





**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**

**August 22, 2016**

**MEETING OF THE COUNCIL AND FOUND THEM TO BE CORRECT.**

**THEREFORE, WE RECOMMEND THE SAME ~~BE~~ APPROVED:**



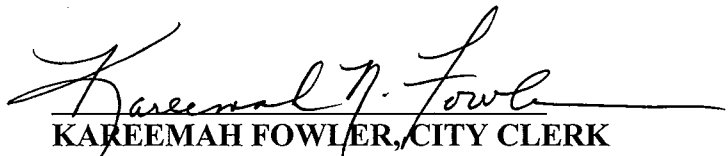
**TIM SCOTT**



**DAVID VARNER**

**APPROVED BY THE COMMON COUNCIL ON:      September 12, 2016**

**ATTEST:**

  
**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, August 22nd, 2016 at 7:00 p.m. The meeting was called to order by Council President Tim Scott and the Invocation was given by Larry Dwyer from the Baha'i Community of Michiana and Pledge to the Flag was given.

ROLL CALLCOUNCIL MEMBERS:PRESENT:

Tim Scott	1 <sup>st</sup> District, President
Regina Williams-Preston	2 <sup>nd</sup> District
Josephine Broden	4 <sup>th</sup> District
Dr. David Varner	5 <sup>th</sup> District
Oliver J. Davis	6 <sup>th</sup> District, Vice President
John Voorde	At-Large
Gavin Ferlic	At-Large, Chairperson Committee of the Whole
Karen L. White	At-Large

ABSENT:

Randy Kelly	3rd District (Excused)
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OTHERS PRESENT:

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

REPORT FROM THE SUB-COMMITTEE ON MINUTES

Councilmember Gavin Ferlic made a motion that the minutes of the August 8<sup>th</sup> 2016 meeting of the Council be accepted and placed on file. Councilmember Oliver Davis seconded the motion which carried by a voice vote of eight (8) ayes.

SPECIAL BUSINESS

John Antonucci, Director of the St. Joseph County Emergency Management Agency with offices at 1222 South Michigan Street South Bend, gave an update on the flood damage from last week's storm. Mr. Antonucci displayed various maps highlighting the areas and severity of the damage, the maps are on file with the City Clerk's Office. The natural watershed from the Southwest portion of the county flows through the City of South Bend and traverses towards the Northeast. That system was taxed to the extreme and could not handle that much water at one time and flooding obviously occurred. Mr. Antonucci wanted to reiterate that there was not one (1) reported incident for injury during this entire event and we are very fortunate because this event had the potential to cause injuries. In some cases entire foundations of houses were compromised and there could have been collapses. At this point we have around 1,000 affected homes and around sixty (60) of those were totally destroyed or had major damage to the extent that they will probably not be rebuilt. The first step in the process going forward is for us to

complete a damage assessment. We have to make contact with every property that has been reported to us and do a damage assessment. Then all that data is collected and forwarded onto the Department of Homeland Security in Indianapolis. At that point the governor will make the decision whether to forward it onto FEMA for a presidential declaration. There are thresholds attached to each plateau of assistance from the government. In order to get a presidential declaration, the first hurdle is to demonstrate \$11.2 million dollars in public assistance damage. That is infrastructure, roads, sewer systems and those type of systems in the entire state. During this storm we were one of the only affected areas so unfortunately we will most likely not meet that threshold. However, we will still make the FEMA application. Ironically, getting a refusal from FEMA will open several other doors for us and other opportunities to seek out aid.

Mr. Antonucci stated the Department of Homeland Security has been with us since Tuesday morning right after the storm. They have been with us through every step of the early recovery process. The other threshold that we are trying to meet right now is IA or Individual Assistance. We would have to identify several hundred homes being totally destroyed. Right now we are competing with Louisiana which is experiencing flooding at a larger scale over a larger area than we did. Many of the aid agencies are focusing on Louisiana which they probably should be. FEMA is a catastrophic event service which is the spirit of the creation of the agency to go to truly catastrophic areas.

Mr. Antonucci stated tomorrow, August 23<sup>rd</sup>, they will be setting up their Housing Assistance Plan and Office. We will begin to take this information we have gathered and set up individual cases so that we can process them possibly through a Small Business Administration federally insured loan program. That will allow people to roll their present and existing mortgages into a very low interest loan. That will hopefully be a good program for our community.

We held a meeting with Senator Donnelly this past Sunday morning and did ask him to search out any possible aid that could be sent to South Bend and St. Joseph County. We have two (2) faith based organizations that are assisting with the removal of debris and damaged materials inside the homes. The governor released twenty (20) volunteers from the Department of Corrections to assist us in debris removal. The City has been vigilant having additional pickups throughout the week to help people remove those materials. The debris removal is a concern because the quicker we can do that, a mosquito outbreak is less likely and the spread of mold within homes is less likely. Mr. Antonucci stated he is glad to answer any questions the Council may have.

Councilmember Regina Williams-Preston asked if there was any programming for people who were renters and lost a lot of their belongings.

Mr. Antonucci responded absolutely, we have a service center set up through the Red Cross on Jefferson Street. There are several different forms of aid they are providing for people.

