

MINUTES OF THE
REGULAR MEETING
OF THE
ST. JOSEPH COUNTY COUNCIL
February 10, 2009

The regular meeting of the St. Joseph County Council was called to order at 7:04 p.m., on February 10, 2009, by the President, Rafael Morton, in the Council Chambers, fourth floor, County-City Building, South Bend, Indiana.

Members in attendance were:

Mr. Mark Catanzarite - Absent	Mr. Rafael Morton
Mr. Dale DeVon	Mr. W. Randall Przybysz
Mr. Michael J. Kruk	Mr. Mark Root
Mr. Kevin J. Kubsch	Mr. Dennis R. Schafer
	Mr. Heath O. Weaver - Absent

Present from the Auditor's office was Mr. Peter H. Mullen, Auditor.

Council staff present were Mr. Michael A. Trippel, Attorney and Ms. Joan M. Pawlowski, Executive Secretary.

Petitions, Communications & Miscellaneous Matters:

Moved by Mr. Przybysz and seconded by Mr. Kruk, the minutes of January 27, 2009 were approved by a voice vote; 7-0. No negatives were heard.

No report from the County Auditor.

No report from the Board of Commissioners.

Report from any Special Committees.

First Readings:

BILL NO. 10-09: AN ORDINANCE APPROPRIATING THE SUM OF \$99,910.00 OUT OF THE ST. JOSEPH COUNTY HEALTH FUND - 005 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 055 - Health) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 11-09: AN ORDINANCE TRANSFERRING THE SUM OF \$5,025.00 FROM VARIOUS ACCOUNTS TO VARIOUS ACCOUNTS ALL BEING WITHIN THE 2009 BUDGET OF ST. JOSEPH COUNTY. (Dept. 055 - Health) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 12-09: AN ORDINANCE APPROPRIATING THE SUM OF \$5,670.00 OUT OF THE ST. JOSEPH COUNTY VEHICLE INSPECTION FUND - 092 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 005 - County Police) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 14-09: AN ORDINANCE TRANSFERRING THE SUM OF \$4,438.00 FROM VARIOUS ACCOUNTS TO VARIOUS ACCOUNTS ALL BEING WITHIN THE 2009 BUDGET OF ST. JOSEPH COUNTY. (Dept. 056 - Court Substance Abuse Program) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 15-09: AN ORDINANCE AMENDING ORDINANCE 99-08, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2009. (Dept. 056 - Court Substance Abuse Program) - Assigned to the Human Services/Criminal Justice Committee

Public Hearings:

BILL NO. 3-09: AN ORDINANCE APPROPRIATING THE SUM OF \$136,000.00 OUT OF THE DRUG FREE FUND AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (circuit court) - Assigned to Human Services/Criminal Justice Committee

Mr. Przybysz reported that Bill No. 3-09 comes with a favorable recommendation.

Michael Gotsch, Judge, these funds will be used for drug enforcement, prevention and treatment programs for the year.

Motion to pass was made by Mr. Kubsch and seconded by Mr. DeVon. Bill No. 3-09 passed to-wit; 7-0.

BILL NO. 4-09: AN ORDINANCE APPROPRIATING THE SUM OF \$60,000.00 OUT OF THE ST. JOSEPH COUNTY PUBLIC DEFENDER FUND AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE YEAR 2009. (Circuit Court/Public Defender) - Assigned to Human Services/Criminal Justice Committee

Mr. Przybysz reported that Bill No. 4-09 comes with a favorable recommendation.

Michael Gotsch, Judge, the funds are used instead of going to the General Fund for rents, training and additional contractual obligations such as investigative demands. He also made a note that they were looking to see if there would be a savings by going to full time public defenders. If there were some savings to be had, he stated that they would look in that direction. If this would be considered, then there would need to be space, support staff, para legals, full time investigators based upon the public defender requirements for a certified program. The initial analysis was that it was less expensive to use part time public defenders.

Mr. Przybysz stated that there probably would not be much discussion on that issue without Mr. Korpala and the Judge present for this conversation. The Judge stated that Mr. Catanzarite and himself have had discussions on this issue and if there was a way to save money he would be happy to do that.

Motion to pass was made by Mr. Kruk and seconded by Mr. Przybysz. Bill No. 4-09 passed to-wit; 7-0.

Mr. Morton announced that there would be a combined public hearing on Bill Nos. 8-09, 9-08 and 13-09 but would be voted on separately.

