

South Bend Tribune

OPINION *This piece expresses the views of its author(s), separate from those of this publication.*

Viewpoint: St. Joseph County Council is violating its own ordinance

Darryl Heller Mike Kruk and Marty Wolfson

Published 6:00 p.m. ET Oct. 29, 2020

On Oct. 13, the St. Joseph County Council approved two tax abatements against the recommendations of a citizens' advisory committee and in violation of the council's own tax abatement ordinance. The three of us are members of that citizens' committee but we are resigning because we think the committee is ineffective and we refuse to be complicit in a process that violates the county's ordinance.

When the council passed its ordinance in 2009, it was only after months of input from a broad segment of citizens with the view that abatements would only be awarded to companies providing real benefits to the community. It established a "base" abatement of three years for companies that, among other requirements, paid all of its employees at least a "poverty wage" and maintained an affirmative action plan. A company could earn additional years of abatement by taking other actions, like providing employee health insurance, investing in underserved communities, constructing energy-efficient buildings and creating a specified number of new jobs.

The "poverty wage," defined as the wage rate that provides a full-time worker an income at the government-defined poverty level, addresses the economic injustice of eroding wage rates and increasing income inequality. The affirmative action plan, defined as positive steps being taken to encourage the hiring, promotion and retention of qualified members of historically disadvantaged groups, such as people of color, women and the disabled, addresses the issue of racial injustice. Given historic practices of discrimination, a requirement that companies requesting an abatement document an effort to hire and retain members of underrepresented groups in exchange for use of our tax dollars is not too much to ask.

In recent years, it became clear that the council was not adhering to its ordinance. Citizens objected. A citizens' advisory committee was created to review abatements and make

recommendations to the council. But meetings were canceled without being rescheduled, the council infrequently received committee input and there were other problems over a period of years. Most recently, the committee was notified about these two latest abatements only after the council had already given preliminary approval to them.

The first abatement involved infrastructure to support a residential development in Granger, 230-plus homes to be sold at an average price of \$350,000. Although no permanent jobs are created by this project and the price of the homes are out of reach for most county residents, the committee overwhelmingly supported a three-year base abatement because that is what the project qualified for according to the ordinance. But the company asked for, and county development staff supported, a 10-year, 100% abatement.

The council “compromised” on a six-year abatement. It was indicated to the council that any taxes not collected by the abatement would be paid instead by other county taxpayers. Also, because the higher rates would push some taxpayers over the tax caps, the county, as well as the libraries, schools, etc., would likely also lose revenue — without the other taxing jurisdictions having any say, or likely even any knowledge, about the issue.

Development staff reported that the company would proceed with the project without an abatement. So why was it needed? It was said that the company was taking a risk. It was mentioned to the council that profits, not government subsidies, are supposed to be the reward for taking risk.

The second abatement involved the issues of a certified payroll and an affirmative action plan. The tax abatement ordinance says that companies seeking abatements shall supply these two items, among others. The certified payroll is necessary to document that the company is paying all its employees at least a “poverty wage.” But the company refused to supply either one.

The council nevertheless granted the company a five-year abatement, in direct violation of its own ordinance. An amendment to the motion said that approval was contingent on the company providing an affirmative action plan, however no timeline was specified for when this had to be completed and the issue of a certified payroll was ignored altogether.

In conclusion, we believe that if businesses are to receive property tax breaks in the county, they should be held to the conditions that the council put in place to ensure that residents gain real benefits.