

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

DATE: 11-13-2023

MEETING OF THE COUNCIL AND FOUND THEM TO BE CORRECT.

THEREFORE, WE RECOMMEND THE SAME BE APPROVED:




ELI WAX



TROY WARNER

APPROVED BY THE COMMON COUNCIL ON:

ATTEST:



DAWN M. JONES, 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 13, 2023 at 7:00 p.m. The meeting was called to order by Council President Sharon L. McBride and the Invocation by Dawn Jones and Pledge to the Flag were given.

OR-

Be it remembered that the Common Council of the City of South Bend, Indiana met via Microsoft Teams app on Monday, November 13, 2023, at 7:00 p.m. The meeting was called to order by Council President Sharon L. McBride, and the Invocation was given by Dawn Jones.

City Clerk Dawn M. Jones announced Good evening members of the public. For audio quality, we will be muting everyone not speaking by default to maintain good audio quality for Council and yourselves. If you would like to speak during the meeting on a specific agenda item, please submit your request in the chat - directions to do so are in the chat. We ask that you provide your [FULL NAME] and [ADDRESS], as those are required for all speakers at in-person Council meetings.

Full audio dialogue of the update is available upon request from the City Clerk's Office.

The full recording of the council meetings can be found at the following link:

<https://docs.southbendin.gov/WebLink/0/fo/360589/Row1.aspx>

INVOCATION

Ivy Butler Shepherdess – Power in Praise Ministries

PLEDGE OF ALLEGIANCE

ROLL CALL

COUNCIL MEMBERS PRESENT:

Canneth Lee	1 st District, Committee of the Whole
Henry Davis Jr.*	2 nd District
Sharon L. McBride	3 rd District, President
Troy Warner	4 th District
Eli Wax	5 th District
Sheila Niezgodski	6 th District, Vice-President
Lori K. Hamann*	At-Large
Rachel Tomas Morgan	At-Large
Karen L. White	At-Large

OTHERS PRESENT:

Dawn M. Jones	City Clerk
Victoria A. Trujillo	Chief Deputy Clerk
Shayla Kimbrough	Deputy Clerk
Adjia Sambe	Clerk Intern
Bianca Tirado	Council Consultant
Bob Palmer	Council Attorney

Members marked with an asterisk (*) are in virtual attendance.

REPORT FROM THE SUB-COMMITTEE ON MINUTES

SPECIAL BUSINESS

Approval of 2024 South Bend Common Council Meeting Dates & Deadlines

REPORTS FROM CITY OFFICES

RESOLVE INTO COMMITTEE OF THE WHOLE

Council Vice-President Sheila Niezgodski made a motion to resolve into the Committee of the Whole, which was seconded by Councilmember Troy Warner, and carried by a vote of (8) ayes and 0 nays.

Councilmember Lee – *Aye*

Councilmember Warner– *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

Councilmember Tomas Morgan – *Aye*

Councilmember Hamann* – *Aye*

Council Vice President Niezgodski – *Aye*

Council President McBride – *Aye*

Councilmember Canneth Lee, Chairperson, presiding.

Councilmember Canneth Lee explained the procedures for the meeting per Article 1, Section 2-11 of the South Bend Municipal Code.

PUBLIC HEARINGS

BILL NO.

[53-23](#)

PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 1132 PORTAGE AVENUE, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

Councilmember Lori Hamann stated Bill No. 53-23 was previously heard in Zoning and Annexation Committee and it comes to the Committee of the Whole with a favorable recommendation.

Amani Morrell, Zoning Special, Department of Community Investment with offices on the 14th Floor presented Bill No. 53-23.

Mr. Morrell provided details about a site at 1132 Portage Ave, owned by Shari Sellers, seeking a special exception for duplex use in a U-1 zoned district. The site, currently a two-unit dwelling, is undergoing a process to legalize its use. Morrell explains that the proposed duplex use aligns with existing housing in the area and offers more housing options. The Board of Zoning Appeals has given a favorable recommendation. The petitioner was then asked to state their name and address for the record.

