



(574) 235-9321
Fax (574) 235-9173
TDD (574) 235-5567
<http://www.southbendin.gov>

NEWS RELEASE

Subject: **Bill 85-23 Proposing Change to Housing Authority Appointments Would Violate State and Federal Housing Authority Laws**

Date: December 7, 2023

From: 4th District Councilmember Troy Warner

Contact: Troy Warner

On Monday the Residential Neighborhoods Committee of the South Bend Council will hear Bill 85-23 proposing to change how South Bend Housing Authority (“SBHA”) Board Commissioners are appointed. In their filing letter accompanying the bill, Councilors Davis and Hamann state “all six Commissioners of the Housing Authority of South Bend have historically been appointed by the Mayor. However, there appears to be no authority in the Municipal Code establishing the Mayor’s authority to do so.”

Councilmember Troy Warner begins stating, “the simple reason that all Commissioners of the Housing Authority have been historically appointed by the mayor is because that is what state law requires¹. Local housing authorities are independent public agencies governed by the U.S. Housing Act, the U.S. Department of Housing and Urban Development (“HUD”) regulations, and Indiana State Housing Authority laws, not City Ordinances. The proposal in Bill 85-23, if passed would exceed Council’s legal authority and violate those state and federal laws.”

Warner continues, “recently the City and SBHA have been working cooperatively to improve housing options within the SBHA, the City having provided \$1.6 million in City Redevelopment TIF funds to SBHA to assist SBHA efforts towards a \$50 million HUD Choice Neighborhoods Initiative Grant. I have concerns that if Council attempts passage of an ordinance overstepping state housing laws & HUD regulations, it could endanger SBHA’s \$50 million grant application as well as other state and federal housing funds.”

¹ Incidentally, Bill 85-23 also incorrectly would provide for six (6) SBHA Commissioners, however state law provides for seven (7). Indiana housing authority statute I.C. 36-7-18-5 provides that the mayor “shall then appoint seven (7) persons, one (1) of whom must be a resident of a housing project under the jurisdiction of the housing authority, no more than four (4) of whom may be of the same political party, as commissioners of the housing authority.” This mirrors federal HUD regulations regarding the appointment of housing authority commissioners.





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Warner closes stating, “although I understand the bill sponsors desire to transfer SBHA Board appointments to the Council, I strongly oppose this ill-planned and illegal attempt at their final meeting on the Common Council. I ask the bill sponsors to immediately withdraw Bill 85-23, and this overstep of state and federal law. A new SBHA Director with a record of success starts in January 2024, Council should not be overstepping its legal authority and causing chaos on her day one here in South Bend.”

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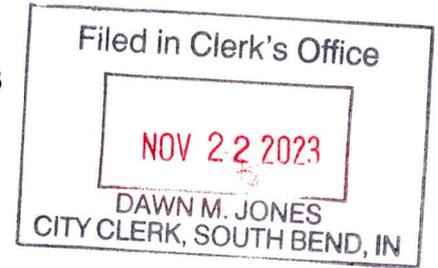


City of South Bend Common Council

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November 22, 2023



Sharon L. McBride
President

Sheila Niezgodski
Vice-President

Canneth Lee
Chairperson, Committee
of the Whole

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First District

Henry Davis, Jr.
Second District

Sharon L. McBride
Third District

Troy Warner
Fourth District

Eli Wax
Fifth District

Sheila Niezgodski
Sixth District

Karen L. White
At Large

Rachel Tomas Morgan
At Large

Lori K. Hamann
At Large

Chairperson Karen White
Residential Neighborhoods Committee
South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

RE: AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ADDING CHAPTER 2, ARTICLE 5, SECTION 2-62 TO THE SOUTH BEND MUNICIPAL CODE TO CHANGE THE MANNER IN WHICH COMMISSIONERS OF THE HOUSING AUTHORITY OF SOUTH BEND ARE APPOINTED

Dear Chairperson White:

As you know, all six Commissioners of the Housing Authority of South Bend have historically been appointed by the Mayor. However, there appears to be no authority in the Municipal Code establishing the Mayor's authority to do so. This proposed ordinance provides for the Mayor and the South Bend Common Council to each appoint three Commissioners. Appointments by the Mayor and the Common Council are common in Boards and Commissions such as the Area Plan Commission, the Energy Conservation Commission, the Older Adults Council, the Mayor's Citizens' Traffic Commission, the Economic Development Commission, the South Bend Advisory Commission on Black Males, the South Bend Advisory Plan Commission, and the South Bend Advisory Board of Zoning Appeals. We believe that it is in the best interests of the Housing Authority of South Bend and the citizens of South Bend for the Council to participate equally with the Mayor in appointing Commissioners.

This proposed ordinance also requires all Commissioners to be residents of South Bend. Additionally, at least two of the six Commissioners must be residents of properties owned, controlled or managed by the HASB.

