler, with offices on the 4th Floor of the County-City Building;

Jim Masters, 350 Columbia Street, South Bend, IN;

Jesse Davis, P.O. Box 10205, South Bend, IN;

Angela Smith, Area Plan Commission, with offices on the 11th Floor of the County-City Building;

Councilmember Randy Kelly, with offices on the 4th Floor of the County-City Building;

City Attorney Aladean DeRose, with offices on the 12th Floor of the County-City Building;

County Attorney Tony Zappia;

Councilmember Dr. David Varner, with offices on the 4th Floor of the County-City Building;

Andrew Kostielney, President of the St. Joseph County Board of Commissioners with offices on the 7th Floor of the County-City Building presented Council Attorney Cekanski-Farrand with the Key to the County.

No one from the public wished to speak in opposition.

The floor was then opened for Council Attorney Kathleen Cekanski-Farrand, so honored, to speak.

Council Attorney Cekanski-Farrand stated, I apologize to those of you who had regular business, because the people's business always comes first. However, in the season of Thanksgiving, I can't thank enough the people of South Bend, St. Joe County, Notre Dame University—just everyone. Since I gave my letter of retirement, it's just been overwhelming the people who have reached out to me. As I've noted to John Voorde several weeks ago, I'm just eating and drinking my way to retirement. I was lucky because I was raised by parents who said, "Work hard, and respect each other, and do your best." And I try to do my best, not only for the City of South Bend, but for St. Joe County and all the clients that I ever represented, but also just to be a good person. I just can't thank everyone enough. As a way of giving back, I have a small token of appreciation. As many of you know and Aladean mentioned, it was tough raising Katie after her dad got so sick and eventually passed away. Part of the way of dealing with the stress was to take up amateur photography. Jennifer is going pass out photographs as a small thank you to each of the Councilmembers. On behalf of myself, I would like to present this to the Council as a small remembrance: this is my favorite photo of the City of South Bend, and it was the best seller when we had one of our first Art Beats. So, I thought that the Council would appreciate having it here. Again, I can't thank everyone enough for the great memories and working with the great people of South Bend.

Councilmember Tim Scott made a motion to adopt *Bill No. 16-91*. Councilmember Karen White seconded the motion which carried by a voice vote of eight (8) ayes.

Councilmember Scott announced that *Bills No. 66-16, 16-85, and 16-90* are continued.

REPORTS OF CITY OFFICES

Representing the City Administration: James Mueller, Chief of Staff

RESOLVE INTO THE COMMITTEE OF THE WHOLE

At 7:32 p.m. Councilmember Karen White made a motion to resolve into the Committee of the Whole. Councilmember Jo M. Broden seconded the motion which carried by a voice vote of eight (8) ayes. Councilmember Gavin Ferlic, Chairperson, presiding.

Council Vice President Oliver Davis explained the procedures to be followed for tonight's meeting in accordance with Article 1, Section 2-11 of the South Bend Municipal Code.

PUBLIC HEARINGS

53-16

PUBLIC HEARING ON AN ORDINANCE
AMENDING THE ZONING ORDINANCE AND
REQUESTING A SPECIAL EXCEPTION FOR
PROPERTY LOCATED AT 331 WAYNE
STREET, COUNCILMANIC DISTRICT NO. 2 IN
THE CITY OF SOUTH BEND, INDIANA

Councilmember Oliver Davis, Chair of the Zoning and Annexation Committee, reported that they met and send this bill forward with a favorable recommendation.

Angela Smith, Area Plan Commission with offices on the 11th Floor of the County-City Building served as presenter of this bill. Ms. Smith explained that the petitioner is seeking to rezone a property located at the southeast corner of Wayne and William, the former Gates-Toyota Service Center. The property is currently zoned GB, General Business, and they are seeking to rezone it to CBD, Central Business District, and a special exception use for a Manufacturing Retailer; more specifically, for a Group Home. To the north is the property zoned Mixed-Use. There is the current Veteran's Clinic to the east, zoned CBD, Central Business District. To the south is a parking lot, zoned GB. To the west is a vacant lot, zoned GB as well. Ms. Smith then presented an image of the existing building that stands to be rehabbed for the proposed brewery and another view of the building which will be renovated. Most of the work will be happening inside of this building. Ms. Smith then presented the proposed floorplan for the renovations that are planned to take place. Ms. Smith explained that the depicted parking is representational; that the parking lot will be reconfigured to meet the current standards for the parking dimensions and aisle widths. Any landscaping required for the ordinance would need to be installed. Ms. Smith informed the Council that this comes to them from the Area Plan Commission with a favorable recommendation. Rezoning this property to CBD, Central Business District, and granting the special exception use for Manufacturing Retailer allows for a use that's compatible with the existing Central Business District and will complement the surrounding uses.

Jim Priebe, 501260 Coveside Drive, South Bend, IN, served as petitioner of this bill. Mr. Priebe explained that Bare Hands has a brewery in Granger, IN. They are very excited about the possibilities of relocating the brewing operation to downtown South Bend. Watching the revitalization of the South Bend area has been, according to Mr. Priebe, a very keen point of interest for Bare Hands. They want to make sure to bring the production facility, a small tap house, and, potentially, a restaurant downtown.

Councilmember Oliver Davis asked Mr. Priebe how many people he expected to employ.

Mr. Priebe responded that they currently have seven (7). With the production facility they would hope to increase to possibly thirteen (13).

No one from the public wished to speak in favor or opposition to the bill.

Councilmember Tim Scott made a motion that *Bill No. 53-16* be sent to the full Council with a favorable recommendation. Councilmember Dr. David Varner seconded the motion which carried by a voice vote of eight (8) ayes.

65-16

PUBLIC HEARING ON AN ORDINANCE
AMENDING THE ZONING ORDINANCE FOR
PROPERTY LOCATED AT 913 LAWRENCE
STREET AND 427 & 437 CORBY BOULEVARD,
COUNCILMANIC DISTRICT NO. 4 IN THE
CITY OF SOUTH BEND, INDIANA

Councilmember Oliver Davis, Chair of the Zoning and Annexation Committee, reported that they met and send this bill forward with a favorable recommendation.

Angela Smith, Area Plan Commission with offices on the 11th Floor of the County-City Building served as presenter of this bill. Ms. Smith explained that the petitioner is seeking to rezone the property at the northwest corner of Corby and Lawrence. The property is currently zoned SF2, Single-Family and Two (2)-Family, and they are seeking the NF1 Urban Corridor Multi-Family District as part of their petition. The site is currently vacant. To the north, east, and west are single-family homes, zoned SF2, Single-Family and Two (2)-Family. To the south are single-family homes, zoned Single-Family and Two (2)-Family, and a hotel zoned MU, Mixed-Use. Ms. Smith presented images that showed single-family homes in the background of the property to give a perspective of the size of the lot. The proposed site plan includes three (3) buildings, which include three (3) attached townhomes. They will have access from a paved alley and rear entry into the garage at the back of the building. The buildings are proposed as two (2) story units, with a common space along the rear. The petitioner is proposing five (5) written commitments on the land uses for this property. The written commitments include the following: the project site as described above shall be limited to a total of nine (9) Single-Family Attached Dwelling Units; no Single-Family Attached Dwelling Unit in the described project area shall exceed the maximum height of forty (40) feet to its peak; no more than four (4) Single-Family Attached Dwelling Units shall make up any single building mass; a five (5) foot front yard setback shall be required along any public street runnage and a minimum two (2) foot offset shall be required between any Single-Family Attached Dwelling Units. Ms. Smith informed the Council that this comes to them from the Area Plan Commission with a favorable recommendation, subject to those written commitments. Rezoning this property to allow for a mixture of housing types within the neighborhood would help satisfy a need in the area, and is consistent with the Comprehensive Plan.

Councilmember Oliver Davis clarified for Council Attorney Cekanski-Farrand that there were ten (10) written commitments, but that the Council is currently dealing with five (5) due to the limits of their jurisdiction.