Shari Sellers, 10426 Vistula Rd, Osceola, IN, introduced herself as the owner of the property at 1132 Portage which she purchased in its current state as a duplex. Sellers is in the process of legalizing the property and mentioned that it is a large house with close to 3,000 square feet. Each unit has three bedrooms, and one floor has two bathrooms. She believes converting it into a duplex will contribute to better affordable housing and helps offset the substantial funding required for the house's rehabilitation. Sellers is personally funding the project, addressing electrical and plumbing upgrades. She concluded by stating the entire house will be refurbished. Councilmember Canneth

Lee, the speaker, then asked councilmembers if they have any questions before moving on to the public portion of the discussion.

Councilmember Canneth Lee opened the floor to the public for comments.

There was no one from the public wishing to speak in favor or in opposition of Bill No. 53-23.

Councilmember Troy Warner made a motion to send Bill No. 53-23 to the full council with a favorable recommendation. Council Vice-President Sheila Niezgodski seconded the motion. The motion Passed by a vote of (9) ayes and (0) nays.

Councilmember Lee – *Aye*

Councilmember Warner – *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

Councilmember Tomas Morgan – *Aye*

Councilmember Hamann* – *Aye*

Council Vice President Niezgodski – *Aye*

Council President McBride – *Aye*

Councilmember Henry Davis, Jr.* – *Aye*

54-23

PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 1128 PORTAGE AVENUE, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

Councilmember Lori K. Hamann stated Bill No. 54-23 was previously heard in the Zoning and Annexation Committee and it comes to the Committee of the Whole with a favorable recommendation.

Amani Morrell, Zoning Special, Department of Community Investment, with offices on the 14th Floor presented Bill No. 54-23.

Mr. Morrel provided details about the site located at 1128 Portage Ave, owned by Shari Sellers. Morrell stated the petitioner is requesting a special exception for a duplex in a U-1 zoned district. Morrel explains that it involves the conversion and rehabilitation of a current one-unit dwelling into a two-unit dwelling. According to staff analysis, this conversion will complement the existing housing stock in the surrounding area and offer more housing options for residents. The proposal comes with a favorable recommendation from the Board of Zoning Appeals.

Shari Sellers, 10426 Vistula Rd, Osceola, IN, 46561 introduced herself as the owner of the property at 1128 Portage. She mentioned the opportunity to convert the house into two units during her work on the neighboring property. Sellers described how the house can be easily partitioned into two units, each with three bedrooms, a bathroom, and some with a second bath. She emphasized the separation of utilities with double meters, and the ongoing rehabilitation with new electrical and plumbing. Sellers expressed her belief in the growth of the area, citing nearby developments like Ward Bakery, and thanked the council for their consideration.

Councilmember Canneth Lee concluded by thanking Sellers for her investment in affordable housing in the first district.

Councilmember Canneth Lee, addressing the councilmembers, asked if there were any questions. Councilmember Eli Wax inquired about the parking situation in the area for the property discussed. Sellers, with a background in designing and building restaurants, assured that she understands the importance of parking and accommodation. She explained that there is main street parking on Portage and parking on the adjacent side street. Additionally, there are two spaces at the back of the house, potentially three. Sellers emphasized that there is sufficient parking for each of the

houses. After addressing the question, Councilmember Lee invited further inquiries, and when there were none, he announced the transition to the public portion of the discussion.

Councilmember Canneth Lee opened the floor to the public for comments.

There was no one from the public expressing interest to speak in favor or in opposition of Bill No. 54-23.

Councilmember Rachel Tomas Morgan made a motion to send Bill No. 54-23 to the full council with a favorable recommendation, which was seconded by Councilmember Eli Wax, and carried by a vote of (9) ayes and (0) nays.

Councilmember Lee – *Aye*

Councilmember Warner – *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

Councilmember Tomas Morgan – *Aye*

Councilmember Hamann* – *Aye*

Council Vice President Niezgodski – *Aye*

Council President McBride – *Aye*

Councilmember Henry Davis, Jr.* – *Aye*

[55-23](#)

PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 110 S MAIN STREET, COUNCILMANIC DISTRICT NO. 2 IN THE CITY OF SOUTH BEND, INDIANA

Councilmember Lori K. Hamann stated Bill No. 55-23 was previously heard in the Zoning and Annexation Committee and it comes to the Committee of the Whole with a favorable recommendation.