Councilmember Jo M. Broden asked Mr. Antonucci who the two (2) faith based organizations are.

Mr. Antonucci responded it is the Southern Baptist Ministries and the Christian Aid Ministries. Also Team Rubicon, which is a veteran's organization, will be here on Thursday.

Councilmember Oliver Davis asked Mr. Antonucci how a faith based group could connect with him if they wanted to help.

Mr. Antonucci responded everything is funneling through the Emergency Management Agency. We've continued to try to get our number, 235-9378, out to the community. The Salvation Army is currently helping us coordinate all volunteer organizations and anyone who wants to help could contact them. We will gladly accept any help.

Councilmember Karen White thanked Mr. Antonucci and all the volunteers who have responded to the community's need at this time.

Mr. Antonucci responded that this recovery is going to come from within and not from without and the community will need to step up and help our neighbors and then we will get through this.

REPORTS OF CITY OFFICES

Representing the City Administration will be James Mueller.

RESOLVE INTO THE COMMITTEE OF THE WHOLE

At 7:12 p.m. Councilmember Karen White made a motion to resolve into the Committee of the Whole. Councilmember John Voorde seconded the motion which carried by a voice vote of eight (8) ayes. Councilmember Gavin Ferlic, Chairperson, presiding.

Councilmember Gavin Ferlic 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

36-16

PUBLIC HEARING ON AN ORDINANCE AMENDING  
THE ZONING ORDINANCE FOR PROPERTY  
LOCATED AT 202 BARTLETT STREET,  
COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF  
SOUTH BEND, INDIANA

Councilmember Oliver Davis made a motion to accept the substitute version of Bill 36-16. Councilmember Karen White seconded the motion which carried by a voice vote of eight (8) ayes.

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

Keith Chapman, Area Plan Commission with offices on the 11<sup>th</sup> Floor of the County-City Building, served as the presenter for this bill. This property is located at 202 Bartlett Street. Mr. Chapman provided pictures of the property as well as a site plan which are on file in the City-Clerk's Office. The petitioner is looking to rezone from SF2 Single-Family to MF1 Urban Corridor Multi-Family District. To the north is Leeper Park. To the east is a doctor's office. To the south is a single family residence. To the west of the property is a parking lot. This comes to the Council with a favorable recommendation from the Area Plan Commission subject to the following written commitment: the multi-family dwelling unit is limited to three (3) units. Rezoning the site to MF1 Urban Corridor Multi-Family District will allow for a mixture of housing types in the neighborhood and enable the reuse of a vacant structure.

Justin Bogunit, 202 Bartlett St., served as the petitioner for this bill. His intentions are to renovate the property and restore it to what it was originally built for. The plan is to keep the same footprint which is two (2) units on the second-floor and one (1) unit on the first-floor. The structure is sitting right on the property line and he does not own any of the property from the building to the street. There are also plans to add landscaping on the property.

Councilmember Oliver Davis asked what Mr. Bogunit plan is for any parking issues that may arise and also if he could clarify the issue regarding Code Enforcement violations.

Mr. Bogunit responded that he went to the Police Department and got a report for any calls at that address and there was only one (1) since he acquired the property and that was because they thought the house was broken into. Since that time he has gone through and secured the property more thoroughly. There have been no Code violations since he has taken ownership of the property. He stated he has investigated getting access for his tenants to the parking lot across the street which is owned by Memorial Hospital, so far he has not been successful. Mr. Bogunit listed various streets near the house that will be more open for parking once Smart Streets construction is over. He has also met with the Historic Preservation Commission about being a part of the Historic District and he did some improvements to the outside per their requests.

Councilmember Tim Scott stated Memorial employees who don't want to pay for parking have gone out through the neighborhoods and parked there. He asked Mr. Bogunit how many bedrooms will there be per unit.

Mr. Bogunit responded two (2) are single bedrooms and one (1) is a double bedroom unit.

Councilmember Scott stated it is a good thing that the building was originally designed as an apartment building because we have had some issues arise when buildings are changed from their original purposes.

No one from the public spoke in favor of the bill.

Those wishing to speak in opposition:

Samuel Brown, 222 East Navarre Street, stated his problem with this is that on the west side of St. Joseph Street all the way down to Bartlett we have these no parking signs. Those signs need to be removed so that the neighborhood can have more parking. The City needs to rethink the parking in that neighborhood before this is approved.

Mr. Bogunit responded that he understands parking is an issue in the neighborhood and Bartlett Street is congested at the moment. He looks at St. Joseph Street as a place his tenants could park.

Councilmember Scott stated his thought on this is that people need to be good neighbors. He is concerned with this but he is also concerned about having a vacant building in a neighborhood that invites people to break in and commit other criminal activity. He is interested in working with the City and Mr. Brown to get the west side of St. Joseph Street converted into residential parking permit only. Maybe we should also increase the passes given to the residents in that neighborhood.

Councilmember John Voorde made a motion to send Bill 36-16 to the full Council as amended. Councilmember Jo M. Broden seconded the motion which carried by a voice vote of eight (8) ayes.