Council Attorney Kathleen Cekanski-Farrand elaborated, stating that the Neighborhood Association also had five (5) separate written commitments. Council Attorney Cekanski-Farrand stated, When the motion will be made later this evening, if it is favorable, it will be subject to only those that are set forth in the area plan, on which Ms. Smith just set forth, because those were enforceable under State law vis-à-vis governmental agencies.

Anthony Zappia, Attorney-at-Law, with offices at 52582 State Road 933 North, South Bend, IN, was present on behalf of the petitioner. Mr. Zappia stated, I have been retained by the petitioner Damsha Bua LLC. The petitioner is seeking a zoning change from SF—Single-Family and Two (2)-Family—districts, to MF1, Urban Corridor, Multi-Family district. The location of the property is 427 and 437 Corby, and 913 Lawrence. We propose nine (9) two (2)-story townhouses with three (3) units in each building. Each unit has a garage with a common access from the public alley. The public alley will be paved at the expense of the developer. Mr. Zappia stated that the Department of Community Investment offered a favorable recommendation and that Mr. Danch would speak shortly on the commitments of the project. He continued, pointing to the warm reception that his clients' development plans have received from the Northeast Neighborhood, the subsequent positive recommendations they received, as well as the fact that Marco Mariani of the Northeast Neighborhood Revitalization Organization sent a letter of support for the project to the Area Plan Commission.

Mike Danch, Danch Harner & Associates, 1643 Commerce Drive, South Bend, IN, was also present on behalf of the petitioner. Mr. Danch stated that the two (2) alleys that are adjacent to our site on the north and west will be totally paved. That will be part of the project and part of the approval for the final site plan. That was a request from the City Engineering Department. The actual access for the Single-Family Attached Units are off the alleys. There is no direct access off Corby or Lawrence Street. Mr. Danch explained that they aim to get some variances approved, which would allow them to create Single-Family lots for each of these units. The whole point of their approach is to keep this as a Single-Family project. Mr. Danch stated that there were a few commitments given to the Council, such as a presented Exhibit A, enforceable by the City of South Bend Area Plan Commission and the Building Department, and any of the residents within three-hundred (300) feet. Mr. Danch explained that these are the bodies that deal with the land use issues that Ms. Smith previously mentioned. There are also a set of written commitments that will be between the owner and the assigned, so the written commitments run with the land instead of the owners. Anything recorded will go forever, unless changed by the Area Plan Commission, which would require a Public Hearing. The commitments with the two (2) neighborhood associations dictate the number of units that the project will have, limited to nine (9). What is also limited is the fact that these will be primary residences, so they will not be rented out. The definition of the primary residences came from the Internal Revenue Service and was approved by both of the neighborhood associations. The recorded commitments will run with and be enforceable by all the neighborhood associations. There is also a commitment that the neighborhood associations get a free look at all the records that go with the neighborhood association for the nine (9) units. They will therefore be able to tell who is buying and selling these particular units and how they are being used. They also will get the minutes of the meetings of the Home Owners' Association.

Those from the public wishing to speak in favor of the bill:

Bill Stenz, President of the Neighborhood Council of South Bend, Inc., 1020 East Colfax Avenue, South Bend, IN. Mr. Stenz explained that his organization was one of the neighborhood associations that initially worked with the developer a few months before. When the developers first presented preliminary drawings and site plans, the Neighborhood Council was skeptical, but, according to Mr. Stenz, what happened and how the parties worked through that initial impression is a very good example of a good developer and neighborhood relationship. Given problems with student rentals near Notre Dame in the Northeast Neighborhood, Tony Zappia suggested methods by which they could ensure that this project would be a Single-Family, owner-occupied project. Mr. Stenz stated, We're kind of excited because we know a lot of families that are looking for owner-occupied homes in the Northeast. Mr. Stenz expressed confidence in the project's compatibility with the neighborhood and stated that both the Northeast Neighborhood Council and Northeast Neighborhood Revitalization Organization fully support the project.

No one from the public wished to speak in opposition of the bill.

Councilmember Oliver Davis thanked all parties involved with the project for how well they worked together.

Councilmember Tim Scott made a motion that *Substitute Bill No. 65-16* be sent to the full Council with a favorable recommendation. Councilmember Dr. David Varner seconded the motion which carried by a voice vote of eight (8) ayes.

60-16

PUBLIC HEARING ON AN ORDINANCE TO
VACATE THE FOLLOWING DESCRIBED
PROPERTY: THE FIRST NORTH-SOUTH
ALLEY LYING WEST OF PORTAGE AVENUE,
BOUNDED ON THE NORTH BY THE SOUTH
RIGHT-OF-WAY LINE OF BULLA STREET
AND BOUNDED ON THE SOUTH BY THE
NORTH RIGHT-OF-WAY LINE OF THE FIRST

EAST-WEST ALLEY NORTH OF KING STREET
IN PORTAGE TOWNSHIP

Councilmember Jo M. Broden, Chair of the Public Works and Property Vacation Committee, reported that they met and send this bill forward with no recommendation.

Bernard Feeney, 715 South Michigan Street, South Bend, IN, served as presenter and petitioner of this bill. Mr. Feeney stated that he was present on behalf of the Missionary Church North Central of Elkhart, better known in South Bend as Transformation Ministries, directed in this particular case by Kory Lantz. This particular alley is the first north-south alley lying west of Portage Avenue and extending from Bulla to the south end of the property that Transformation Ministries owns. Transformation Ministries is targeting the urban youth of this city, trying to help them build relationships through work, focus, and religion. They are asking for this alley vacation, as it would allow for the aggregation of their property, which consists of the storefront on Portage Avenue with the entire parking lot that exists to the west of the property. Mr. Feeney stated that this would allow Transformation Ministries to use the property to its fullest for the youth as well as provide the highest and best use of the property for the total operation of the ministry in South Bend.

Councilmember John Voorde asked Mr. Feeney if the large parking lot he described would be open to the public.

Mr. Feeney responded that, as it is currently private property owned by Transformation Ministries, it is not open to the public.

Councilmember Voorde then asked, What about the businesses that have traditionally used it as parking?

Mr. Feeney responded, It has always been transferred, in recent years, as part of the property that Transformation Ministries has purchased. If Transformation Ministries chooses to develop this in some recreational way for the people that they serve, those parking spaces would be gone. Transformation Ministries may keep a number of parking spaces in this area, but there is no guarantee that those parking spaces would continue to exist as the needs of Transformation Ministries expand, based on the number of youth that they serve.

President Tim Scott stated that he had spoken to Kory Lantz prior to the evening's meeting. His purpose, President Scott explained, is to have the capacity of the parking viable for Mixed-Use, as the property is currently zoned Mixed-Use. Mr. Lantz said that he was willing to work with any of the owners up and down the strip for any access and parking within it. President Scott stated, I wanted clarification from him, as well, while it's in his hands. Mr. Lantz's intent is to make sure that there is access for business and to work with businesses to make sure that it is workable for everybody.

Mr. Feeney responded that Mr. Lantz had exhibited that same mindset to him, as well—that if his vacation of the alley poses a problem for any of the adjoined corners, he is willing to work out an access for them, subsequent to the evening's meeting.

Councilmember Broden asked to whom the alley belonged, from north to south, as there are several businesses adjacent to it.

Mr. Feeney responded that in its most simplistic form, the alley would return to the parcels of land that it came from. It is currently owned by the City of South Bend. If vacated, it will go half to each pieces that it abuts. On the west side, that half will go completely to Transformation Ministries. On the east side, Transformation Ministries will get half of the alley that abuts their property. The other property owners will receive the remainder of that half of the alley, as it abuts their properties. Transformation Ministries does not get the totality of the alley if vacated.

Councilmember Broden asked, And it's still passable at that demarcation? A car could or could not get through that?

Mr. Feeney responded, At seven (7) feet wide? No. It would be difficult for a vehicle to get through. Mr. Feeney explained that there is no visible marking of where the alleyway begins and ends. It is one homogenous piece of asphalt extending from the rear of all the businesses that face Portage all the way over to the street to the west, Anderson Street.