BILL NO. 8-09: AN ORDINANCE APPROPRIATING THE SUM OF \$1,000,000.00 OUT OF THE ST. JOSEPH COUNTY LOCAL MAJOR MOVES CONSTRUCTION FUND - 112 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2009. (Dept. 023 - County Engineer) - Assigned to the Engineering and Transportation Committee

BILL NO. 9-09: AN ORDINANCE APPROPRIATING THE SUM OF \$1,569,000.00 OUT OF THE ST. JOSEPH COUNTY LOCAL ROADS & STREETS FUND - 026 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2009. (Dept. 060 - Roads and Highways) - Assigned to the Engineering and Transportation Committee

BILL NO. 13-09: AN ORDINANCE APPROPRIATING THE SUM OF \$2,700,000.00 OUT OF THE ST. JOSEPH COUNTY LOCAL HWY. USER TAX PROJECT FUND - 112 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2009. (Dept. 023 - Engineering) - Assigned to the Engineering and Transportation Committee

Mr. Morton reported that Bill No. 8-09, 9-09 and 13-09 come with a favorable recommendation.

Jessica Clark, Engineer, these bills are the annual appropriation for the local road program. The Local Road and Street and Motor Vehicle Highway disbursements are down. Last year's appropriation provided \$7.5 million to the program and this year request is a total of \$5.1 million. These monies support local sealing, resurfacing, rehabilitation, reconstruction and maintenance overlay programs. Funds are also used for bituminous patching/matting, crack sealing and dust materials. The overall goal is to become a proactive program by continuing preservative maintenance techniques as well as addressing severe pavement deterioration. Preservative maintenance is necessary to keep improved roads above or near a fair condition while bringing the remainder of the system to a higher rating.

The appropriation request will help the County fund a program estimated to improve approximately 75-85 miles.

Mr. Kruk asked if Bill No. 8-09 was from the Ten Year Plan? Ms. Clark responded yes.

Motion to pass was made by Mr. DeVon and seconded by Mr. Przybysz. Bill No. 8-09 passed to-wit; 6-1 (Kruk).

Motion to pass was made by Mr. Kruk and seconded by Mr. Kubsch. Bill No. 9-09 passed to-wit; 7-0.

Motion to pass was made by Mr. Kruk and seconded by Mr. Przybysz. Bill No. 13-09 passed to-wit; 7-0.

BILL NO. 2-09: AN ORDINANCE AMENDING ORDINANCE 99-08, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2009. (Dept. 037 - Historic Preservation) - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 2-09 comes with a favorable recommendation.

Catherine Hostetler, Director, the State Board of Accounts has recommended that the Deputy Director be paid as an hourly employee.

Motion to pass was made by Mr. Kruk and seconded by Mr. DeVon. Bill No. 2-09 passed to-wit; 7-0.

BILL NO. 158-08: AN ORDINANCE TO AMEND TITLE 6 OF THE ST. JOSEPH COUNTY CODE ENTITLED "BUILDING AND CONSTRUCTION" (BY REVISING VARIOUS SECTIONS OF TITLE 6 AND ADDING SECTION 6.08.011 - TIME LIMITATION ON PERMITS, SECTION 6.08.080 - LOW VOLTAGE PERMIT FEES, AND CHAPTER 6.17 - LOW VOLTAGE CONTRACTOR REGISTRATION). - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 158-09 comes with a favorable recommendation.

Mr. Bulot read the amendment stating that in Section 6.08.050(7) be amended by adding the following:

c. Tempered make-up air.....\$60.00

d. Un-tempered make-up air.....\$30.00

Mr. Bulot asked that both c. and d. be removed from the bill.

Motion to amend was made by Mr. DeVon and seconded by Mr. Schafer.

Chuck Bulot, Building Commissioner, went through the entire bill outlining all the changes. This bill will clean up the permitting process. People will have six (6) months to start and one (1) year to finish a long with a six (6) month extension if requested. They would have a total of two (2) years to finish a project. Electrical permits will have a fee changes. He explained the amount of work (inspections) that the Building Department has to do in order for the proper inspections to be completed on a project. They also have updated the bonding requirements and procedures. Classification and registration of speciality contractors will now be required.

Mr. DeVon questioned if the Electrical Contractors were contacted as was the Homebuilder Association? Mr. Bulot stated that he did contact the electrical union and offered to meet with them. They stated that there was not much of an increase and that they were not that concerned with it.

Motion to pass was made by Mr. Kruk and seconded by Mr. Przybysz. Bill No. 158-09 passed as amended; 7-0.

BILL NO. 5-09: AN ORDINANCE AMENDING TITLE 24, "WATER AND SEWERS", OF THE ST. JOSEPH COUNTY CODE SO AS TO ADD THERETO TITLE 24.04.7.h. (Health Department) - Assigned to Human Services/Criminal Justice Committee

Mr. Przybysz reported that Bill No. 5-09 comes with a favorable recommendation.

Marc Nelson, Environmental Health Services Manager, stated that this bill would help facilitate communication between the municipalities and County entities when municipal sewer lines and water lines are extended into the County. This way everyone can be informed of all plans and actions by all involved.

