



CITY OF SOUTH BEND
MAYOR JAMES MUELLER
OFFICE OF THE MAYOR

July 16, 2020

Dear Councilmembers,

As you know, there remain questions about the passage of Bill 20-22. With no mention of a vote by acclamation in the municipal code, Robert's Rule of Order¹ provides that a vote by acclamation is a form of unanimous consent. The motion to pass Bill 20-22 by acclamation failed because there was opposition to the motion. No subsequent motion on Bill 20-22 was made prior to the 5-4 roll call vote in favor of the resolution.

Whether or not the Common Council passed this resolution in full accordance with proper procedure, I am returning this bill unsigned. In the Statement of Administration's Position that was filed with the Clerk and shared with Council prior to the vote, several critical issues were raised. Chief among them were the calls in the resolution to exceed my legal authority as Mayor, in addition to inappropriate encroachments on our respective roles. Approving the language in this resolution forces a choice between supporting an overreach of legal authorities or ignoring the text contained within the resolution. Neither choice is acceptable. We must meet a higher standard for legislation, even non-binding resolutions. I cannot approve legislation based on intent over the actual text.

While I fully support acting as swiftly as possible and working together as a community toward sustainable solutions for our homeless neighbors, I am vetoing Bill 20-22 for the reasons stated above.

Sincerely,

James Mueller

¹ Section 2-9 of the South Bend municipal code establishes that "[t]he most recent edition of Robert's Rules of Order shall be the authority on all questions of parliamentary law and procedure not specifically covered by this article."

STATEMENT OF ADMINISTRATION'S POSITION

Bill No. 20-22 – A resolution in support of declaring a state of emergency and establishing an emergency temporary aid and shelter program

The Administration opposes Bill No. 20-22, which would urge the declaration of a state of emergency and establishment of an emergency temporary aid and shelter program for those individuals experiencing chronic homelessness in our community. The Administration continues to work with community partners to identify both short-term and long-term solutions that include the potential establishment of a low-barrier emergency shelter outside of weather amnesty months and making more permanent supportive housing units available for individuals experiencing homelessness. The Administration is also forming an implementation group with Council representatives to see how best we can fill the gaps in services for our homeless neighbors together as a community. This resolution, while legally non-binding, is not constructive and does not offer a viable path forward.

There is no mention of the legal authority to declare a state of emergency to address this issue. It is not clear how the authority for the Mayor to declare a local disaster emergency (IC 10-14-3-29) could be applied to this situation. Even if this were an appropriate application of that authority, it would not allow for the suspension of laws and regulations called for in the resolution.

While many of the actions contained in the resolution are worthy of discussion, there is not yet a clear consensus that these specific measures provide the best path forward. The resolution also blurs the appropriate separation of roles between the legislative and executive branches. The resolution not only encroaches upon executive branch roles but also asks the Administration to overstep its authority to bypass well-defined roles of the Council and other bodies. In general, the Administration is committed to respect and uphold the Constitution of the United States and the State of Indiana, as well as federal, state, and local laws. Accordingly, the Administration will oppose all such encroachments on our respective roles and encourage consultation and consensus to the maximum extent possible to avoid the need for statements similar to this one in the future.

If the Mayor were presented with Bill 20-22, his advisors would strongly recommend that he veto the bill.

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