No one from the public wished to speak in favor of or opposition to the bill.

Councilmember Tim Scott made a motion that *Substitute Bill No. 60-16* be sent to the full Council with a favorable recommendation. Councilmember Karen White seconded the motion which carried by a voice vote of eight (8) ayes.

68-16

PUBLIC HEARING ON AN ORDINANCE TO
VACATE THE FOLLOWING DESCRIBED
PROPERTY: THE EAST-WEST ALLEY LYING
BETWEEN LOTS 79 AND 80 IN SORIN'S 2ND
ADDITION EXTENDING FROM ST. LOUIS
STREET EAST TO THE FIRST NORTH-SOUTH
ALLEY EAST OF ST. LOUIS STREET

Councilmember Jo M. Broden, Chair of the Public Works and Property Vacation Committee, reported that they met and send this bill forward with a favorable recommendation.

James Masters, of Nemeth, Feeney, Masters & Campiti, 350 Columbia Street, South Bend, IN served as presenter of this bill. Mr. Masters stated that he was present on behalf of Blair Adams, Ret LLC. The petitioner owns both properties on either side of the alley. The property on the north is Lot 79 and the property on the south is Lot 80. There is no other abutting property owner on either side of this property other than the petitioner. Mr. Masters stated, We are asking to vacate the alley that runs between the two (2) properties. The alley is not maintained. It is not used for vehicular traffic. The purpose of vacating the alley is to either expand the existing yard on the south side—which is at 1018 North St. Louis—across the alleyway, or to construct another house on the north lot, which is currently too small to construct a house on. There is no actual use of the alley for any purpose. Mr. Masters stated that his party thinks that vacating the alley will enhance the appearance of the neighborhood. The Board of Public Works gave this vacation a favorable recommendation, and Engineering had asked that the City be reserved an easement over a portion of the vacated alley. At the committee meeting of that afternoon, the petitioner received the description and dimensions that Engineering wanted for that easement, which is the far-eastern ten (10) feet, right where it intersects with the north-south alley. Mr. Masters stated that there was no problem in doing that, and that the petitioner will agree to do so. The matter of the easement, Mr. Masters explained, would not affect Council's decision at the present meeting, as their decision affects the vacation of the alley. The easement would simply be over the vacated alley.

Those from the public wishing to speak in favor of the bill:

Tom Stroka, architect and neighbor to the property, stated that he was in favor of the measure but wanted clarification as to whether or not there will be an effect on the eastern half of the block—to which he is adjacent. His understanding is that there will not be an effect, though. He additionally wanted to communicate the neighborhood's continued encouragement of garbage collection and other collections via the alley. He encouraged the Council to, as they vacate alleys, consider that the people of that neighborhood do use alleys to keep garbage and recycling off the streets.

Steve Smith, 922 Keenan Court, South Bend, IN—who also owns the property at 717 Howard which is adjacent to the north-south alley that bisects the property in question—stated that he agreed with Mr. Stroka, stating that the north-south alleyway is a vital thoroughfare for the removal of trash and waste. This is in keeping with rear-access, loaded garages, and things of that nature which support better streetscapes in the neighborhood. The block to the east, between St. Peter and Notre Dame Avenue, no longer has an east-west alleyway, and the block to the west

only has a partial east-west alleyway which allows for egress to rear-loading garages on new construction homes that have been developed there. He explained that he wanted to speak in favor of removing this particular alleyway, because it will lead to the further development of quality new homes and streetscapes facing St. Louis Boulevard on the 1000 block.

Those from the public wishing to speak in opposition to the bill:

Patrick Sullivan, owner of 1014 & 1022 St. Louis, explained that the 1022 property he owns sits on the north side of the alley. He stated that he uses the alley when he is there to do repairs or maintain his properties. There is a duplex that sits in the alley directly east of the 1022 house. He frequently sees tenants enter and exit through the west side of the block. He feels that in closing the alley, homeowner and resident access would be restricted.

James Masters returned to the podium to offer a rebuttal. Councilmember Broden requested that the map of the property be displayed for the Council as reference during Mr. Master's rebuttal, which Mr. Masters agreed would clarify his position further. Mr. Master's stated that he felt there was some confusion as to what precisely was being closed. Referring to the site plan displayed for the Council and public, Mr. Masters stated that on the left—i.e., west—is St. Louis Boulevard, while the top of the page is north. The parcels that his client owns are the southern half of Lot 79 and all of 80. The alley in question is the one between those two (2) parcels. The north-south alley is not being closed. Mr. Masters stated, I think that may address Mr. Sullivan's concern, because that alley is being kept open, as is the alley as it continues eastward. In fact, to address the concern about trash pickup, I believe that's why Public Works asked for the small easement on what would be the ten (10) feet at the very end of the alley as it intersects with the north-south alley. Mr. Masters speculated that that was so that a track truck that is traveling west along the alley has room to make a turn when it reaches the north-south alley. There will be no interference with the trash trucks going either north and south or eastward along the alley. Mr. Masters then asked Mr. Sullivan if that answered his question, to which Mr. Sullivan responded, Only partially. Mr. Masters continued, ensuring again that it would not impede anyone traveling north and south or those traveling farther to the east by the other properties, like Lot 73 and 74.

Councilmember Scott asked what street the alley dropped into. Mr. Masters believed it to be St. Peter. Councilmember Scott stated, So, access to Lot 73 and 74 can be from a street or from that alley. Mr. Masters responded that he was not sure if Lot 73 and 74 continue for the entire length. He further reassured the Council that that would not get closed. He stated that only the one-hundred and fifty-five (155) foot stretch depicted in the site plan would be closed, leaving the remaining east ten (10) feet open.

Councilmember Karen White made a motion that *Bill No. 68-16* be sent to the full Council with a favorable recommendation. Councilmember Randy Kelly seconded the motion which carried by a voice vote of eight (8) ayes.

66-16

PUBLIC HEARING ON AN ORDINANCE OF
THE COMMON COUNCIL OF THE CITY OF
SOUTH BEND, INDIANA AMENDING
VARIOUS SECTIONS OF THE SOUTH BEND
MUNICIPAL CODE AT CHAPTER 17,
ARTICLES 4 AND 6 TO ADDRESS NEW
WATER RATES AND CHARGES

Councilmember Scott made a motion to continue *Bill No. 66-16* until January 9th, 2017 and send it back to the Utilities Committee. Councilmember Varner seconded the motion which carried by a voice vote of eight (8) ayes.

70-16

PUBLIC HEARING ON AN ORDINANCE OF
THE COMMON COUNCIL OF THE CITY OF

SOUTH BEND, INDIANA, AMENDING
VARIOUS SECTIONS OF ARTICLE 12 OF
CHAPTER 13 OF THE SOUTH BEND
MUNICIPAL CODE ADDRESSING CHRONIC
PROBLEM PROPERTY REGULATIONS

Councilmember John Voorde, Chair of the Health and Public Safety Committee, reported that they met and send this bill forward with a favorable recommendation.