Chairperson Gavin Ferlic asked for a motion to hear Bill 38-16 before Bill 37-16, so moved by Councilmember John Voorde. There was no second to the motion and the motion failed.

37-16

PUBLIC HEARING 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 2 BY ADDING SINGLE FAMILY DWELLING TO PERMITTED USES IN MF1 URBAN CORRIDOR MULTIFAMILY DISTRICT AND MF2 HIGH-DENSITY MULTIFAMILY DISTRICT; AND ADDING SINGLE FAMILY AS A SPECIAL EXCEPTION USE IN MU MIXED USE DISTRICT

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

Council Attorney Kathleen Cekanski-Farrand stated this is a substitute that was voted on at the last Council meeting.

Angela Smith, Area Plan Commission with offices on the 11<sup>th</sup> Floor of the County-City Building, served as the presenter of this bill. This is a text amendment that looks at Single Family Residential Districts. We have always tried to make text amendments to protect the Single Family home owner throughout the City. Something that has come up repeatedly since the housing crash are provisions from banks and lending institutions that are no longer willing to accept the legal non-conforming status of Single Family homes. In 2004 when the zoning map was adapted and changed, there were several properties that were zoned MF1 according to some desired land uses in the area. However, the majority of those were actually Single Family homes. In 2004 we made a lot of homes legal non-conforming which has caused problems over the years for the home owners. This text amendment would help correct that by making them a permitted use in the Multi-Family District and keep them as a special exception use in the Mixed-Use District. The reason for the special exception is there might be some areas where it is not



consistent with the master plan for the area. Ms. Smith provided maps of the areas that would be affected by this change which are on file in the City Clerk's Office. There are many areas throughout the City that have a mix of Single-Family and Multi-Family Districts. This would allow there to be the flexibility for the property owners and protect the integrity of the zoning districts. The Area Plan Commission sends this forward with a favorable recommendation. Since the adoption of the zoning ordinance in 2004, the housing market has continued to change and evolve. These proposed changes recognize revived interests in converting homes back into Single Family.

There were no questions from Council.

Those wishing to speak in favor of the bill:

Marco Mariani, Executive Director of the South Bend Heritage Foundation offices at 803 Lincolnway West, spoke in favor of this bill. The Foundation supports this text amendment, it is very logical and supports everything that we are trying to do with affordable housing developments. This will support development and streamline the process.

Joe Wiengel, resident of the 1st District, stated he represents citizens of the Lincoln Park neighborhood. The Lincoln Park Neighborhood is a new neighborhood that was put together along with South Bend Heritage Foundation. Zoning is primarily the driving factor in the rapidly accelerating lack of affordable housing in urban areas. Zoning by many suburban and ex-urban communities for very large residential lots in order to preserve home values excludes poor people. Obviously this shifts the market to build more expensive homes than ordinarily might have been built. He stated that he spends thirty-five percent (35%) of his income on housing. Other people in his neighborhood spend the same amount and more. Some see these restrictions as violating property rights. It can be argued that zoning boards and city councils disable property owners' creative use of their lands. Along with potential property right infringement, zoning laws have been criticized as a means to promote social and economic segregation through exclusion. These laws create maximum density requirements and as a result lower income groups deemed undesirable or unwelcome are effectively excluded from certain communities. Political decisions allocated housing of different prices to different neighborhoods and thereby turn the market into a mechanism for class segregation. Zoning encourages income segregation and there is a relationship between an area's allowance for building housing at higher density and racial integration between blacks and whites in the United States. The intent of this policy is flexible housing opportunities by changing zoning regulations.

Marguerite Taylor, 714 Corby Blvd South Bend, spoke in favor of the bill. The Northeast Neighborhood has worked long and hard to preserve our housing for families. We have the largest number of Notre Dame students off campus in our neighborhood. It is hard to keep families where they are currently but this will help us.

Jose De Arevala, 3809 Fellows Street, spoke in favor of the bill. The way zoning currently works is that it makes it difficult to rezone property for affordable properties. In most people's opinions the process of rezoning is a big unnecessary hurdle. There are a lot of difficulties in finding affordable housing and this change in zoning helps achieve the goals of keeping housing affordable.

No one spoke in opposition to the bill.

Councilmember Oliver Davis made a motion to send Bill 37-16 with a favorable recommendation as amended. Councilmember John Voorde seconded the motion which carried by a voice vote of eight (8) ayes.

38-16

PUBLIC HEARING 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 GROUP RESIDENCE TO SPECIAL  
EXCEPTION USES IN CBD CENTRAL BUSINESS

DISTRICT; AND SECTION 11 BY AMENDING THE  
DEFINITIONS OF DWELLING UNIT, FAMILY AND  
GROUP RESIDENCE

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 the presenter of this bill. This bill also looks to protect our Single Family neighborhoods and homes. The current definition of family refers to language that exempts household servants from the definition of family. This is an antiquated term, not too many people have servants these days and those that do typically fall within the regular definition of family which is no more than two (2) unrelated people. What we have found is people have taken that term to create a loophole to have more than two (2) unrelated people within the Single-Family district or a district that only allows one (1) family per dwelling unit. The loophole is not consistent within the intent of the ordinance nor with the City's efforts. We needed to remove the antiquated term and get back to the true definition of Single Family. We also went to the definition of group residence which encompasses anything that doesn't meet the definition of family. If someone wanted to have several bedrooms rented out where a common space is shared that would include group residence which we expanded in this definition change.