Kari Meyers, Zoning Specialist, Department of Community Investment, with offices on the 14th Floor of the County City building presented Bill No. 55-23.

Kari Meyers, Zoning Specialist, provided details about the sign located at Ever Wise Credit Union, located at 110 S Main St. Meyers indicated Ever Wise Credit Union recently installed a new freestanding sign. Due to the 2020 zoning ordinance changes, all new freestanding signs in the downtown zoning district require a special exception. There was a miscommunication, and the credit union, believing they had approval, installed the sign. They are now requesting permission to keep the new sign, which is similar in size and scope to the previous one. The location is the corporate headquarters, and the building's notched frontage distinguishes it from others in the downtown district. Although freestanding signs were generally discouraged, the Board of Zoning Appeals recommended keeping the existing sign due to its similarity in size, location, and the fact that it is the corporate headquarters.

Elliot Lusk from Ever Wise Credit Union, located at 110 S Main St, South Bend, IN, 46601 addressed the situation regarding the new freestanding sign. Lusk explained that there was a miscommunication with their vendors during the approval process. They began manufacturing the monument sign, believing their entire sign package was approved. By the time they realized the mistake, the sign was already installed. Lusk mentioned that, had they known, they would have gone through the special exception process, as their original sign was grandfathered in before the coding change. The requested special exception is sought because a reface of the sign would have been very similar to the current installation.

Councilmember Rachel Tomas Morgan addressed a previous statement indicating that the staff had forwarded an unfavorable recommendation to the Board of Zoning Appeals, and it has now come to the Council for discussion. Councilmember Tomas Morgan sought clarification on the comment

made earlier about the sign being similar in size to the previous one. She expressed her perception that the new sign appears much larger to her. Tomas Morgan mentioned that, in earlier comments, it was suggested that if the sign were comparable to neighborhood center standards, it might have been more favorable from the staff's perspective. She then requested an explanation or further details on this aspect.

Kari Meyer, Zoning Specialist, indicated that the initial staff recommendation was unfavorable because the new sign did not meet the current ordinance standards. However, the Board of Zoning Appeals (BZA) had the option to consider a smaller sign that would comply with the standards of the next lower zoning district, the NC Zoning district, allowing for an 8-foot tall, 32 square foot sign. This was the staff's suggestion. Ultimately, the BZA decided to forward a favorable recommendation to keep the existing sign, citing its similarity in size to the previous one and noting that the building's front configuration differs from other buildings in the area. The fact that it serves as the corporate headquarters was also taken into consideration by the BZA.

There was further dialogue between Councilmember Tomas Morgan and Kari Meyers regarding the size of the sign. The new sign is approximately 11 feet tall and 62 square feet, as stated by Meyer. Councilmember Tomas Morgan noted the sign is slightly taller than what a neighborhood center sign would be but emphasizes that it is not significantly larger than the previous sign. Mr. Lusk with Ever Wise indicated the existing sign was 11 feet tall, and the new one is 11 1/2 feet tall, with the difference being just half an inch.

Councilmember Tomas Morgan expressed appreciation for the explanation given regarding the size of the sign. Tomas Morgan indicated that she personally values maintaining the standards for signage in the downtown area and acknowledged the unfortunate miscommunication that occurred. Tomas Morgan noted that this is the second time in the community where a vendor's miscommunication has led to such situations. She indicated she recognizes the potential costly error for the company and appreciates the detailed explanation provided.

Councilmember Eli Wax asked whether Kari Meyers, Zoning Specialist believes the recommendation would have been the same if the inquiry had been made before the sign was installed.

Kari Meyers mentioned that staff might have made the same recommendation even if the inquiry had been made before the sign was installed. She emphasized that she can't predict what might have happened, but noted the concern about setting a precedent where actions are taken first and approval is sought later. Councilmember Wax clarified that he is not accusing anyone and acknowledges that the situation may have been unintentional. However, the goal is to avoid establishing a precedent where installations are approved retroactively simply because they are already in place.