Councilmember Tim Scott, 711 Forest Avenue, South Bend, IN, served as presenter of this bill. Councilmember Scott explained that he was presenting a change in language to the Chronic Nuisance Ordinance passed in 2013. Councilmember Scott and he met with Council Attorney Cekanski-Farrand, Legal Research Assistant Adriana Rodriguez, Assistant City Attorney Ashley Colborn, Officer Keenan Lane and the Fire Department and Police Department, as well as Randy Wilkerson, Director of Code Enforcement. They had gone through the ordinance again, taking recommendations from legal citizens, with the intent of improving it. One of the improvements considered was to properties of over fifty (50) units. Originally, properties over fifty (50) units were allowed up to twelve (12) violations. Larger properties within the city, such as Hurwich Farms, Indian Springs, and Irish Hills, did not feel that twelve (12) violations within ninety (90) days was fair and equitable, accounting for their hundreds (100's) of apartments. The group arrived at a compromise: these larger complexes would be considered in terms of parcels. If a property has one (1) parcel, the limit would still be twelve (12) violations within ninety (90) days. At two (2) parcels, the limit would grow to twenty-four (24) violations. At three (3) parcels, the limit would grow to thirty-six (36) violations. Looking upon the forty (40) reviewed during the drafting of the original ordinance in question, Councilmember Scott stated that South Bend probably has the most lenient Chronic Nuisance ordinance. Some such ordinances limit those with as many as 1000 units to six (6) violations within a year before being added to a Chronic Nuisance List. The other thing missed in the first version of the ordinance was the Fire Department. Councilmember Scott explained that the Fire Department receives some nuisance calls mainly relating to bonfires, trash fires, etc., where residents decide to burn things aside from wood in a pit, which is a violation. Given that there are other issues in the Fire Department, what will be taken into consideration are violation letters from the Fire Department. Conditional inspections could also occur with the Fire Department and Code Enforcement if a property appears on the Chronic Nuisance List. Councilmember Scott recounted that this had come up regarding the Drewry's Brewery complex. It was a code violation, and the Fire Department was sought out in collaboration with Code Enforcement to make sure that everything was safe, as there was some business within the area of that nuisance property. Elaborating on the Victim of Crime, Councilmember Scott explained that a Victim of Crime cannot be in violation of the ordinance, but that fires must be within HIPPA regulations. If the Fire Department is called out multiple times for medical reasons, those records would not be made public, due to HIPPA. Councilmember Scott notified the Council of updates made to the application of property addresses for consideration of a tenant's rights, in compliance with ACLU and HUD publications. He stated, I think that would kind of collaborate with our Human Rights, as well, if something ever came up with that. Officer Keenan Lane and Legal both work with them. Regarding repeat violators who violate within six (6) months of coming off the Chronic Nuisance List, Councilmember Scott explained that there could be a five-hundred dollar (\$500) penalty. As with all penalties, Officer Keenan Lane, Code Enforcement, and Legal are always working with property owners. He stated, This isn't automatic, it isn't black or white. It is there, if things aren't worked out correctly.

Councilmember Oliver Davis asked whether or not the Fire Department reports to Officer Keenan Lane or if they will have someone there specifically devoted to chronic nuisances related to fire.

Legal Research Assitant Adriana Rodriguez, with offices on the 4th Floor of the County-City Building, stated that Fire Marshall Chico Rodriguez and Chief Cox were present during the deliberations and approved everything added to the ordinance. Adriana stated, The reason we added HIPPA was because, at the meetings, they wanted to make sure that EMS services

wouldn't be counted toward any violations. If anything comes up at the Fire Department, Chico will notify Keenan, and he will check to see if that property has had any prior issues and take that into consideration.

Councilmember Scott further explained that the Fire Inspectors are part of that investigative task force, working similarly to Officer Keenan Lane on the Fire side. They subsequently collaborate with Officer Keenan Lane and/or Code Enforcement. He stated that Santi Garces, who is with IT, was also present at the meeting to help develop the backbone of the reporting mechanism, by which they may collate and sort through Code, Fire, Police data.

Councilmember Davis stated that he wanted to make sure that if someone needed to procure information, they could do so from the Fire Department as well as the Police Department.

Councilmember Scott confirmed that they could. He recounted a situation where a person burned every piece of lumber that he came across and Fire Marshall Rodriguez, who inspected the matter, gave him the appropriate letters. The individuals who complained about the violator actually called the Police to begin with, so it filtered through Officer Keenan Lane or another member of the Police Department to the Fire Department, who then went out to investigate.

Legal Research Assistant Rodriguez further explained that the letters sent by the Fire Department go through Assistant City Attorney Colborn, illustrative of the collaboration between the Fire Department and the Police because, as Ms. Rodriguez explained, it all goes through Ms. Colborn.

Councilmember Scott expressed appreciation for the Council who had voted for the original version of the ordinance. There has been tremendous success with the ordinance. The number of nuisance calls has dropped. He stated that the number of properties on the Chronic Nuisance List that he normally sees online is from two (2) to eight (8). Officer Keenan Lane processes hundreds (100's) of first warnings, though. At three (3) violations, one receives a warning letter, at which point Officer Keenan Lane contacts the requisite enforcement bodies to work through the issue. The original goal was to not have any violations or anyone on the list. The City's tax dollars, as a result, are not going toward repeat offenders. Councilmember Scott stated that the ordinance is working much better than he had anticipated.

Councilmember Regina Williams-Preston stated that she appreciated the ordinance for doing a better job of getting at issues Council attempted to address with landlord registration. She expressed appreciation for the collaboration necessary to effectively enforce the ordinance and also expressed a desire to be present at future meetings and discussions. Councilmember Williams-Preston stated that she was concerned, though, that there was an issue of subjectivity that could creep into the enforcement of the ordinance, arguing that the ordinance in its current form does not distinguish between smaller and larger properties, requiring an officer to determine through investigation whether or not a property is in violation of the Code instead of passing over smaller property cases altogether. She stated that she had questions about the constitutionality of using fines to bring about compliance, but thought it was wise that the ordinance includes in its language the notion that any part of the ordinance should be stricken if proven unconstitutional. Councilmember Williams-Preston then asked, in relation to the dedication of fines and fees, what the reasoning was behind the money going to the Law Enforcement Continuing Education Fund.

Councilmember Scott responded, I think that we needed to support that fund. The administration is not a big fan of reverting funds. Most of the legwork being done with this is in the Police Department, and I think, out of anything, we need more education within our Police Department.

Councilmember Williams-Preston stated that she remembered that civil penalties coming out of Code Enforcement go to the Unsafe Building Fund. She stated, I'm not sure how that parses out.

Councilmember Scott responded that the Police fund was what was decided on at the time.

Councilmember Williams-Preston responded, Maybe it's a difference because this is specifically Chronic Nuisance—like how it comes about. If it's one thing, it will go to the Unsafe Building Fund; if it's another thing, it goes into this Law Enforcement Continuing Education Fund.

Councilmember Scott responded that the County seeks to keep things simple. He explained that he had proposed at the time a third for an educational fund for Fire, a third for Police, and a third for Code, but that it was shot down early on. This ordinance is not targeting tenants so much as those who own the properties and are making a profit off these properties, and using the Police Department as their management system. Councilmember Scott explained that in 2013, Courtyard Place on 26th and Jefferson was on-pace for 1,000 calls a month. He stated, That's not EMS, that's not Fire, that's not Code—that was Police alone. It was going to be cheaper for us, in terms of taxpayer dollars, to put three cops there full-time instead of responding to the calls. The property manager was making money off the eighty (80) or so apartments there but was using the Police to manage their property. Councilmember Scott stated that it was unsafe, but that as of the last few months the average number of calls has been roughly three (3). He stated, So, we went from three (3) a day to three (3) every three (3) months.

Councilmember Williams-Preston stated, Those I understand in terms of those big complexes. She explained that she did not see how the ordinance could currently parse between a Police call regarding matters such as neighbors being noisy or selling drugs and a Code Enforcement issue where someone has a leaky roof and needs to be directed to resources to help them be within Code. Councilmember Williams-Preston stated, So, that's my fear. How do we parse that out, other than saying, "Well, come to me, and we'll work with you, we'll talk about it"? How can we build something in, or already have something that is in place that says if this is the situation—instead of slapping them with a penalty or sending them mean letters—these are specifically the things we are going to do to divert funds or support them in renovating their home, etc.

Councilmember Scott stated that he considered it two (2) different issues, to which Councilmember Williams-Preston agreed. He further stated, I agree that we need to look at the separate issues within Code. It's just like Speed Limit signs out there for everybody—it isn't blanket. He stated that he had been pulled over and given a warning as opposed to writing a ticket, though the opposite has happened as well—that there was an amount of discretion involved in these processes. Councilmember Scott stated that he believes that good government has a face and is willing to communicate, and discuss and work with the citizens within the City. The beauty of this ordinance, he argued, is that there are lawyers that are willing to sit down and talk with individuals to work out a plan; that there is Code that is willing to work out a plan; that there is Officer Keenan Lane. If there is a Human Rights issue, Officer Keenan Lane can refer tenants to Human Rights. There is protection for tenants. Victims of domestic abuse have been helped by officers showing up for a nuisance call because those officers will ask questions before doling out fines.