We also took a look at where group residents are currently permitted in the City. It is currently a special exception use in both Multi-Family Districts and in the Mixed-Use District. Staying consistent with the special exception public process, it was decided to keep it as a special exception but expand it to the Central Business District both east and west of the river. This allows it to stay a public process, there will be site by site analysis to make sure it is consistent with the comprehensive plan and make sure it is an appropriate application of the definition. It does give the opportunity to have a group residence in this type of non-traditional housing in areas where the services are already provided. The downtown area has very ample transportation and employment opportunities so we want to make sure to allow the opportunity to have this type of development in downtown. This comes to the Council with a favorable recommendation. This bill recognized the growing popularity of non-traditional housing arrangements and provides an opportunity for dense building arrangements within the Central Business District.

Councilmember Oliver Davis asked what if there are already plans in place to proceed inside of the loophole right now and would it affect a plan that was already in place.

Ms. Smith responded those projects would first have to prove that they were legal when they began. There are questions to whether that loophole was a legal use of the ordinance. Perhaps they thought they were utilizing the servant clause, the Building Commissioner may not agree with that. If the individual disagreed, they could appeal to the Area Board of Zoning Appeals for an interpretation. This would close the loophole going forward.

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

Jason Banicki Critchlow, 3822 West Ford Street South Bend, stated as we go forward with housing we need to look at creative ways to house different people in a more affordable manner. We are going to see in 2019 and 2020 a tightening of resources and the increase in density of population allows us to focus our resources and get a better return on investment as a tax payer in terms of what we can do. Anything that creates flexibility is a good thing.

Torrence Moody, 1314 Corby Blvd, spoke in favor of the bill. He stated he is also a board member of the Northeast Neighborhood Council. The Northeast Neighborhood is undergoing a very prominent gentrification process. In our meetings we talk to and hear from a lot of developers who want to develop property in our area. We had a developer come to us and say he wanted to use this loophole to rehab a unit and put a number of unrelated people in the unit and designate them as employees. He would take \$50 off of their rent as payment as an employee. This proposed change would actually help that development because then it would not have to go through a loophole. There are also a number of other realtors who are trying to follow that loophole and by amending the definitions we can maintain the integrity of our neighborhoods.

Gary King, 730 N. Hill Street, spoke in favor of the bill. He stated he is concerned it may be more difficult now to have a household employee. Mr. King stated his experience in special education has presented times where a family will have personal assistants live at home because they need constant care. We want flexibility but it has to be the right flexibility. We should be removing hurdles that serve no purpose.

Marguerite Taylor, 714 Corby Blvd South Bend, spoke in favor of the bill. We want the Council to close the loophole. We need to stop having neighborhoods with six (6) to seven (7) students living in two (2) and three (3) bedroom houses.

Gregg Hackenin, 415 Main Building Notre Dame Indiana, stated he is both the Director of Northeast Neighborhood Redevelopment and a board members of the NNRO. There are two (2) basic parts to the text amendment being proposed here. We are trying to preserve and continue the Northeast Neighborhood as a family neighborhood and the single biggest barrier to that is a house that was built as a Single Family Home and being rented to four (4), five (5) or six (6) college students. He stated he is not hostile to students but that lifestyle is inconsistent with the neighborhood. The definitions as they exist allow someone to have six (6) unrelated residents and list them as household servants and then it's legal. This is the single largest threat to what we have accomplished in the neighborhood over the last sixteen (16) years. The second part of this amendment permits these types of residents in the Central Business District. We are not opposed to group residences but only if it is in the proper location. It is appropriate to have a public process through which to review those as they come forward.

Those from the public wishing to speak in opposition:

David Matthews, 215 East Colfax, stated he is the guy who figured out this loophole four (4) years ago. The quick history is that four (4) years ago seven (7) guys came to him and stated they wanted to start a company and live together in downtown South Bend. The option for a special exception did not exist in the CBD. He read the rules and found the loophole which worked. The group of guys ended up forming EnFocus, which has done a phenomenal job for us in South Bend. That project took between four (4) and six (6) months. If we would have to go through the process laid out in this new bill it would have taken much longer and been far more burdensome. This bill doesn't make sense. In the Central Business District we let most everything go. A developer can have a bar downstairs or restaurant downstairs in a residential unit. Buildings can go from vacant to occupied very easily because of this loophole and positive things happen. The CBD has no parking requirements. It would be easier to convert a building to a bar or restaurant with almost no public input than it would be to have three (3) roommates if this bill passes. A two (2) month process added on to the normal time of doing business can be the difference between being business friendly and looking somewhere else. The Northeast Neighborhood has done a phenomenal job cleaning up that neighborhood and this would be a positive change to get rid of the loophole for that neighborhood. Just don't make extra needless paperwork to do something that has been working successfully in the CBD. The only thing to do would be modify the section where it says group housing is a special exception in the CBD and make it a permitted use.