We ask that this proposed ordinance be given first reading on November 27, 2023 and assigned to the Residential Neighborhoods Standing Committee meeting on December 11, 2023 to be followed by second reading, public hearing and a vote of the entire Council at the full Council meeting later that evening.

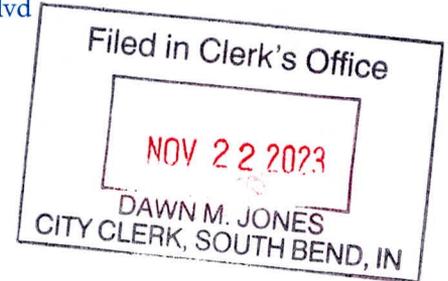


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Thank you for your consideration.



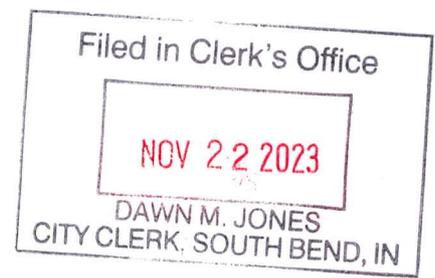
Sincerely yours,

Henry Davis, Jr., South Bend Common
Council Second District

Lori K. Hamann South Bend Common
Council At Large Member

BILL NO. 85-23

ORDINANCE NO. 10999-23



AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ADDING CHAPTER 2, ARTICLE 5, SECTION 2-62 TO THE SOUTH BEND MUNICIPAL CODE TO CHANGE THE MANNER IN WHICH COMMISSIONERS OF THE HOUSING AUTHORITY OF SOUTH BEND ARE APPOINTED

STATEMENT OF PURPOSE AND INTENT

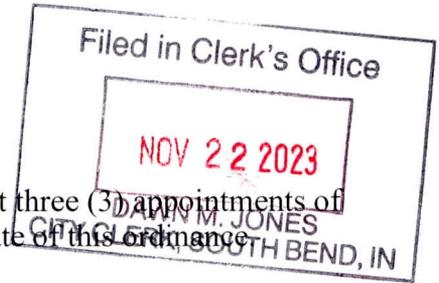
All six Commissioners of the Housing Authority of South Bend have historically been appointed by the Mayor. However, there is no authority in the Municipal Code establishing that authority. This ordinance provides for the Mayor and the South Bend Common Council to each appoint three commissioners. Appointments by the Mayor and the Common Council are common in Boards and Commissions such as the Area Plan Commission, the Energy Conservation Commission, the Older Adults Council, the Mayor's Citizens' Traffic Commission, the Economic Development Commission, the South Bend Advisory Commission on Black Males, the South Bend Advisory Plan Commission, and the South Bend Advisory Board of Zoning Appeals. The South Bend Common Council finds that it is in the best interests of the Housing Authority of South Bend and the citizens of South Bend for the Council to participate equally with the Mayor in appointing Commissioners.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AS FOLLOWS:

SECTION I. Chapter 2 (ADMINISTRATION) Article 5 (BOARDS AND COMMISSIONS), Section 2-62 (HOUSING AUTHORITY OF SOUTH BEND) is added to of the South Bend Municipal Code to read as follows:

Sec. 2-62 Housing Authority of South Bend

- (a) The City of South Bend, through the Mayor's office and the South Bend Common Council, shall appoint the Commissioners of the Housing Authority of South Bend.
- (b) There shall be a total of six (6) Commissioners.
- (c) Three (3) Commissioners shall be appointed by the Mayor.
- (d) Three (3) Commissioners shall be appointed by the South Bend Common Council.



- (e) The Common Council shall make the next three (3) appointments of Commissioners following the effective date of this ordinance.
 - (1) All individuals appointed shall have an active interest in addressing the overall purposes and goals of the Housing Authority of South Bend.
 - (2) All Commissioners shall be residents of the City of South Bend.
 - (3) At least two (2) Commissioners shall be residents of properties owned, controlled or managed by the Housing Authority of South Bend.
 - (4) All Commissioners shall serve without compensation.
 - (5) All Commissioners shall serve for a term of four (4) years.
 - (6) Each Commissioner serves at the pleasure of that Commissioner's appointing authority and may be removed with or without cause.
 - (7) Subject to Sec. 2-62(e) above, the appointing authority shall fill a vacancy by a new Commissioner for the unexpired term.

SECTION II. Severability.

If any part, section, subsection, paragraph, sentence, clause, or phrase of this ordinance is for any reason declared to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION III. Effective Date.

This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

 Sharon McBride, Council President
 South Bend Common Council

Attest:

 Dawn M. Jones, City Clerk

Filed in Clerk's Office
NOV 22 2023
DAWN M. JONES
CITY CLERK SOUTH BEND, IN

Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 2023, at _____ o'clock ____ .m.

Dawn M. Jones, City Clerk
Office of the City Clerk

Approved and signed by me on the _____ day of _____, 2023, at ____ o'clock.
____.m.

James Mueller, Mayor
City of South Bend, Indiana