Councilmember Williams-Preston repeated that she understood, but that her concern rested solely in the blanket nature of the ordinance and the fact that there would be individuals caught in its net. She expressed a desire to see codification of a way to separate the two (2) issues.

Councilmember Scott responded, If you found someone that got caught up—that might be a mistake within Chronic Nuisance—I would love to talk them, and so would Keenan, and so would Ashley. If it is Code, then Randy Wilkerson, as well.

Councilmember Williams-Preston asked to how much a Public Nuisance service call fee amounts.

Ms. Rodriguez responded, Say, Code Enforcement has gone to a house and they have a Code Enforcement issue—that they have gotten a citation from Code Enforcement—that is a separate fee. Now, if they are put on the Chronic Nuisance List or given a Nuisance violation, that is a separate fee. What they are saying is that the fees for Code Enforcement are going to be separate, because that is just Code Enforcement. There is a separate fee for Public Nuisance issues.

Councilmember Williams-Preston responded that she wanted clarification in the ordinance between cases like calling the police because of problematic neighbors and a resident not having the funds to fix a house in violation of Code. She also stated that the included language, "valid complaint," was too subjective.

Ms. Rodriguez responded that that was why there was an attempt to keep the language as clear as possible so that there would be no ambiguity as to what qualifies as a valid complaint, and so as

to make the ordinance more cohesive with what is already in the Municipal Code and with Police and Fire Department processes.

Councilmember Scott recounted the story of two (2) shooting neighbors in the Second (2nd) District, with one of the neighbors calling the Police with violation complaints on the other neighbor. When the Police arrived at the scene, it turned out that the neighbor who had called had lied. Councilmember Scott explained that someone who lies when calling the Police regarding violations would themselves be in violation of the ordinance. The good part about this enforcement is the human factor—that the Police will come out and investigate to know what is going on, to identify root causes before fining individuals.

Councilmember Broden asked, With regard to the management companies that would be on the front lines of this, have you circled back to them? Are they aware of these changes? How much feedback did you get from them? Because a lack of violations is profitable to these managers, the ordinance directly impacts them. Councilmember Broden asked Councilmember Scott to address how they have been brought into the circle of the implementation of changes in the ordinance.

Councilmember Scott responded that they have had some of the large complexes come forward, but that Officer Keenan Lane and Ms. Colborn probably had had the most contact with those property managers. He stated that the changes were mostly to the language of the ordinance, as well as Chronic Nuisance as it affects those unwilling to work with Officer Keenan Lane.

Keenan Lane, Police Officer at 701 West Sample Street, South Bend, IN, asked for clarification on Councilmember Broden's question.

Councilmember Broden responded that she wanted to know how involved property managers were in the process, as some of them had big recommendations regarding this, such as legal recommendations and certain marks to hit. She asked, How comfortable are you with the feedback from management companies?

Officer Lane responded that he was very comfortable with the feedback. When his position was created, his first inclination was to meet with the larger apartment complexes in South Bend, because he receives so many calls from them. They had many meetings wherein they could educate property managers or owners about what the ordinance was, such that they could better identify problems on which to work on their end.

Councilmember Broden requested that the Fire Department have a visible job description for Chronic Nuisance so that the Council could identify a go-to person in the Fire Department, equivalent to Keenan in the Police Department. She asked about whether or not there were any issues with the team's capacity.

Councilmember Scott explained that before Officer Lane took on the post, they were not sure how much work would be involved. He further stated that though Officer Lane has been very busy, he has kept up very well with the workload.

Councilmember Davis asked how many more staffers were going to be added to the staff back in 2013.

Councilmember Scott and Officer Lane explained that there had been interns and cadets that helped temporarily with the effort, but Officer Lane has not had full-time help.

Councilmember Davis voiced concern with there being only one (1) person at the post. He stated that there should be several people with Officer Lane's skills and knowledge at the job, such that the work is not completely on one (1) man's shoulders, and if anything should happen to Officer Lane, the work could still be done. Councilmember Scott agreed and stated that these were concerns to be brought to the Fire and Police Chiefs.

Councilmember Broden asked, Where would this naturally fit within our purview as a Council? Looking at this on a periodic basis, are we hitting the mark? Are we addressing the problem? Is that a Health and Public Safety issue? Can we incorporate that into a report-out function on an annual basis? Is that something we should imbed within this, or is it something that, administratively, we can just put on the task? Like some of the calendaring of reports of what we're doing, what we're trying to accomplish.

Councilmember Scott responded that Officer Lane files a report on chronic nuisance yearly, around June. He stated that he was willing to put it on the Council calendar, six (6) months a year. He stated that the operation has run smoothly up to these tweaks, which came about because of what Officer Lane, Legal, Code Enforcement, and even the large complexes were seeing.

Councilmember Broden responded, I think that evaluative process would bring in some voices. If that is institutionalized as a mark that we hit, that we are reviewing it as a broader group, I think that that should benefit everybody all around. Thank you for your willingness to look at that.

Councilmember Scott responded, We will do a review six (6) months from now.

Those of the public wishing to speak in favor of the bill:

Sharon Banicki, 3822 Ford St., South Bend, IN, stated that this situation was a double-edged sword. Ms. Banicki generally considers the ordinance a good thing, but thinks that it focuses too much on larger complexes, letting smaller properties slip through the cracks. She stated, My mom's neighbor—who has had the Police out there every other day for the last month—isn't on the list. I don't know how to get them on the list, but the police officers even know the people that are involved when they're called out there. Outside of that, she considers the measure a wonderful thing.

Those of the public wishing to speak in opposition of the bill:

Jesse Davis, P.O. Box 10205, South Bend, IN, stated that the only reason he is opposed to this is that he feels that apartment complexes are offered too much leniency. He stated, I don't see where it's going to be a benefit to a lot of them to have more calls. You're basically giving in to them. He was curious to know by what criteria a property is classified as a chronic nuisance and how he might see the long list of properties Officer Lane had to investigate. He stated, I know there's a neighborhood on the southeast side off Lear Street, Calvert area, Randolph—man, the cops are over there at particular houses constantly. There's been guns, there's been drugs, there's been stolen vehicles. None of those places are on the Chronic Nuisance List. If it's only going to be geared at apartment complexes, then let's make it that. It need to come into the neighborhoods.

Myron Larimore, 402 East South Street, South Bend, IN, stated that he was generally in favor of the ordinance. Realtors and landlords have suggested to him that the Police should call them every time there is a call to the property, as opposed to every three (3) times or four (4) times. Mr. Lambert stated that in conjunction with the Landlord Registration, this should be easy to implement.

Ms. Sullivan, 1209 Pyle Avenue, South Bend, IN, explained that her husband is a veteran afflicted by mental illness and that, as a result, she has been unsure as to whether or not her home would end up in violation of the ordinance. Ms. Sullivan stated, Officially, I've had several calls. It is unclear to me where I fall. She explained that she had to protest to the Police Department to have her address show that a mentally ill veteran resided there. The code word that I use, Ms. Sullivan stated, is "Crisis for a Veteran." They sent police officers out to deescalate the situation and not use excessive force. Then they send emergency services and whatever else is needed. It took several months to get that on. She stated that she did not understand why she received excessive calls for so long before she could get the help that she needed. She did not understand why the responsibility had completely fallen upon her.

Councilmember Scott returned to the podium to offer a rebuttal. Councilmember Scott explained that the ordinance is designed for everything from single-family homes to apartment complexes. The issue was that the process did not feel equitable to larger complexes. It is scalable to the size of the residence. The ordinance is there to hold people who are living in the City accountable for being good neighbors to each other. Though tenants are often the source of the issue, it is the responsibility of the landowner, as they signed on their tenants and are collecting a profit from them. Councilmember Scott stated that he felt that the scalability of the ordinance would have to be reviewed in time, as it is new. He expressed a concern that the operation was possibly growing too large, that there were too many calls being processed regarding larger complexes,

but that he had a willingness to try things out and evaluate and, if necessary edit, the process appropriately.