Councilmember Lee sought to clarify the situation, explaining that initially, the plan was to reface the existing sign, maintaining a similar size. However, a miscommunication occurred, leading to the creation of a new, slightly larger sign, which was then installed. Mr. Lusk offered to show examples of the original sign's proposed refacing and the current sign. Councilmember Lee emphasized the uniqueness of the downtown area's building configurations and Council President McBride mentioned that the sign was grandfathered in. Mr. Lusk noted the miscommunication between the main sign vendor and the local vendor responsible for installation. The local vendor received an approval email from the city, which lacked information about the monument sign. The miscommunication resulted in the sign being manufactured before the proper permitting was obtained.

Councilmember Canneth Lee opened the floor to the public for comments.

There was no one from the public expressing interest to speak in favor or in opposition of Bill No. 55-23.

Councilmember Troy Warner made a final comment that he does not foresee any issues with the location and size of the sign. He indicated that he is comfortable with the vote to move this Bill forward.

Councilmember Troy Warner made a quick point, mentioning that Councilmember Tomas Morgan raised a similar concern in the past regarding another sign with deficiencies, including size issues.

Warner explained that, in that case, the sign was allowed to stay, but it had to be relocated due to its proximity to a busy road blocking traffic. He emphasized the clear distinction in the current situation, where the sign in question doesn't obstruct the sidewalk or create traffic issues, making him feel positive about the current vote.

Council Vice-President Sheila Niezgodski made a motion to send Bill No. 55-23 to the full council with a favorable recommendation, which was seconded by Council President Sharon McBride, and carried by a vote of (9) ayes and (0) nays.

Councilmember Lee – *Aye*

Councilmember Warner– *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

Councilmember Tomas Morgan – *Aye*

Councilmember Hamann* – *Aye*

Council Vice President Niezgodski – *Aye*

Council President McBride – *Aye*

Councilmember Henry Davis, Jr.* – *Aye*

[62-23](#)

PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, TO VACATE THE FOLLOWING DESCRIBED PROPERTY: PART OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 38 NORTH, RANGE 2 EAST OF THE 2ND PRINCIPAL MERIDIAN, PORTAGE TOWNSHIP, ST. JOSEPH COUNTY, INDIANA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF LOT 49 ON THE RECORDED PLAT OF NORTHWEST ADDITION 2ND PLAT IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE SOUTH 90°00'00" EAST ALONG THE SOUTHERLY RIGHT OF WAY LINE OF MCCARTNEY STREET, A DISTANCE OF 72.90 FEET; THENCE SOUTH 0°05'13" EAST A DISTANCE OF 269.55 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF KING STREET AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING SOUTH 0°05'13" EAST A DISTANCE OF 60.00 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID KING STREET; THENCE SOUTH 90°00'00" WEST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 64.00 FEET; THENCE NORTH 0°05'13" WEST A DISTANCE OF 60.00 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID KING STREET; THENCE NORTH 90°00'00" EAST ALONG THE SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 64.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION. CONTAINING 3,840 SQUARE FEET

Council Vice-President Sheila Niezgodski stated Bill No. 62-23 was previously heard in the Zoning and Annexation Committee and it comes to the Committee of the Whole with no recommendation.

The petitioner was not present to speak on behalf of Bill No. 62-23.

There was no one from the public expressing interest to speak in favor or in opposition of Bill No. 62-23.

Councilmember Troy Warner made a motion to Table Bill No. 62-23 to November 27, 2023, which was seconded by Councilmember Karen L. White, and carried by a vote of (9) ayes and (0) nays.

Councilmember Lee – *Aye*

Councilmember Warner – *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

Councilmember Tomas Morgan – *Aye*

Councilmember Hamann* – *Aye*

Council Vice President Niezgodski – *Aye*

Council President McBride – *Aye*

Councilmember Henry Davis, Jr.* – *Aye*

75-23

PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED 1119 N TWYCKENHAM DRIVE COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA

Councilmember Lori Hamann stated Bill No. 75-23 was previously heard in the Zoning and Annexation Committee and it comes to the Committee of the Whole with no recommendation.

The petitioner was not present to speak on behalf of Bill No. 75-23.

There was no one from the public expressing interest to speak in favor or against Bill No. 55-23.

