

A RESOLUTION CONCERNING THE USE OF CONSULTANTS

WHEREAS, The Common Council of the City of Rising Sun has in recent years sought to control spending and limit waste in the City Budget. While gaming money provides opportunities and advantages to Rising Sun, it also creates the potential of waste.

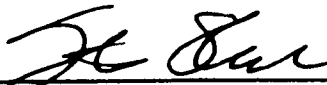
WHEREAS, It has come to the attention of Council that outside consultants are being utilized by the City and various other Boards and Commissions. It is understood that experts are needed in certain areas and that these services are important to the City, however there is presently little or no cost containment or limits on these consultants or their utilization.

WHEREAS, The Common Council has a fiduciary duty to protect the public's monies and it is in the best interests of the Citizens of Rising Sun that they exercise that control;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF RISING SUN, INDIANA THAT:

1. All consulting agreements now in effect between the City of Rising Sun and outside consultants without an express written expiration date or a date that has expired are hereby deemed to be terminated as of August 1, 2011.
2. All agreements with existing consultants (either oral or written) are to be submitted to Council in writing and reviewed by Council for a determination of scope of services and/or renewal.
3. Hereafter, no outside consultants are to be employed without the express approval of City Council and all such consulting agreements shall be in writing and shall not exceed one (1) year in term.
4. All consulting agreements are to be reviewed on an annual basis for renewal or termination.


ADOPTED AND PASSED BY THE COMMON COUNCIL OF THE CITY OF RISING SUN, INDIANA THIS _____ DAY OF _____, 2011.



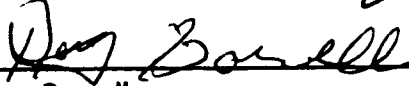
Steve Slack



Dennis Radcliff



Mike Padgett



Roy Powell



Lynn Graves

Presented by me to the Mayor of the City of Rising Sun, Indiana, for his approval and signature this ____ day of _____, 2011.

Rae Baker Gipson, Clerk Treasurer

This Resolution duly approved and signed by me on this ____ day of _____, 2011.

ATTEST:

William A. Marksberry, Mayor

Rae Baker Gipson, Clerk Treasurer



MAYOR WILLIAM A. MARKSBERRY

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Rising sun, IN 47040

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August 12, 2011

Common Council of the City of Rising Sun

Dear Gentlemen:

Pursuant to Indiana Code section 36-4-6-16, this letter is to serve as notice you that I am vetoing Resolutions 2011-9 and 2011-10 that were presented at the August 4, 2011 City Council meeting, for the reasons that follow (provided by City Attorney, Leslie L. Votaw):

1. Resolution 2011-9(1) states that "[a]ll consulting agreements now in effect between outside consultants without an express written expiration date or a date that has expires are deemed to be terminated as of August 1, 2011." To terminate all consultant agreements retroactively could potentially expose the City to civil liability due to the fact that contracts have already been executed and are legally binding. Section 2 of that resolution is reasonable but should include confirmation of existing contracts in an expeditious manner. Section 3 should read "[h]ereafter, no outside consultants are to be employed without the express approval of City Council and all such consulting agreements shall be in writing and shall not exceed one (1) year in term, *unless expressly approved otherwise.*"

2. Concerning Resolution 2011-10, with the exception of section 1, 2, and 4, all provisions of that resolution are already powers given to the City Attorney or are provided for in the Indiana Code. However, section 1 gives the City Attorney more power than what is contemplated in the Code. Yet, I see no problem with the City Attorney and City Council approving any outside legal counsel agreements, or, as stated in section 2, that such attorneys (including City Council's attorney) having to report directly to the City Attorney for review of their activities and billing statements prior to submission to the Clerk Treasurer. As for section 4 of the resolution proposed, it is true that City Council has the authority to employ its own legal counsel under IC 36-4-6-24 (see attached); however, referring to the attached, "employment of an attorney under this section does not affect the city of department of law..." and "[a]ppropriations for salaries of attorneys and legal research assistants employed under this section *may not exceed* (emphasis added) the appropriations for similar salaries in the budget of the city department of law." Such language should be added to section 4, as it is included in section 5.

If you should have any questions about the foregoing conclusions, please contact the Head of the Department of Law, Leslie L. Votaw, at (812) 537-4500 or e-mail at lvotaw@cityofrisingsun.com.

Sincerely,



Mayor William Marksberry

Cc: City Council
Clerk-Treasurer
Tim Hillman, Rising Sun Recorder