Willow Wetheral, 701 North Niles Ave., spoke in favor of the bill. She stated she is friends with many of the people who spoke in favor of the change and she previously lived on Notre Dame Avenue and she understands having college students crammed into single family homes is an issue. Downtown is a different case though than the neighborhoods. There are many people who use this loophole in the right way and the way we are trying to attract millennial and young professionals downtown. We should not penalize people with a lot of bureaucracy and hurdles when they are trying to do positive things for the community.

Dr. Matthew Teeters, 223 East Colfax Ave., stated he is the homeowner association president of the East Bank Townhomes. He stated he moved downtown in 2012 with his girlfriend and they are not traditional and do not plan on getting married but they are still a family. It was always his intention to have a roommate in his townhome. These are people who through the experience of living downtown have enriched lives. This proposal puts an undue burden upon the homeowners to provide that enriched environment.

Velvet Canada, 106 S. Niles Avenue, stated she agrees with the previous speakers. It makes sense for the Northeast Neighborhood to want to take this exception out but in the CBD it doesn't make sense. We shouldn't have to go through a forty-five (45) day process just to have three (3) people who are unrelated live together.

Adam McMillen, 215 East Colfax Ave., stated he agrees with what the other people have said in opposition. This process is a long period of time especially in terms of people living together. The current proposal is not the most effective for making this momentum keep moving forward.

Jesse Davis, P.O. Box 10205 South Bend IN, stated the forty-five (45) day period is ridiculous because you can close on a house in less than thirty (30) days and be moved in. The Council should not have the right to make these judgment calls on other people's properties. Any bureaucratic red tape will slow growth in the City and that is not what South Bend needs.

Meghan Curwin, 223 East Colfax Ave., echoed the other sentiments in opposition. She stated she has always had a minimal of two (2) roommates and she can understand the concern people have who are in favor of this. She used to live over by Notre Dame and the students across the street were crazy and that's what we seem to want to have a check on. This does seem like a very long process just to have a house have three (3) roommates. Ms. Curwin asked who's responsibility does this fall upon, the homeowner or the renters. Two (2) is such a small number for people who are unrelated and that should be raised.

Jack Jacobs, 223 East Colfax, stated he respects everyone's views expressed tonight. He stated he is the exact person who benefits from the current language and it allows him to handle his student debt and establish himself in South Bend.

Councilmember Jo M. Broden, sponsor of the bill, gave a rebuttal. We are looking to affirm these creative and organic uses. It is asking for a process and if you want to be in the business of opening up your house to two (2) or more individuals it would certainly require a bit of legwork on your behalf. We have expanded the definition to exceed what was on the books before. We have also added the group residents within a district that before did not exist. In terms of the concerns with shift work by healthcare providers, for the most part it would not preclude that. Yes three-hundred dollars (\$300) is a decent amount of money and the burden would be on the property owner. Many of the issues brought up in the process like contacting the neighbors is actually provided as a service through the Area Plan Commission staff.

Chairperson Ferlic allowed each Councilmember to ask questions and give their comments.

Councilmember Williams-Preston stated this brought up a lot of questions for her. She asked what the repercussions for not following this process would be.

Ms. Smith responded if there was a situation where a household was not meeting the definition of family it would be a code violation and they would proceed to the code violation process. Ms. Smith stated she does not work for Code Enforcement but it would be along the lines of a letter and a chance to appeal and correct the violation. Then a fine would most likely be instituted.

Councilmember Williams-Preston stated her concern is for the folks who are currently residents who may not have the ability to pay the three-hundred dollars (\$300) or have a language barrier in terms understanding what the process is. She stated she is interested in understanding more about that Code Enforcement process. She stated she thinks a lot of people are living in these arrangements now and hopefully we don't see tons of people coming and doing this process.

Ms. Smith stated she doesn't know how many people currently are in this situation but you can apply for more than one (1) address at the same time. The Building Department also spends a large amount of their time trying to help people through the various processes.

Councilmember Dr. David Varner stated it looks like we are primarily talking about the Central Business District. If this goes ahead, there will be some sort of guidelines established by the Council so that we do not have people continuously stretching this ordinance. He stated he is not a big fan of rules but if it happens there does need to be guidelines. He stated he would prefer to have a later effective date to establish some guidelines and rules on our side.

Councilmember John Voorde stated that the Central Business District and the areas east of the river are so unique and attuned to what developers want to do that there almost should be no restrictions at all. In that situation you are not trying to preserve the integrity of a family centered neighborhood. He stated it seems based on the Committee discussion we are leaning to expand this further down the road. He stated he is in favor of continuing it for now.

Councilmember Scott stated he has within his district issues where houses are stuffed full of people, usually migrant workers, with no running water or heat. That is usually a predatory landlord who takes advantage of people. It is good to get this limited down to the Central Business District. He stated it was his opinion they should pass this tonight and then possibly expand upon it down the road. He stated one of the issues about using this in the CBD is we do have a neighborhood there east of Memorial Hospital.