Councilmember Troy Warner made a motion to Table Bill No. 75-23 to November 27, 2023, which was seconded by Councilmember Karen L. White, and carried by a vote of (9) ayes and (0) nays.

Councilmember Lee – *Aye*

Councilmember Warner – *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

Councilmember Tomas Morgan – *Aye*

Councilmember Hamann* – *Aye*

Council Vice President Niezgodski – *Aye*

Council President McBride – *Aye*

Councilmember Henry Davis, Jr.* – *Aye*

RISE AND REPORT

Councilmember Troy Warner made a motion to rise from the Committee of the Whole and report to back to Full Council, which was seconded by Councilmember Troy Warner, and carried by a vote of nine (9) ayes and (0) nays.

Councilmember Lee – *Aye*

Councilmember Warner – *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

Councilmember Tomas Morgan – *Aye*

Councilmember Hamann* – *Aye*

Council Vice President Niezgodski – *Aye*

Council President McBride – *Aye*

Councilmember Henry Davis, Jr.* – *Aye*

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 7:39 p.m. Council President Sharon L. McBride presided with nine (9) councilmembers present.

BILLS ON THIRD READING

BILL NO.

[50-23](#)

THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, ANNEXING TO AND BRINGING WITHIN THE CITY LIMITS OF SOUTH BEND, INDIANA, AND AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 23114 LINCOLN WAY WEST, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA (THIRD READING ONLY)

Councilmember Canneth Lee indicated Bill No. 50-23 comes to the full council with a favorable recommendation from the Committee of the Whole.

Councilmember Eli Wax made a motion to adopt Bill No. 50-23, which was seconded by Councilmember Troy Warner and carried by a vote of (9) ayes and (0) nays.

Councilmember Lee – *Aye*

Councilmember Warner – *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

Councilmember Tomas Morgan – *Aye*

Councilmember Hamann* – *Aye*

Council Vice President Niezgodski – *Aye*

Council President McBride – *Aye*

Councilmember Henry Davis, Jr.* – *Aye*

Bill No. 50-23 has been Adopted.

[53-23](#)

THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 1132 PORTAGE AVENUE, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

Councilmember Canneth Lee indicated Bill No. 53-23 comes to the full council with a favorable recommendation from the Committee of the Whole.

Councilmember Troy Warner made a motion to adopt Bill No. 53-23, which was seconded by Councilmember Rachel Tomas Morgan and carried by a vote of (9) ayes and (0) nays.

Councilmember Lee – *Aye*

Councilmember Warner – *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

REGULAR MEETING

Monday, November 13, 2023

Councilmember Tomas Morgan – *Aye*
Council Vice President Niezgodski – *Aye*
Councilmember Henry Davis, Jr.* – *Aye*

Councilmember Hamann* – *Aye*
Council President McBride – *Aye*

Bill No. 53-23 has been Adopted.

54-23

THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 1128 PORTAGE AVENUE, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

Councilmember Canneth Lee indicated Bill No. 54-23 comes to the full council with a favorable recommendation from the Committee of the Whole.

Councilmember Troy Warner made a motion to adopt Bill No. 54-23, which was seconded by Councilmember Eli Wax and carried by a vote of (9) ayes and (0) nays.

Councilmember Lee – *Aye*
Councilmember Wax – *Aye*
Councilmember Tomas Morgan – *Aye*
Council Vice President Niezgodski – *Aye*
Councilmember Henry Davis, Jr.* – *Aye*

Councilmember Warner – *Aye*
Councilmember White – *Aye*
Councilmember Hamann* – *Aye*
Council President McBride – *Aye*

Bill No. 54-23 has been Adopted.

55-23

THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 110 S MAIN STREET, COUNCILMANIC DISTRICT NO. 2 IN THE CITY OF SOUTH BEND, INDIANA

Councilmember Canneth Lee indicated Bill No. 55-23 comes to the full council with a favorable recommendation from the Committee of the Whole.

Councilmember Eli Wax made a motion to adopt Bill No. 55-23, which was seconded by Councilmember Troy Warner seconded the motion and carried by a vote of (9) ayes and (0) nays.

