

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,
STATING THE INTENTION TO UTILIZE THE INVESTAGATORY POWERS OF THE
LEGISLATIVE BODY OF THE CITY OF FORT WAYNE**

WHEREAS, the Fort Wayne Common Council (“Council”) serves as the legislative body of the City of Fort Wayne as codified in IC 36-4-4-4 (a); and

WHEREAS, as the legislative body, the Council has all powers and responsibilities granted the legislative body by Indiana Code and the Fort Wayne Code of Ordinances; and

WHEREAS, in IC 36-4-6-21 it is stated that the legislative body may investigate departments, officers, and employees of the City and any charges against departments, officers, and employees of the City, and in conducting such an investigation the legislative body is entitled to access to all records pertaining to the investigation and may compel the attendance of witnesses and the production of evidence by subpoena and attachment served and executed in Allen County; and

WHEREAS, as stated in IC 36-4-6-21 if a person refuses to testify or produce evidence during this investigation, the matter may be referred to the court system for proper judgment; and

WHEREAS, since the arrest of Mayor Tom Henry on October 8, 2022, the Council and the public at large has become aware of conduct of the Mayor relating to his arrest that warrant the need for investigation to evaluate the ramifications of that conduct and any prior similar conduct.

WHEREAS, as stated in IC 36-4-6-24, the Council may hire or contract with competent attorneys, legal research assistants, and/or third parties on terms it considers appropriate, which does not affect the City department of law established under IC 36-4-9 *et seq.* and appropriations or salaries of attorneys and legal research assistants employed may not exceed the appropriations for similar salaries in the budget of the City department of law;

WHEREAS, the Council has an obligation to protect the interests of its citizens, including investigating matters that may have ethical or legal ramifications or result in costs funded by taxpayer dollars and the treatment of employees or any abuses of power; and

WHEREAS, the investigatory ability of the Council facilitates transparency, accountability, and limits exposure of the City and its citizens by identifying facts pertinent to the matter at hand.

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

3 **SECTION 1.** The members of the Council voting in the affirmative to this resolution are
4 authorized to conduct an investigation into the events surrounding and leading up to the arrest of
5 Mayor Tom Henry that took place on October 8, 2022, any prior similar events, including but not
6 limited to, any incarceration, investigation, charges, plea agreement, or conviction of Mayor Tom
7 Henry. The investigation shall include, but is not limited to, investigating Mayor Tom Henry and
8 the departments, officers, employees and agents of the City, and all other persons involved in any
9 aspect of the handling of events surrounding and leading up to the arrest of Mayor Tom Henry that
10 took place on October 8, 2022, any prior similar events, including, but not limited to, officers of
11 the City of Fort Wayne Police Department. By this resolution, the Council invokes the authority
12 granted to it under IC 36-4-6-21 to compel the attendance of witnesses and the production of
13 documents and other records and evidence by subpoena, if necessary.

14 **SECTION 2.** The Council will create a three-member sub-committee to direct the
15 investigation authorized by this Resolution and IC 36-4-6-21 ("Investigation Committee"). The
16 Investigation Committee will be tasked with reviewing the information obtained in the
17 investigation and shall report its findings to all Members of Council no later than 60 days after the
18 passage of this Resolution. There is an expectation that the testimony of witnesses will be given
19 publicly at a regular Common Council meeting or an appropriately noticed special meeting of the
20 Common Council. The members of this sub-committee will be three (3) members chosen by the
21 members of the Common Council, with at least one (1) from each political party.

22 **SECTION 3.** The Investigation Committee may elect to hire or contract with competent
23 attorneys and legal research assistants on terms it considers appropriate, as authorized by IC 36-4-
24 6-24. Appropriations or salaries of competent attorneys, legal research assistants, and/or third
25 parties employed may not exceed the appropriations for similar salaries in the budget of the City
26 department of law.

27 **SECTION 4.** the Council fully intends to exercise all authority granted under IC 36-4-6-
28 21. If a person refuses to testify or produce evidence during the investigation conducted under this
29 Resolution, the Common Council may order its clerk to immediately present to the circuit court,
30 superior court, or probate court of the county a written report of the facts relating to the refusal.
31 The court shall hear all questions relating to the refusal to testify or produce evidence, and shall
32 also hear any new evidence not included in the clerk's report. If the court finds that the testimony
33 or evidence sought should be given or produced, it shall order the person to testify or produce the
34 evidence, or both.

35

36

SECTION 5. This resolution shall be in full force and effect from and after its approval by the members of Common Council.

Jason Arp, Council Member

APPROVED AS TO FORM AND LEGALITY

Joseph G. Bonahoom, Attorney for City Council