Ms. Smith stated that is one reason there is a good argument that it should remain special exception and not permitted use. You can only be grandfathered in to something if you were legal to start with. If it is in a Single-Family District it is currently not an option and they would have to rezone to be Multi Family.

Councilmember Scott stated he definitely thinks this will clean up the neighborhoods but is concerned about the burden of the process. He is willing to try it and come back and tweak the ordinance. In the CBD there needs to be a streamlined process, whatever that may be.

Ms. Smith stated the special exception is outlined by state law. Unfortunately, St. Joseph County is one (1) of two (2) counties in the state where it has the burden of coming to the Council. In most counties it is just a thirty (30) day process. There are some tweaks to how it can be altered but a lot of it is set by state statute.

Councilmember White stated it is not a very good position to be in when you hear individuals saying they have found loopholes. We need to listen to our citizens and what works best for them. If we are going to treat certain districts differently we need to have straight forward guidelines in place. She asked Councilmember Broden what are her concerns and where we are at.

Councilmember Broden responded that consistency is important and that's why across all districts there is an ease to the process if you know what it is. Across a lot of the districts it is the same process and in the CBD we are allowing the group residences that everyone wants to see. We want to see these creative opportunities come to be.

Chairperson Ferlic stated very few people are actually using the employee loophole. If it was legal, even if we pass this they will be legal non-conforming. All we are doing here is closing the loophole going forward into the future. This also may help rent costs in the City because a landlord cannot now charge ten (10) Notre Dame students five-hundred dollars (\$500) a month each to live in what is supposed to be a single family home. There are certainly areas, like the CBD, where group residences should be permitted. Chairperson Ferlic stated it would be his preferred option to raise the number of non-related people in a family in the CBD to three (3) or four (4) people where we are trying to increase density. These text amendments however do not affect anyone except those taking advantage of the loophole and if that loophole is deemed legal by the Building Commissioner then they will not be affected either.

Councilmember Scott asked if we amend this ordinance will it have to go back to the Area Plan Commission.

Council Attorney Cekanski-Farrand responded yes, if it is amended it goes back.

Councilmember Oliver Davis asked if the Building Commissioner has determined if this loophole is legal.

Ms. Smith stated there has not been an official challenge as of yet so the Building Commissioner has not ruled on this specific loophole. If it is deemed legal now, it would be legal for these few individuals who are currently using the loophole to continue to do so. No one else though going forward could do so.

Councilmember John Voorde made a motion to send Bill 38-16 to the full Council with a favorable recommendation. Councilmember Jo M. Broden seconded the motion which carried by a voice vote of eight (8) ayes.

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

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 9:06 p.m. Council President Tim Scott presided with eight (8) members present

36-16                      THIRD READING ON AN ORDINANCE AMENDING  
THE ZONING ORDINANCE FOR PROPERTY  
LOCATED AT 202 BARTLETT STREET,  
COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF  
SOUTH BEND, INDIANA

Councilmember John Voorde made a motion to amend Bill 36-16 as it was in the Committee of the Whole. Councilmember Oliver Davis seconded the motion which carried by a voice vote of eight (8) ayes.

Councilmember John Voorde made a motion to pass Bill 36-16. Councilmember Oliver Davis seconded the motion which carried by a roll call vote of eight (8) ayes.

37-16

THIRD 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 2 BY ADDING SINGLE FAMILY DWELLING TO PERMITTED USES IN MF1 URBAN CORRIDOR MULTIFAMILY DISTRICT AND MF2 HIGH-DENSITY MULTIFAMILY DISTRICT; AND ADDING SINGLE FAMILY AS A SPECIAL EXCEPTION USE IN MU MIXED USE DISTRICT

Councilmember Oliver Davis made a motion to amend Bill 37-16 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 Gavin Ferlic made a motion to pass Bill 37-16. Councilmember Oliver Davis seconded the motion which carried by a roll call vote of eight (8) ayes.

38-16 THIRD 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 GROUP RESIDENCE TO SPECIAL

EXCEPTION USES IN CBD CENTRAL BUSINESS DISTRICT; AND SECTION 11 BY AMENDING THE DEFINITIONS OF DWELLING UNIT, FAMILY AND GROUP RESIDENCE

Councilmember Oliver Davis made a motion to amend Bill 38-16 as it was in the Committee of the Whole. Councilmember Gavin Ferlic seconded the motion which carried by a voice vote of eight (8) ayes.

Councilmember Oliver Davis made a motion to pass Bill 38-16. Councilmember Gavin Ferlic seconded the motion which carried by a roll call vote of eight (8) ayes.

Councilmember Oliver Davis left the meeting, quorum now stands at seven (7) present.