Officer Lane stated that he sees the ordinance as a tool for problem-solving. It allows him to work on properties to which the Police are responding repeatedly. The ordinance is geared toward allowing the Police to be proactive. Instead of focusing on one (1) bad complex, it allows them to spread out and make the City a safer one in which to live. Addressing Ms. Sullivan, Officer Lane explained that when the Department receives a lot of calls regarding a specific property and they forward the case to him, he goes to the property to investigate the issue. If he discovers that, like in Ms. Sullivan's case, there is a veteran suffering from mental illness at the residence, then his job isn't to penalize the residents of the property but to assist them in getting help. Kicking them out of their home does not solve the problem. In a case like Ms. Sullivan's, Officer Lane's job would be to get a hold of a mental health institution to help with that situation. Addressing Councilmember Williams-Preston, Officer Lane explained that in the hypothetical scenario she had drawn earlier, he would get in contact with the property owner to inform them that their tenants are being a nuisance, selling drugs, whatever the case may be. If the property owner has something like a leaky roof and the tenants are destroying her property and she does not have the funds to repair the home to Code, Officer Lane would at that point direct her to roof repair resources. He would then call Code Enforcement and explain the situation, seeking out options and solutions for the property owner. The goal, Officer Lane explained, is to investigate the problem and find the solution to that specific problem. He stated, I'm trying to be a multi-tasker to help you out.

Councilmember Williams-Preston responded that her concern regarded an owner-occupied scenario, but that she understood Officer Lane otherwise.

Councilmember Broden stated, going forward in 2017, she did not want to lose Mr. Larimore's recommendation. She was unsure of how easy it would be to implement something like an auto-dial mechanism in conjunction with the Landlord Registry, but she felt that the potential was possibly there. She compared a possible implementation of auto-dial to how schools send automated messages to parents when their children are absent. She stated that she would love to see this issue brought up by property managers tackled and solved in 2017.

Councilmember Scott responded, I think we look at every possibility, every technology. He stated that Chief Laskowski told him that they took in around 89,000 calls. He stated that he agrees with Councilmember Broden, but he wants a balance so that the Police do not become full-time property management. Councilmember Scott stated, though, that any technology that aids the process is completely welcome. He stated, I think that's a benefit to landlord registration: having the right information and contact. Officer Lane and Ms. Colborn were both in favor of landlord registration because so much of Officer Lane's time is not only spent dealing with people but trying to track down who on the property he needs to speak with in the first place.

Ashley Colborn, Assistant City Attorney with offices on the 12th Floor of the County-City Building, stated that issues like Ms. Sullivan's are specifically why HIPPA protection was added to the ordinance so as to prevent such cases from being added to the Chronic Nuisance List.

Councilmember Dr. David Varner made a motion that *Bill No. 70-16* be sent to the full Council with a favorable recommendation. Councilmember Karen White seconded the motion which carried by a voice vote of seven (7) ayes and one (1) nay (Councilmember Regina Williams-Preston).

69-16

PUBLIC HEARING ON AN ORDINANCE OF
THE COMMON COUNCIL OF THE CITY OF
SOUTH BEND, INDIANA, ESTABLISHING
INTERNAL CONTROL STANDARDS AND
ESTABLISHING A MATERIALITY
THRESHOLD.

Councilmember Tim Scott made a motion to accept *Substitute Bill No. 69-16*. Councilmember Karen White seconded the motion which carried by a voice vote of eight (8) ayes.

Councilmember Karen White, Chair of the Personnel and Finance Committee, reported that they met and send this bill forward with a favorable recommendation.

John Murphy, City Controller with offices on the 12th Floor of the County-City Building, stated that in 2015 the State legislature passed a law requiring all local governments to develop an internal control policy. He stated that there have been a number of policies implemented in South Bend government. There is a rigorous audit conducted by the State Board of Accounts on the City, but there has not been a totally integrated, codified policy. The State has developed a template consisting of seventeen (17) points. The City has modified it, looking toward other cities as well as using its own ideas. The City is required to get that adopted by City Council prior to the end of the year. In addition to the policy, there is a task force charged with looking at all City financial policies such as cash policies, fixed-asset policies, accounts-payable policies. The team consists of Deputy City Controller Jen Hockenhull, Ken Glowacki of the Police Department, Danny Copenhagen of the Fire Department, and Amy O'Connor of the Department of Administration and Finance. They are putting together a more formalized document for release and publication in the first half of 2017. The City is also required by law to include training on internal controls. Seventeen (17) of the City's fiscal officers were trained in May, and eight (8) were trained in March. Mr. Murphy stated, We need to, however, do some additional training. Other officials and regular employees of the City will need to do this training. Mr. Murphy stated that between all these activities, the City should be compliant with State law.

Those of the public wishing to speak in favor of the bill:

Jesse Davis, P.O. Box 10205, South Bend, IN, stated that if this is doing what he thinks it is doing, then he is absolutely in favor of it. Mr. Davis wondered, though, if this would solve the issue by which a large amount of equipment mysteriously appeared in the County-City Building. He stated that he had tried to get a list of the equipment and that he had so discovered that another set of equipment appeared at a second building on Lafayette Street. He sent in a FOIA request and was informed by city attorneys that this was under State Police investigation—that the Feds were involved in it—and that when the investigation was complete, they would get back to him. He has not heard anything in two (2) years. Mr. Davis asked if this would be a measure to hold officials and employees accountable, to create more transparency. He stated that he would submit a new FOIA to determine whether or not the investigation had been completed.

No one from the public wished to speak in opposition to the bill.

City Controller John Murphy returned to the podium to offer a rebuttal. Mr. Murphy stated that the policy was indeed designed to hold those in government accountable and to increase awareness of internal controls. He stated that the incident that Mr. Davis referred to would fall under the purview of this policy, as there is zero tolerance for any kind of theft of equipment or cash.

Councilmember Dr. David Varner made a motion that *Substitute Bill No. 69-16* be sent to the full Council with a favorable recommendation. Councilmember Regina Williams-Preston seconded the motion which carried by a voice vote of eight (8) ayes.

RISE AND REPORT

Councilmember Oliver Davis made a motion to rise and report to full Council. Councilmember Tim Scott seconded the motion which carried by a voice vote of eight (8) ayes.

REGULAR MEETING RECONVENED

Be it remembered that the Common Council of the City of South Bend reconvened in the Council Chambers on the fourth floor of the County-City building at 9:07 p.m. Council President Tim Scott presided with eight (8) members present.

BILLS – THIRD READING53-16

THIRD READING ON AN ORDINANCE
AMENDING THE ZONING ORDINANCE AND
REQUESTING A SPECIAL EXCEPTION FOR
PROPERTY LOCATED AT 331 WAYNE
STREET, COUNCILMANIC DISTRICT NO. 2 IN
THE CITY OF SOUTH BEND, INDIANA

Councilmember Dr. David Varner made a motion to pass *Bill No. 53-16*. Councilmember Karen White seconded the motion which carried by a roll call vote of nine (9) ayes.

60-16

THIRD READING ON AN ORDINANCE TO
VACATE THE FOLLOWING DESCRIBED
PROPERTY: THE FIRST NORTH-SOUTH
ALLEY LYING WEST OF PORTAGE AVENUE,
BOUNDED ON THE NORTH BY THE SOUTH
RIGHT-OF-WAY LINE OF BULLA STREET
AND BOUNDED ON THE SOUTH BY THE
NORTH RIGHT-OF-WAY LINE OF THE FIRST
EAST-WEST ALLEY NORTH OF KING STREET
IN PORTAGE TOWNSHIP

Councilmember Karen White made a motion to pass *Bill No. 60-16*. Councilmember Dr. David Varner seconded the motion which carried by a roll call vote of six (6) ayes and two (2) nays (Councilmembers Jo Broden and John Voorde).

