

GENERAL ORDINANCE NO. G-21-15

AN ORDINANCE CLARIFYING THE VESTING OF CONTROL OF THE CITY WATER UTILITY OF FORT WAYNE, INDIANA WITH THE BOARD OF PUBLIC WORKS IN ACCORDANCE WITH INDIANA CODE 8-1.5-3.

WHEREAS, the City of Fort Wayne (the "City") owns and operates the City's water utility (the "Water Utility") for the purpose of providing residents of the City and immediately surrounding areas with potable water and water for fire suppression;

WHEREAS, Indiana Code 8-1.5-3-3 allows a municipal legislative body, by ordinance, to provide for the control of a municipally owned utility by the municipality's works board;

WHEREAS, a municipal works board vested with such control shall have the powers and duties set forth in Indiana Code 8-1.5-3-4;

WHEREAS, the Common Council of Fort Wayne established a Board of Public Works in Ord. G-10-91 ("BOW");

WHEREAS, Common Council also established a Division of Public Works and has given the Division the duties, function and obligations as required and/or allowed by state statute, including responsibility for water resources, public works construction and the operation of all city utilities;

WHEREAS, the BOW is the governing board of the Division of Public Works and so the authority granted by §30.01(A) is also necessarily granted to the Board of Public Works;

WHEREAS, the BOW requests that the authority granted to the Division of Public Works be clarified by explicitly granting those powers to the BOW;

1           **WHEREAS**, vesting control of the Water Utility with the BOW will provide clarity  
2 for the BOW, Water Utility and outside contractors and allow for efficient management of  
3 the Water Utility, in particular by allowing the BOW to award and approve contracts for  
4 extension of the Water Utility's waterworks to the extent permitted under Fort Wayne  
5 Ordinance §37.18.

6           **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF**  
7 **THE CITY OF FORT WAYNE, INDIANA:**

8           **SECTION 1.** That the following sections or subsections of Chapter 30 of the Fort  
9 Wayne Code of Ordinances be amended as follows (in **bold**) with all other sections and  
10 subsections to remain unchanged:

11           **§ 30.02 ESTABLISHING SEPARATE BOARD OF PUBLIC WORKS AND**  
12 **BOARD OF PUBLIC SAFETY**

13           **(C)** The Water Utility is hereby placed under the control of the Board,  
14 pursuant to Indiana Code 8-1.5-3-3. The Board shall have all of the powers and duties  
15 set forth in Indiana Code 8-1.5-3-4 with respect to the Water Utility subject to the  
16 limitations contained in §37.18.

17           **The Board shall have the power to enter into all contracts for the acquisition,**  
18 **construction, improvement, operation, and/or maintenance of waterworks, subject to**  
19 **the limitations contained in §37.18.**

20           **SECTION 2.** That the following sections or subsections of Chapter 37 of the Fort  
21 Wayne Code of Ordinances be amended (in **bold**) as follows with all other sections and  
22 subsections to remain unchanged:

23           **§ 37.18 APPROVAL OR RATIFICATION REQUIRED.**

24           **(B)** Notwithstanding division (A), prior approval or subsequent ratification by  
25 Common Council shall not be required for contracts entered into by the City  
26 (including any city-owned or operated utilities) for any contracts which:

27           (1) Are construction contracts with a total value of \$150,000 or less that have  
28 been processed through and reviewed by the Board of Works in accord with all state  
29 and local requirements, have been subject to a public meeting and have been put out  
30 to public bid (in accord with the state statutes) and awarded to the lowest bidder.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

(2) Are for commodities that have been competitively bid according to state statute and awarded to the lowest bidder. City Council shall receive a quarterly report from the administration on the commodities contracts awarded only for purchases of \$100,000 or more.

**(3) Are contracts for extension of utility service, or repair or replacement of utility service.**

**SECTION 3.** That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

  
\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY

  
\_\_\_\_\_  
Carol Helton, City Attorney

Public Hearing Date, if applicable \_\_\_\_\_

Read the first time in full and on motion by Councilman Thomas Smith  
Read the second time by title and referred to the City Utilities  
Committee. Read the third time in full and on motion by Councilman  
Thomas Smith, placed on passage by the following vote:

|                    | <u>AYES</u> | <u>NAYS</u> | <u>ABSTAINED</u> | <u>ABSENT</u> |
|--------------------|-------------|-------------|------------------|---------------|
| <u>TOTAL VOTES</u> | <u>8</u>    | _____       | _____            | <u>1</u>      |
| BENDER             | <u>✓</u>    | _____       | _____            | _____         |
| CRAWFORD           | <u>✓</u>    | _____       | _____            | _____         |
| DIDIER             | <u>✓</u>    | _____       | _____            | _____         |
| HARPER             | _____       | _____       | _____            | <u>✓</u>      |
| HINES              | <u>✓</u>    | _____       | _____            | _____         |
| JEHL               | <u>✓</u>    | _____       | _____            | _____         |
| PADDOCK            | <u>✓</u>    | _____       | _____            | _____         |
| SHOAFF             | <u>✓</u>    | _____       | _____            | _____         |
| SMITH              | <u>✓</u>    | _____       | _____            | _____         |

DATED: 12-22-15 Michelle D. Chambers  
MICHELLE D. CHAMBERS, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as  
(ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE General  
(RESOLUTION) NO. G-21-15 on the 22<sup>nd</sup> day of  
December, 2015

Michelle D. Chambers ATTEST: John N. Crawford  
MICHELLE D. CHAMBERS, PRESIDING OFFICER  
CITY CLERK

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 23<sup>rd</sup> day  
of December, 2015, at the hour of 1:00 o'clock PM. E.S.T.