## RESOLUTIONS

16-22

A RESOLUTION CONFIRMING THE ADOPTION OF A  
DECLARATORY RESOLUTION DESIGNATING  
CERTAIN AREAS WITHIN THE CITY OF SOUTH  
BEND, INDIANA, COMMONLY KNOWN AS 5448  
DYLAN DRIVE, SOUTH BEND, IN 46628 AS AN  
ECONOMIC REVITALIZATION AREA FOR  
PURPOSES OF A FIVE (5) YEAR PERSONAL  
PROPERTY TAX ABATEMENT FOR AM GENERAL,  
LLC

Sarah Heintzelman, Community Investment with offices on the 14<sup>th</sup> Floor of the County-City Building, served as the petitioner of this bill. This proposed personal property abatement is for \$1.1 million in new equipment which is part of AM General's larger \$3.2 million expansion at their new facility. The total taxes created by this equipment would be \$94,366 of which \$43,483 to be abated. This project would create one hundred and twenty-three permanent full-time jobs.

An AM General representative stated they do not currently need the facility they are in and this move is very cost effective.

No one from the public spoke either in favor of or in opposition to the bill.

Councilmember Gavin Ferlic made a motion to adopt Bill 16-22. Councilmember Karen White seconded the motion by a roll call vote of seven (7) ayes.

16-57

A RESOLUTION OF THE COMMON COUNCIL OF  
THE CITY OF SOUTH BEND, INDIANA IN SUPPORT  
OF A REASONABLE TRANSITION TO CLEAN  
ENERGY FOR SOUTH BEND

Councilmember Karen White made a motion to continue Bill 16-57 to September 22<sup>nd</sup> 2016. Councilmember Dr. David Varner seconded the motion which carried by a voice vote of seven (7) ayes.

16-65

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 7250  
VORDEN PKWY, SOUTH BEND, IN 46628 AN  
ECONOMIC REVITALIZATION AREA FOR  
PURPOSES OF A (5) FIVE-YEAR PERSONAL  
PROPERTY TAX ABATEMENT FOR: 3B TECH. INC.

Councilmember Gavin Ferlic, Chair of the Community Investment Committee, reported that they met and send this forward with a favorable recommendation.

Sarah Heintzelman, Community Investment with offices on the 14<sup>th</sup> Floor of the County-City-Building, served as the presenter for this bill. This is a personal property abatement for 3B Tech. They will be investing \$640,000 in new equipment. The total taxes generated will be \$54,904 of which we recommend \$25,200 be abated. The project will create one-hundred (100) full-time jobs.

Michael Johnson, 3431 William Richardson Rd. South Bend, served as the petitioner of this bill. We are expanding into a new warehouse to help continue growth.

Councilmember Williams-Preston stated that she would like to remind and support all efforts of companies who receive City aid to take seriously the issue of diversifying the workforce.

Mr. Johnson responded absolutely and as we grow and expand we look forward to diversifying further.

No one from the public spoke either in favor of or in opposition to the bill.

Councilmember Gavin Ferlic made a motion to adopt Bill 16-65. Councilmember Karen White seconded the motion which carried by a roll call vote of seven (7) ayes.

#### BILLS FIRST READING

42-16

FIRST READING ON AN ORDINANCE OF THE  
COMMON COUNCIL OF THE CITY OF SOUTH  
BEND, INDIANA AUTHORIZING AND DIRECTING  
SUBMISSION OF A WRITTEN REQUEST TO  
PARTICIPATE IN THE INDIANA DEPARTMENT OF  
INSURANCE'S AVAILABLE INSURANCE PROCEEDS  
SET ASIDE PROGRAM

Councilmember Karen White made a motion to send Bill 42-16 to the Health and Public Safety Committee with second and third reading on September 12<sup>th</sup> 2016. Councilmember John Voorde seconded the motion which carried by a voice vote of seven (7) ayes.

43-16

FIRST READING ON AN ORDINANCE OF THE  
COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA, AMENDING THE ZONING ORDINANCE  
AND ESTABLISHING HISTORIC LANDMARK  
STATUS FOR THE STRUCTURE AND REAL  
PROPERTY KNOWN AS ELBEL HOUSE AND  
LOCATED AT 806 LELAND AVENUE, IN THE CITY  
OF SOUTH BEND, INDIANA

Councilmember Regina Williams-Preston made a motion to send Bill 43-16 to the Zoning and Annexation Committee and with second and third reading on September 12th 2016.

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

44-16

FIRST READING ON AN ORDINANCE OF THE  
COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA, APPROPRIATING MONIES FOR THE  
PURPOSE OF DEFRAYING THE EXPENSES OF  
SEVERAL DEPARTMENTS OF THE CIVIL CITY OF  
SOUTH BEND, INDIANA FOR THE FISCAL YEAR  
BEGINNING JANUARY 1, 2017 AND ENDING



DECEMBER 31, 2017 INCLUDING ALL  
OUTSTANDING CLAIMS AND OBLIGATIONS, AND  
FIXING A TIME WHEN THE SAME SHALL TAKE  
EFFECT

Councilmember Regina Williams-Preston made a motion to send Bill 44-16 to the Personnel and Finance Committee with second reading and public hearing on September 26<sup>th</sup> 2016 and third reading on October 10<sup>th</sup> 2016. Councilmember John Voorde seconded the motion which carried by a voice vote of seven (7) ayes.