Councilmember Lee – *Aye*
Councilmember Wax – *Aye*
Councilmember Tomas Morgan – *Aye*

Councilmember Warner – *Aye*
Councilmember White – *Aye*
Councilmember Hamann* – *Aye*

REGULAR MEETING

Monday, November 13, 2023

Council Vice President Niezgodski – Aye

Council President McBride – Aye

Councilmember Henry Davis, Jr.* – Aye

Bill No. 55-23 has been Adopted.

62-23

THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, TO VACATE THE FOLLOWING DESCRIBED PROPERTY: PART OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 38 NORTH, RANGE 2 EAST OF THE 2ND PRINCIPAL MERIDIAN, PORTAGE TOWNSHIP, ST. JOSEPH COUNTY, INDIANA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:COMMENCING AT THE NORTHEAST CORNER OF LOT 49 ON THE RECORDED PLAT OF NORTHWEST ADDITION 2ND PLAT IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE SOUTH 90°00'00" EAST ALONG THE SOUTHERLY RIGHT OF WAY LINE OF MCCARTNEY STREET, A DISTANCE OF 72.90 FEET; THENCE SOUTH 0°05'13" EAST A DISTANCE OF 269.55 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF KING STREET AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING SOUTH 0°05'13" EAST A DISTANCE OF 60.00 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID KING STREET; THENCE SOUTH 90°00'00" WEST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 64.00 FEET; THENCE NORTH 0°05'13" WEST A DISTANCE OF 60.00 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID KING STREET; THENCE NORTH 90°00'00" EAST ALONG THE SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 64.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.CONTAINING 3,840 SQUARE 2- FEET

Council President Sharon McBride indicated Bill No. 62-23 has been Tabled to Monday, November 27, 2023.

75-23

THIRD READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED 1119 N TWYCKENHAM DRIVE COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA

Council President Sharon McBride indicated Bill No. 62-23 has been Tabled to Monday, November 27, 2023.

RESOLUTIONS

BILL NO.

[23-64](#)

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, REAFFIRMING THE GRANT OF CERTAIN REAL PROPERTY TAX ABATEMENT DEDUCTIONS AND WAIVING NONCOMPLIANCE FOR PROPERTY COMMONLY KNOWN AS 4836 W. WESTERN AVENUE, SOUTH BEND, INDIANA 46619 FOR NILKANTH PROPERTIES, LLC

Councilmember Rachel Tomas Morgan stated the Bill No. 23-64 was previously heard in the Community Investment Committee and it comes to the Committee of the Whole with a favorable recommendation.

Erik Glavich, Director of Growth and Opportunity, Department of Community Investment, City of South Bend with offices on the 14th Floor of the County-City building presented a waiver of noncompliance for a tax abatement passed by Council in November 2018 for a Dairy Queen property located at 4836 West Western Ave. The property, completed in May 2020, was initially part of a parking lot for Planet Fitness. The property owner, who committed to a \$1.6 million private investment and creating 45 new jobs, failed to file tax abatement forms with the county auditor, leading to a realization of noncompliance. The waiver request covers the past three years and the current tax year, potentially resulting in a tax refund of approximately \$21,700. The property owner was present to discuss the waiver and answer questions.

Ms. Patel, 4836 Western Ave. South Bend, IN, 46619, the property owner, expressed her confusion stating that she believed the tax abatement approval was for seven years and that she only needed to file with the city office. She recounts paying her tax bills yearly without issue until receiving a detailed email from Erik Glavich this year. Mr. Glavich clarified the process during a meeting, explaining the required forms and filing procedures with both offices. The property owner acknowledged the oversight and appreciated the clarification.

Councilmember Eli Wax asked if the petitioner, other than the filing, if she now has all the details of the tax abatement and if all of the requirements been complied with.

Ms. Patel and Mr. Glavich indicated the property owner has exceeded the direct investment commitment, with a reported investment of 2.1 million, and has met or exceeded job creation commitments each year. Mr. Glavich noted the information supports the view that the property owner has fulfilled other aspects of the abatement agreement.