Michelle D. Chambers  
MICHELLE D. CHAMBERS, CITY CLERK

Approved and signed by me this 28<sup>th</sup> day of December  
2015, at the hour of 9:00 O'clock AM. E.S.T.

Thomas C. Henry  
THOMAS C. HENRY, MAYOR

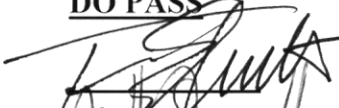
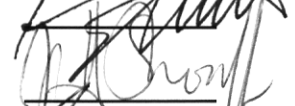
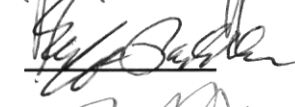
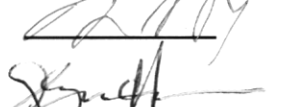
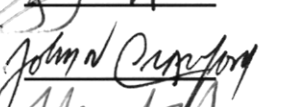
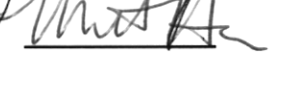
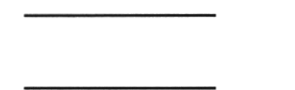
**BILL NO. G-15-12-07**

**REPORT OF COMMITTEE ON CITY UTILITIES**

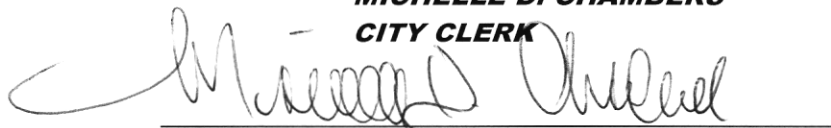
**DECEMBER 15, 2015**

*Thomas Smith, Chair  
Martin Bender, Co-Chair  
All Council Members*

**AN ORDINANCE** clarifying the vesting of control of the City Water Utility of Fort Wayne, Indiana with the Board of Public Works in accordance with Indiana Code 8-1.5-3. **COMMITTEE ON CITY UTILITIES HAVE HAD SAID** Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

| <u>DO PASS</u>  | <u>DO NOT PASS</u> | <u>ABSTAIN</u> | <u>NO REC</u> |
|---|--------------------|----------------|---------------|
| <i>As Amended</i><br> | _____              | _____          | _____         |
|                      | _____              | _____          | _____         |
|                      | _____              | _____          | _____         |
|                      | _____              | _____          | _____         |
|                      | _____              | _____          | _____         |
|                      | _____              | _____          | _____         |
|                      | _____              | _____          | _____         |
| _____   | _____              | _____          | _____         |
| _____   | _____              | _____          | _____         |

**MICHELLE D. CHAMBERS  
CITY CLERK**



**WHEREAS**, vesting control of the Water Utility with the BOW will provide clarity for the BOW, Water Utility and outside contractors and allow for efficient management of the Water Utility, in particular by allowing the BOW to award and approve contracts for extension of the Water Utility's waterworks to the extent permitted under Fort Wayne Ordinance §37.18.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** That the following sections or subsections of Chapter 30 of the Fort Wayne Code of Ordinances be amended as follows (in **bold**) with all other sections and subsections to remain unchanged:

**§ 30.02 ESTABLISHING SEPARATE BOARD OF PUBLIC WORKS AND BOARD OF PUBLIC SAFETY**

(C) **The Water Utility is hereby placed under the control of the Board, pursuant to Indiana Code 8-1.5-3-3. The Board shall have all of the powers and duties set forth in Indiana Code 8-1.5-3-4 with respect to the Water Utility subject to the limitations contained in §37.18.**

The Board shall have the power to enter into all contracts for the acquisition, construction, improvement, operation, and/or maintenance of waterworks ~~and those contracts which were duly executed, authorized, and approved by the Board on behalf of the City prior to the effective date of this Ordinance are hereby ratified and approved,~~ **subject to the limitations contained in § 37.18**



**SECTION 2.** That the following sections or subsections of Chapter 37 of the Fort Wayne Code of Ordinances be amended (in **bold**) as follows with all other sections and subsections to remain unchanged:

**§ 37.18 APPROVAL OR RATIFICATION REQUIRED.**

(B) Notwithstanding division (A), prior approval or subsequent ratification by Common Council shall not be required for contracts entered into by the City (including any city-owned or operated utilities) for any contracts which:

(1) Are construction contracts with a total value of \$150,000 or less that have been processed through and reviewed by the Board of Works in accord with all state