45-16

FIRST READING ON AN ORDINANCE OF THE  
COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA, APPROPRIATING MONIES FOR THE  
PURPOSE OF DEFRAYING THE EXPENSES OF THE  
DESIGNATED ENTERPRISE FUNDS OF THE CITY OF  
SOUTH BEND, INDIANA, FOR THE FISCAL YEAR  
BEGINNING JANUARY 1, 2017 AND ENDING  
DECEMBER 31, 2017 INCLUDING ALL  
OUTSTANDING CLAIMS, AND OBLIGATIONS, AND  
FIXING A TIME WHEN THE SAME SHALL TAKE  
EFFECT.

Councilmember Regina Williams-Preston made a motion to send Bill 45-16 to the Personnel and Finance Committee and with second reading and public hearing on September 26<sup>th</sup> 2016 and third reading on October 10<sup>th</sup> 2016. Councilmember John Voorde seconded the motion which carried by a voice vote of seven (7) ayes.

46-16

FIRST READING ON AN ORDINANCE OF THE CITY  
OF SOUTH BEND, INDIANA, LEVYING TAXES AND  
FIXING THE RATE OF TAXATION FOR THE  
PURPOSE OF RAISING REVENUE TO MEET THE  
NECESSARY EXPENSES OF THE CIVIL CITY OF  
SOUTH BEND FOR THE FISCAL YEAR ENDING  
DECEMBER 31, 2017

Councilmember Karen White made a motion to send Bill 46-16 to the Personnel and Finance Committee with second reading and public hearing on September 26<sup>th</sup>, 2016 and third reading on October 10<sup>th</sup>, 2016. Councilmember Dr. David Varner seconded the motion which carried by a voice vote of seven (7) ayes.

47-16

FIRST READING ON AN ORDINANCE OF THE  
COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA, APPROPRIATING, ADOPTING AND  
APPROVING THE SOUTH BEND PUBLIC  
TRANSPORTATION CORPORATION'S 2017 BUDGET  
AND LEVYING THE TAX AND FIXING THE RATE OF  
THE TAXATION FOR THE PURPOSE OF RAISING  
REVENUE TO FUND THE SOUTH BEND PUBLIC  
TRANSPORTATION CORPORATION, SOUTH BEND,  
INDIANA, FOR THE FISCAL YEAR ENDING  
DECEMBER 31, 2017

Councilmember Karen White made a motion to send Bill 47-16 to the Personnel and Finance Committee with second reading and public hearing on September 26<sup>th</sup>, 2016 and third reading on October 10<sup>th</sup>, 2016. Councilmember Gavin Ferlic seconded the motion which carried by a voice vote of seven (7) ayes.

UNFINISHED BUSINESS

16-64

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 3001 W. CLEVELAND ROAD

Councilmember Gavin Ferlic made a motion to send Bill 16-64 to the Zoning and Annexation Committee and set public hearing for September 12<sup>th</sup>, 2016. Councilmember Karen White seconded the motion which carried by a voice vote of seven (7) ayes.

NEW BUSINESS

Councilmember Broden stated that the four (4) bills related to the budget should get some extra coverage so that the public does not get lost in the terminology. This is the budget for the entire 2017 year and that is very important. She encouraged the public come to the Committee meetings as well, the times of which have been posted.

Councilmember Dr. Varner stated the new substitute resolution for clean energy will be posted on the website very soon for public inspection.

PRIVILEGE OF THE FLOOR

Samuel Brown, 222 East Navarre Street South Bend, stated he lives a block from the river and that he is having issues with getting flood insurance for his home and it will cost seven-hundred dollars (\$700) a year for the insurance. The only way for that figure to be lowered is for South Bend to become a CRS Qualifier. That would lower the potential insurance to three-hundred and fifty (\$350) a year. He asked the Council to look into this because we have all seen why flood insurance is so important.

Jesse Davis, P.O. Box 10205 South Bend, stated several years back we had six (6) inches of rain and we didn't see nearly the same amount of flooding. He asked if there has been any funding to clean up the waterways such as Bowman Creek which are in terrible conditions. Those blocked creeks restrict water flow and the flooding was obviously worse because of it. The grates around the City need to be cleaned as well. Some of our grates have ivy growing in the grates so obviously they are not being taken care of. He also asked how the backwater valve program will be administered because there wasn't very much information put out so far.

Eileen Sullivan, Pile Avenue, spoke about the repeated sewer back flow that has come into her house for years. The City needs to address this issue. Her home has ten (10) inches of raw sewage in her basement and it has happened six (6) times to her basement since 1994. Every time we have a heavy rain we have to pray that nothing is going to happen. It is not fair that we have to pay for the damages to our home that are the fault of the City. Our sewers in this neighborhood were redone in 2008 and 2009 and yet this is still an issue. I could have paid for my college education with the money that I have spent repairing my basement. A check valve should have been put at the curb when the sewers were redone back in the late 2000s.

Jason Banicki-Critchlow, 3822 West Ford Street, stated a great deal of the retaining tanks had flooded over. He asked how long we keep postponing this issue and how we deal with our wastewater. We have known for almost a decade that this will be an expensive issue and delaying further will only increase the price tag of this project.

ADJOURNMENT

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