Motion to pass was made by Mr. Kruk and seconded by Mr. Kubsch. Bill No. 5-09 passed to-wit; 7-0.

BILL NO. 6-09: AN ORDINANCE AMENDING TITLE 24, "WATER AND SEWERS", OF THE ST. JOSEPH COUNTY CODE SO AS TO MODIFY THERETO TITLE 24.20, WELL DRILLING AND WATER SUPPLY SYSTEMS ORDINANCE". - Assigned to Human Services/Criminal Justice Committee

Mr. Przybysz reported that Bill No. 6-09 comes with a favorable recommendation.

Marc Nelson, Environmental Health Services Manager, stated that this bill will eliminate two of the constitutions that are required to be tested when a person or entity drills a water well. He stated that they no longer need to test for fluoride since the County has none in it and there is very little sulfate in the ground water.

Mr. Kruk asked about how much would be saved by eliminating this testing? Mr. Nelson stated about \$120,000.00 savings to the community.

Motion to pass was made by Mr. Schafer and seconded by Mr. Kubsch. Bill No. 6-09 passed to-wit; 7-0.

BILL NO. 1-09: AN ORDINANCE TO VACATE A PUBLIC WAY OR PUBLIC PLACE, LOCATED WHOLLY WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, TO-WIT: AN EAST-WEST STREET, LABELED AS "STREET" WITHIN ARNOLD'S SUBDIVISION, SITUATED SOUTH OF LOT 13 WITHIN SAID ARNOLD'S SUBDIVISION RECORDED IN PLAT BOOK 18, PAGE A-1 AND NORTH OF LOTS 34 & 35 WITHIN FERNWOOD AT CLEVELAND, PHASE TWO, RECORDED UNDER INSTRUMENT NUMBER 0053484, BOTH RECORDED IN THE OFFICE OF THE ST. JOSEPH COUNTY RECORDER, INDIANA. - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 1-09 comes with a favorable recommendation.

Joel Klug, Area Plan Commission, reported that the Area Plan staff sends this petition with a favorable recommendation.

Derek Spier, Abonmarch Consultants, 750 Lincolnway East, representing the petitioner passed out a drawing of the area to be vacated. This is seeking a vacation of an unimproved and un-named street in Arnold's Subdivision. The Simon's plan to use their portion for additional landscaping. There is an improved right-of-way that does provide access to all four (4) homes on to Cleveland Road.

In Favor:

Mike Anderson, HHI Construction, 18471 Spring Mist

They built the house on the corner and feel that with the additional land this would be a better property.

In Opposition:

Donald Penzenik, 53186 Twyckenham Drive, SB
Wes Bishop, 53130 Twyckenham Drive, SB
Sue Whitfield, 53265 Nadine Street, SB
Lewis Lanthier, 53154 Twyckenham Drive, SB
Loren Wilson, 53191 Nadine Street, SB
Ann Kerckhove, 53192 Twyckenham Drive, SB

The neighbors are here to state that they will not be able to access the rear of their property, garages or maintain their septic systems. These are all very narrow lots with fences and sheds. Mr. Simon has encroached upon this right-of-way by planting trees. In the summer of 2008 Mr. McNamara (Surveyor) was contacted to have this area surveyed for the residences. If this is vacated, it would affect twenty-two (22) properties along Twyckenham and Nadine Street.

This is a return visit to this issue. Bill No. 79-95 was turned down because of the same reasons just stated.

Photographs were presented to the Council showing the property involved and how it affects the property owners and their access to the back of their homes.

The old time neighbors have been keeping this area up for years. One resident has used this street for over fifty (50) years. Ms. Kerckhove lost a tree in the back yard and the only way to get removed was by using this street to reach it.

Mr. Spier stated that these lots are no different than a lot of the County that don't have an alley in the back. So, as far as access to septic systems they would be accessed just like any other system, through the private property to get to the rear yard. They could clean out the debris to obtain access to the rear yards. This area is really not maintained and is unimproved and has been since 1952.

Mr. De Von stated that this is a twenty-five (25) foot right-of-way with some landscaping encroaching within it. Could we find a way to give the homeowners ten (10) feet. Would that be sufficient and still leave the access? Mr. Spier stated that he did not know if that was possible. *Secretary's note: people were speaking from the audience and were inaudible..*

Mr. Kubsch questioned how deep were the lots? *Secretary's note: people were speaking from the audience and were inaudible.*

Motion to deny was made by Mr. Kruk and seconded by Mr. Root. Bill No. 1-09 was denied; 7-0.

Unfinished Business:

New Business:

Privilege of the Floor:

Adjournment:

Mr. Morton stated that the meeting was adjourned at 8:07 p.m.

Auditor, St. Joseph County

President, St. Joseph County Council