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Jackie

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07/02/2012 02:35:30P 4 PGS
Mary L. Clark
HAMILTON County Recorder IN
Recorded as Presented

ORDINANCE NO. 12-18

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF WESTFIELD, INDIANA, DETERMINING TO EXERCISE CERTAIN POWERS WITH RESPECT TO THE POSSIBLE DISPOSITION OF THE WASTEWATER UTILITY OF THE CITY AS PERMITTED BY INDIANA CODE 36-1-3

WHEREAS, the City of Westfield, Indiana, has initiated proceedings to consider the possible disposition of the Waterworks Utility and Wastewater Utility of the City in order to continue to provide safe drinking water to the residents of the City and to provide wastewater and trash services and related billing and infrastructure services in the most efficient and cost effective manner, while reducing the need for rate increases affecting its residents; and

WHEREAS, Indiana Code § 8-1.5-2 generally provides for a process that a municipality must adhere to when undertaking the sale of non-surplus utility property; and

WHEREAS, the term "utility" as defined in Indiana Code § 8-1-2-1 does not include a wastewater utility owned by a municipality which has the effect of excluding a wastewater utility from the jurisdiction of the Indiana Utility Regulatory Commission (the "IURC"); and

WHEREAS, as a result of the definition of "utility" in Indiana Code § 8-1-2-1, the procedures set forth in Indiana Code § 8-1.5-2 regarding disposition of non-surplus utility property would not otherwise apply to the disposition of a wastewater utility owned by a municipality; and

WHEREAS, there does not exist in the Indiana Code any provision which provides a process by which a municipality may dispose of a municipally owned wastewater utility; and

WHEREAS, Indiana Code § 36-1-3-4(d) provides that a unit has all powers granted to it by statute and such other powers necessary or desirable in the conduct of its affairs even though not granted by statute; and

WHEREAS, Indiana Code § 36-1-3-6 provides that a unit which desires to exercise a power for which there is not a statutory provision requiring a specific manner for exercising such a power must adopt an ordinance prescribing a specific manner for exercising the power; and

WHEREAS, this Common Council desires to apply the provisions of Indiana Code § 8-1.5-2 to the possible disposition of the City's wastewater system, recognizing that wastewater utilities owned by municipalities were excluded from the definition of utility in Indiana Code § 8-1-2-1(g) for the purpose of excluding such municipally owned wastewater utilities from the jurisdiction of the IURC;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Common Council of the City of Westfield, Indiana, as follows:

Section 1. Pursuant to the authority granted to the City by Indiana Code § 36-1-3, the City is authorized to pursue the disposition of its wastewater system utilizing the provisions of Indiana Code § 8-1.5-2.

Section 2. This Ordinance shall be in full force and effect from and upon compliance with the procedures required by law.

* * * * *

ALL OF WHICH IS ORDAINED THIS 25 DAY OF June, 2012.

WESTFIELD COMMON COUNCIL

Voting For	**Voting Against**	**Abstain**
Jim Ake	Jim Ake	Jim Ake
John Dippel	John Dippel	John Dippel
Steven Hoover	Steven Hoover	Steven Hoover
Robert L. Horkay	Robert L. Horkay	Robert L. Horkay
Robert J. Smith	Robert J. Smith	Robert J. Smith
Cindy L. Spoljaric	Cindy L. Spoljaric	Cindy L. Spoljaric
Robert W. Stokes	Robert W. Stokes	Robert W. Stokes

ATTEST:

Cindy J. Gossard, Clerk Treasurer

BDDB01 9251795v2

I hereby certify that ORDINANCE NO. 12-18 was delivered to the Mayor of Westfield on the 26 day of June, 2012, at 8:30 a. m.

Cindy J. Gossard, Clerk Treasurer

I hereby APPROVE Ordinance No. 12-18

this 26 day of June, 2012.

J. Andrew Cook, Mayor

I hereby VETO Ordinance No. 12-18

this _____ day of _____, 2012.

J. Andrew Cook, Mayor

ATTEST:

Cindy J. Gossard, Clerk Treasurer

[illegible] document, unless required by law"

Signed

BDDB01 9251795v2