Council Vice-President Sheila Niezgodski made final comments thanking Mr. Glavich for sending out the detailed email to tax abatement recipients, acknowledging its importance in property owners to understand the requirements. Additionally, Niezgodski, who represents the 6th District, expressed her appreciation of the \$2.1 million investment in the Dairy Queen on Western, highlighting its positive impact on the neighborhood. She thanked Ms. Patel for their investment in the neighborhood. Niezgodski also extended her thanks to Mr. Glavich for clarifying the tax abatement details for Councilmembers.

Councilmember Canneth Lee made final comments regarding the process of filing forms for tax abatements and thanked Mr. Glavich for his knowledge and education to the tax abatement recipients.

Councilmember Canneth Lee emphasized the complexity of the city and county collaboration in the tax abatement process and praised Mr. Glavich for his helpful support in guiding individuals through the procedure. He acknowledged that the process can be challenging, especially if property owners are unaware of specific filing requirements with the county. Lee expressed empathy for businesses seeking what they believe they are entitled to, noting the importance of education on the process to avoid future issues. He has hope that with increased awareness, such cases will be minimized in the future.

Mr. Glavich expressed his appreciation for the comments and mentioned that bringing the compliance element in-house this past year has been beneficial as it highlights the real-time visibility of submitted forms and emphasized the need to ensure that businesses are also filing with the county auditor. Mr. Glavich noted that by addressing these issues in the spring, they can avoid complications during the May filing deadlines and alleviate the burden on small business owners.

Council President Sharon McBride opened the floor to the public for comment.

There was no one from the public expressing interest to speak in favor or opposition of Bill No. 23-64.

Council President Sharon McBride opened the floor for final remarks by Councilmembers.

Councilmember Rachel Tomas Morgan noted a significant decrease in the number of waivers of compliance, expressing appreciation for the efforts made. Tomas Morgan, Chair of the Community Investment Committee, encouraged continued communication with the Auditor's Office and suggested that the Community Investment Committee exploring process tweaks on their end.

Councilmember Tomas Morgan made a motion to adopt Bill No. 23-64, which was seconded by Councilmember Canneth Lee and carried by a vote of (8) ayes and (0) nays.

Councilmember Lee – *Aye*

Councilmember Warner– *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

Councilmember Tomas Morgan – *Aye*

Council President McBride – *Aye*

Council Vice President Niezgodski – *Aye*

Councilmember Henry Davis, Jr.* – *Aye*

Bill No. 23-64 has been Adopted.

BILLS ON FIRST READING

BILL NO.

[76-23](#)

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, AMENDING CHAPTER 17, ARTICLE 14, SECTION 17-128 TO UPDATE THE MONTHLY STORM WATER USER FEES

Council Vice-President Sheila Niezgodski made a motion to send Bill No. 76-23 to the Personnel and Finance Committee on November 27, 2023 for Public Hearing and Third Reading, which was seconded by Councilmember Canneth Lee and carried by a vote of (8) ayes and (0) nays.

Councilmember Lee – *Aye*

Councilmember Warner– *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

Councilmember Tomas Morgan – *Aye*

Council President McBride – *Aye*

Council Vice President Niezgodski – *Aye*

Councilmember Henry Davis, Jr.* – *Aye*

77-23

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, AMENDING ORDINANCE NO. 10985-23 TITLED AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA AUTHORIZING THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF CERTAIN ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE CITY’S SEWAGE WORKS; AUTHORIZING THE ISSUANCE OF ADDITIONAL REVENUE BONDS FOR SUCH PURPOSE IN THE PRINCIPAL AMOUNT NOT TO EXCEED THIRTY-SIX MILLION DOLLARS (\$36,000,000) TO PROVIDE FUNDS FOR THE PAYMENT OF THE COSTS THEREOF; PROVIDING FOR THE SAFEGUARDING OF THE INTERESTS OF THE OWNERS OF SAID BONDS; ADDRESSING OTHER MATTERS CONNECTED THEREWITH, INCLUDING THE ISSUANCE OF NOTES IN ANTICIPATION OF BONDS; AND REPEALING ORDINANCES INCONSISTENT HEREWITH

Councilmember Canneth Lee made a motion to send Bill No. 77-23 to the Personel & Finance Committee on November 27, 2023 for Public Hearing and Third Reading, which was seconded by Council Vice-President Sheila Niezgodski and carried by a vote of (8) ayes and (0) nays.