65-16

THIRD READING ON AN ORDINANCE
AMENDING THE ZONING ORDINANCE FOR
PROPERTY LOCATED AT 913 LAWRENCE
STREET AND 427 & 437 CORBY BOULEVARD,
COUNCILMANIC DISTRICT NO. 4 IN THE
CITY OF SOUTH BEND, INDIANA

Councilmember Karen White made a motion to amend *Bill No. 65-16* as it was in the Committee of the Whole. Councilmember John Voorde seconded the motion which carried by a voice vote of eight (8) ayes.

Councilmember Karen White made a motion to pass *Bill No. 65-16* as amended. Councilmember Randy Kelly seconded the motion which carried by a roll call vote of eight (8) ayes.

68-16

THIRD READING ON AN ORDINANCE TO
VACATE THE FOLLOWING DESCRIBED
PROPERTY: THE EAST-WEST ALLEY LYING
BETWEEN LOTS 79 AND 80 IN SORIN'S 2ND
ADDITION EXTENDING FROM ST. LOUIS
STREET EAST TO THE FIRST NORTH-SOUTH
ALLEY EAST OF ST. LOUIS STREET

Councilmember Karen White made a motion to amend *Bill No. 68-16* as it was in the Committee of the Whole. Councilmember Dr. David Varner seconded the motion which carried by a voice vote of eight (8) ayes.

Councilmember Karen White made a motion to pass *Bill No. 68-16* as amended. Councilmember Dr. David Varner seconded the motion which carried by a roll call vote of eight (8) ayes.

69-16

THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ESTABLISHING INTERNAL CONTROL STANDARDS AND ESTABLISHING A MATERIALITY THRESHOLD.

Councilmember John Voorde made a motion to amend *Bill No. 69-16* as it was in the Committee of the Whole. Councilmember Karen White seconded the motion which carried by a voice vote of eight (8) ayes.

Councilmember John Voorde made a motion to pass *Bill No. 69-16* as amended. Councilmember Karen White seconded the motion which carried by a roll call vote of eight (8) ayes.

70-16

THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING VARIOUS SECTIONS OF ARTICLE 12 OF CHAPTER 13 OF THE SOUTH BEND MUNICIPAL CODE ADDRESSING CHRONIC PROBLEM PROPERTY REGULATIONS

Councilmember Karen White made a motion to amend *Bill No. 70-16* as it was in the Committee of the Whole. Councilmember Dr. David Varner seconded the motion which carried by a voice vote of eight (8) ayes.

Councilmember Karen White made a motion to pass *Bill No. 70-16* as amended. Councilmember Dr. David Varner seconded the motion which carried by a roll call vote of seven (7) ayes and one (1) nay (Councilmember Regina Williams-Preston).

RESOLUTIONS16-85

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS 23464 ADAMS ROAD, SOUTH BEND, IN 46628 AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A (9) NINE-YEAR REAL PROPERTY TAX ABATEMENT FOR GLC PORTAGE PRAIRIE, LLC

Councilmember Karen White made a motion to continue *Bill No. 16-85* until December 12th, 2016 and send it back to the Department of Community Investment. Councilmember John Voorde seconded the motion which carried by a voice vote of eight (8) ayes.

16-86

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A WAIVER OF NONCOMPLIANCE FOR LATE-FILED SCHEDULE OF DEDUCTION FROM ASSESSED VALUATION PERSONAL PROPERTY IN ECONOMIC REVITALIZATION AREA (FORM 103-ERA) AND COMPLIANCE WITH STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM CF-1 / PP) BY NOBLE

AMERICAS SOUTH BEND ETHANOL LLC
FOR CERTAIN PERSONAL PROPERTY
LOCATED AT 3201 WEST CALVERT STREET
DESIGNATED AS AN ECONOMIC
REVITALIZATION AREA UNDER
RESOLUTION 4332-14

Council President Tim Scott reported that the Community Investment Committee met today and send this forward with no recommendation.

Aaron Kobb, Community Investment, with offices on the 14th Floor of the County-City Building, served as presenter of this bill. Mr. Kobb stated that the resolution in question is for a five (5) year personal property tax abatement that was granted in April 2014 for Noble Americas. That approval was the first step in the process for the petitioner. From then on, they have been and are responsible for filing paperwork to the County Auditor's Office for that abatement, which would be reflected on their tax bill. If that filing deadline is missed, the Council has the ability to grant a resolution for waiver of noncompliance, which would allow the County Auditor to then view that waiver and reapply that abatement to the tax bill that was missed.

Rob Winks, 50946 Hawthorne Meadow Drive, South Bend, IN, stated that the issue relates to the March 1st, 2015 assessment date for property tax filing. It was filed timely in May 2015, excluding the Form 103-ERA for the abatement amount, which was for year one (1). The error for the prior year was found when the filing was made for the December 31st, 2015 property tax return that was due May 2016. At that point in time, it had been found by a new staff member in Noble Americas' Corporate Tax Department. Mr. Winks stated, At that point, we went ahead and filed the filing for December 31st, 2015 timely in May with the year two (2) abatement included in the return. Noble Americas then requested the option of amending the 2015 tax return related to the March 1st assessment. The taxes charged by the County were paid in the full gross amount and in a timely manner in May and November of 2016.

Councilmember Dr. David Varner made a motion to pass *Bill No. 16-86*. Councilmember Oliver Davis seconded the motion which carried by a roll call vote of eight (8) ayes.

16-90

A RESOLUTION OF THE COMMON COUNCIL
OF THE CITY OF SOUTH BEND, INDIANA,
REQUESTING PROGRESS REPORTS TO BE
GIVEN ANNUALLY TO THE ZONING AND
ANNEXATION COMMITTEE ON EACH
NEIGHBORHOOD AND DEVELOPMENT PLAN

Councilmember Tim Scott made a motion to continue *Bill No. 16-90* until December 12th, 2016 and send it to the Zoning and Annexation Committee. Councilmember Regina Williams-Preston seconded the motion which carried by a voice vote of eight (8) ayes.

BILLS FIRST READING

72-16

FIRST READING ON AN ORDINANCE
INITIATED BY THE COMMON COUNCIL OF
THE CITY OF SOUTH BEND, INDIANA
AMENDING CHAPTER 21 OF THE SOUTH
BEND MUNICIPAL CODE, ARTICLE 3 BY
ADDING SHARED HOUSING TO PERMITTED
PRIMARY USES IN CBD CENTRAL BUSINESS
DISTRICT; AND SECTION 11 BY ADDING THE
DEFINITION OF SHARED HOUSING

COUNCILMEMBER OLIVER DAVIS EXITED THE CHAMBERS AT 9:18 p.m. THE QUORUM IS NOW SET AT SEVEN (7).

Councilmember Karen White made a motion to send *Bill No. 72-16* to the Area Plan Commission. Councilmember Dr. David Varner seconded the motion which carried by a voice vote of seven (7) ayes and zero (0) nays.

73-16

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 2, ARTICLE 14 OF THE SOUTH BEND MUNICIPAL CODE TO ESTABLISH VARIOUS NEW FUNDS: LOCAL ROAD AND BRIDGE MATCHING GRANT FUND (265), EQUIPMENT/VEHICLE LEASING FUND (750), PARKS BOND CAPITAL FUND (751), SOUTH BEND REDEVELOPMENT AUTHORITY FUND (752), SMART STREETS BOND CAPITAL FUND (753), INDUSTRIAL REVOLVING FUND (754), SOUTH BEND BUILDING CORPORATION FUND (755), SMART STREETS DEBT SERVICE FUND (756), PARKS BOND DEBT SERVICE FUND (757), THE ERSKINE VILLAGE DEBT SERVICE FUND (758), AND CHANGING THE NAME OF FUND 279 TO THE IT/INNOVATION/311 CALL CENTER FUND

Councilmember Karen White made a motion to send *Bill No. 73-16* to the Public Works and Property Vacation Committee and to set public hearing for December 12th, 2016. Councilmember John Voorde seconded the motion which carried by a voice vote of seven (7) ayes and zero (0) nays.