Councilmember Lee – *Aye*

Councilmember Warner– *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

Councilmember Tomas Morgan – *Aye*

Council President McBride – *Aye*

Council Vice President Niezgodski – *Aye*

Councilmember Henry Davis, Jr.* – *Aye*

78-23

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 2921 WEST WESTERN AVENUE, COUNCILMANIC DISTRICT NO. 2 IN THE CITY OF SOUTH BEND, INDIANA

Council Vice-President Sheila Niezgodski made a motion to send Bill No. 77-23 to the Zoning & Annexation Committee on November 27, 2023 for Public Hearing & Third Reading on November 27, 2023, which was seconded by Councilmember Canneth Lee and carried by a vote of (8) ayes and (0) nays.

Councilmember Lee – *Aye*

Councilmember Warner– *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

Councilmember Tomas Morgan – *Aye*

Council President McBride – *Aye*

Council Vice President Niezgodski – *Aye*

Councilmember Henry Davis, Jr.* – *Aye*

80-23

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF THE SOUTH BEND, INDIANA, APPROVING A PETITION OF THE ADVISORY BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT 1410 FORD STREET COUNCILMANIC DISTRICT NO. 2 IN THE CITY OF SOUTH BEND, INDIANA

Council Vice-President Sheila Niezgodski made a motion to send Bill No. 80-23 to the Zoning & Annexation Committee on November 27, 2023 for Public Hearing and Third Reading, which was seconded by Councilmember Canneth Lee and carried by a vote of (8) ayes and (0) nays.

Councilmember Lee – *Aye*

Councilmember Warner – *Aye*

Councilmember Wax – *Aye*

Councilmember White – *Aye*

Councilmember Tomas Morgan – *Aye*

Council President McBride – *Aye*

Council Vice President Niezgodski – *Aye*

Councilmember Henry Davis, Jr.* – *Aye*

UNFINISHED BUSINESS

Councilmember Henry Davis, Jr. expressed his gratitude to the South Bend Police Department for their swift action in addressing recent crimes, particularly murders, in the area. Davis, Jr. commended the police department's excellent performance and his hope for a focus on preventive measures, acknowledging that while not all incidents may be preventable, some can be with increased effort and commitment. Davis, Jr. highlighted the upcoming meeting of the LaSalle Park Neighborhood Association, inviting the public to participate in discussions on the planning phase.

NEW BUSINESS

Council President Sharon McBride indicated the cancellation of December 25, 2023, South Bend Common Council Meeting

PRIVILEGE OF THE FLOOR

Mark Rolfes, 1219 Napoleon St., South Bend, IN, 46601, congratulated the Democratic Party on a significant win and expressed his anticipation for wise leadership on the Council. Mr. Rolfes mentioned having expressed interest in the Community Police Review Board about 6 or 8 weeks ago and noted the upcoming appointments. Mr. Rolfes suggested that, even though Democrats hold the majority, it would be prudent to include Republicans on the committee, emphasizing the need for a bipartisan approach, especially during a crisis. Mr. Rolfes recommended the inclusion of 2 Republicans for accountability and the healing process in the community.

Councilmember Henry Davis, Jr. asked when the Citizens Review Board is going to be seated and Council President McBride stated she will send out an email coordinating a date prior to the next council meeting.

Logan Foster, 1138 College , South Bend, IN, 46628, wanted to follow up on previous efforts and raised his concerns regarding the accuracy of the police transparency hub, stating that South Bend City Legal has admitted the hub is inaccurate and does not provide complete data. Mr. Foster emphasized the importance of fixing this issue promptly and inquired about the timeline for resolving the problem, expressing the urgency to address the accuracy concerns and avoid misleading city residents. Council President McBride responded she will have Councilmember Rachel Tomas Morgan, Chair of the I&T Committee, follow up with City IT as the Council does not maintain the police transparency hub. The site is within the South Bend Police Department.

ADJOURNMENT

There being no further business to come before the Council President Sharon L. McBride adjourned the meeting at 8:11 p.m.