74-16

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROPRIATING ADDITIONAL FUNDS FOR CERTAIN DEPARTMENTAL AND ENTERPRISE OPERATIONS IN 2016 OF \$220,000 FROM CONSOLIDATED BUILDING FUND (#600), \$120,000 FROM SOLID WASTE FUND (#610), \$5,000 FROM WATER WORKS CUSTOMER DEPOSIT FUND (#624), \$4,000 FROM WATER WORKS SINKING FUND (#625), \$5,000 FROM WATER WORKS BOND RESERVE FUND (#626), \$11,000 FROM WATER WORKS DEBT RESERVE O&M FUND (#629), \$45,000 FROM SEWER INSURANCE FUND (#640), \$22,000 FROM SEWAGE WORKS O&M RESERVE FUND (#643), \$5 FROM 2015 SEWER BOND ISSUANCE FUND (#666), AND \$346,506 FROM CENTURY CENTER FUND (#670).

Councilmember Karen White made a motion to send *Bill No. 74-16* to the Utilities Committee and set public hearing for December 12th, 2016. Councilmember John Voorde seconded the motion which carried by a voice vote of seven (7) ayes and zero (0) nays.

75-16

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, FOR BUDGET TRANSFERS FOR VARIOUS DEPARTMENTS WITHIN THE CITY OF SOUTH BEND, INDIANA FOR THE YEAR 2016

Councilmember John Voorde made a motion to send *Bill No. 75-16* to the Personnel and Finance Committee and to set second reading and public hearing for December 12th, 2016.

Councilmember Dr. David Varner seconded the motion which carried by a voice vote of seven (7) ayes and zero (0) nays.

76-16

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROPRIATING ADDITIONAL FUNDS FOR CERTAIN DEPARTMENTAL AND CITY SERVICES OPERATIONS IN 2016 OF \$364,100 FROM GENERAL FUND (#101), \$25,000 FROM UNSAFE BUILDING FUND (#219), \$25,000 FROM LOCAL ROADS & STREETS FUND (#251), \$150,000 FROM LOIT 2016 SPECIAL DISTRIBUTION FUND (#257), \$10,000 FROM INDIANA RIVER RESCUE FUND (#291), \$212,542 FROM COPS MORE GRANT FUND (#295), \$150,000 FROM COUNTY OPTION INCOME TAX FUND (#404) AND \$100,000 FROM PARKS NONREVERTING CAPITAL FUND (#405).

Councilmember Karen White made a motion to send *Bill No. 76-16* to the Personnel and Finance Committee and to set second reading and public hearing for December 12th, 2016.

Councilmember John Voorde seconded the motion which carried by a voice vote of seven (7) ayes and zero (0) nays.

UNFINISHED BUSINESS

16-89

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A PETITION OF THE AREA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT LOTS 2 AND 3 COVELESKI PARK MINOR SUBDIVISION SOUTH BEND, INDIANA 46601

Councilmember Karen White made a motion to send *Bill No. 16-89* to the Zoning and Annexation Committee and to set public hearing for December 12th, 2016. Councilmember Dr. David Varner seconded the motion which carried by a voice vote of seven (7) ayes and zero (0) nays.

NEW BUSINESS

Councilmember Tim Scott announced that there would not be a second December Common Council meeting on December 26th, 2016.

Councilmember Jo Broden asked whether or not it was possible to have joint committee meetings to discuss bills where the purview of more than one committee overlaps. Council Attorney Cekanski-Farrand explained that committees have historically forgone joint meetings in favor of single committee meetings where the bill is referred to the committee to which it is the most relevant. Councilmember Broden stated that she thought it would be easier for the public to track if there were joint-discussions on these bills. Councilmember Tim Scott stated that he assumes that anything having to do with Utilities goes to the Utilities Committee, even when discussing funds.

Councilmember Broden asked what the process was for acquiring a new Council Attorney. Legal Research Assistant Rodriguez explained that the job has not yet been posted. Because Councilmember Broden had sent recommendations that needed to be included in the job posting, Ms. Rodriguez stated that she would update the job description and get it subsequently posted.

PRIVILEGE OF THE FLOOR

Samuel Brown, 222 East Navarre Street, South Bend, IN, stated that he was there as a commissioner of the Human Rights Committee. He explained that he had been appointed as a Human Rights officer after the death of his predecessor in office. Mr. Brown stated that he felt fortunate to be chosen and hoped to be approved for a full term. Mr. Brown stated, I think I need your blessing to have a full term, and I hope you give that to me. He stated that he would follow up with a letter to Council President Scott and that he hoped that all the commissioners give a favorable recommendation for him to do a full term. Mr. Brown explained that he has not missed a meeting or conference, that he has done everything asked of him, that Director Lonnie Douglas of the Human Rights Commission is happy with his performance, and that City Attorney Aladean DeRose gave him a recommendation, as well. He hoped that the Council would bless him with a full term.

Jesse Davis, P.O. Box 10205, South Bend, IN, was curious about a new façade going on Main Street Row. Mr. Davis stated, I'm just kind of curious on how we decide where we're tossing \$400,000 for façades, because there are a lot of façades along the Smart Streets corridor that are in worse shape than that building was. He stated that he wanted to know who made this determination, and noted that he did not recall this coming up at a previous Council meeting. Mr. Davis wanted to know where the money came from and who determined where it should be spent. He stated, I saw that Great Lakes Capital owns the building. There seem to be a lot of ties between Great Lakes Capital and Bradley Management Group...things of that nature. He stated that there were many unknowns regarding this transaction of—what he assumed to be—tax dollars.

Sharon Banicki, 3822 Ford Street, South Bend, IN, thanked Councilmember Dr. Varner for helping on Election Day, stating that it was deeply appreciated. Ms. Banicki stated, I have an internet address for you. I know the budget clock starts early, and there was some question as to where I got some of my figures during the last budget talks. It's actually on the State of Indiana website. It's gatewayinfoonline.org. It has everybody that's paid by any public entity on there. Ms. Banicki explained that she was able to see how much everyone on the Council is paid. She continued, stating, When people come asking for these outrageous and outlandish raises next year, use this as a resource so that you can see that the other cities are not paying what you've been led to believe.

Becky Reimbold, 1127 East Bronson Street, South Bend, IN, stated that she wanted to first express gratitude to the Councilmembers, the staff, the caring community members present, and to the developer and designers and architects who have chosen to invest in South Bend. She stated, My family and I have invested in our home neighborhood and also in the East Bank Village. Four (4) years ago, we purchased the building at 714 East Jefferson, where I have operated my business for the last six years. We are also founding member owners of the Purple Porch Coop, at 123 North Hill Street. We, along with other business people and residents in the neighborhood that I have spoken with, are invested in this concept of a village atmosphere on the east side of the river—an area distinct from, but connected to, the Central Downtown. We are concerned about the height and the mass of the proposed Commerce Center project. And while we understand that density is important, that large-scale grocery and pharmacy are desirable in the Downtown area, the original zoning guidelines in that East Bank Village Plan are well-crafted and they should be followed. They represent a shared vision and many hours of careful work by experts and stakeholders in the process. This plan is not out-of-date and, in fact, it has been referenced by the City multiple times over the past three (3) years, in relation to other development projects in the neighborhood. The City has already agreed to increase the original sixty (60) foot maximum allowable height to seventy-five (75) feet for the Wharf property and then further to ninety-six (96) feet for the Niles and Jefferson property. Allowing a highrise will

set a precedent for the neighborhood. PUDs are permanent changes, in relation to the restrictions on a property. And furthermore, adjacent property owners, due to those exceptions, would be able to present a valid legal argument to also build to that height. Please keep the maximum allowable height between the original sixty (60) feet and the recent compromise of ninety-six (96) while working with Matthews LLC—and any other developers—to find plans that work in that neighborhood for everyone. Ms. Reimbold thanked the Council for hearing all the positions on this matter.

ADJOURNMENT

There being no further business to come before the Council, President Tim Scott adjourned the meeting at 9:33 p.m.