

MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
April 14, 2009

The regular meeting of the St. Joseph County Council was called to order at 7:03 p.m., on April 14, 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	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

Present from the Auditor's office was Mr. Peter H. Mullen, Auditor and Cindy Bodle, Chief Deputy Auditor.

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

**Petitions, Communications & Miscellaneous Matters:**

Mr. Schafer that the following be reappointed to serve:

Eric Brown (recommendation) Economic Development Commission - South Bend  
Viola Woods (recommendation) Economic Development Commission - Lakeville  
Lee Morton (recommendation) - Economic Development Commission - Walkerton  
Christine McDonald - County Housing Authority  
Jerry J. Marley - Water Resources Advisory Board

No other nominations were heard. The voice vote was 9-0, no negatives were heard.

Moved by Mr. Przybysz and seconded by Mr. Kruk, the minutes of March 10 & 17, 2009 were approved by a voice vote; 9-0. 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. 27-09:** AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT 55740 CURRANT RD., MISHAWAKA, INDIANA 46545, FROM MANUFACTURING INDUSTRIAL DISTRICT, TO COMMERCIAL DISTRICT. (Petitioner: Qumpus, Inc. d/b/a Better World Books) - Assigned to the Land Use Planning Committee

**BILL NO. 28-09:** AN ORDINANCE APPROPRIATING THE SUM OF \$22,000.00 OUT OF THE ALT. DISPUTE RESOLUTION FUND - 116 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 054 - Domestic Relations) - Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 29-09:** AN ORDINANCE TRANSFERRING THE SUM OF \$29,000.00 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. 31-09:** AN ORDINANCE APPROPRIATING THE SUM OF \$6,700.00 OUT OF THE D.R.C.B. FEE FUND - 117 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 054 - Domestic Relations) - Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 33-09:** 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. 005 - County Police & Dept. 006 - Jail Administration) - Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 34-09:** AN ORDINANCE APPROPRIATING THE SUM OF \$316,362.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 001 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 006 - County Jail Administration) - Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 35-09:** AN ORDINANCE APPROPRIATING THE SUM OF \$20,774.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 001 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 005 - County Police - Dept. 006 - County Jail Administration) {increase/decrease appropriation ordinance} - Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 36-09:** AN ORDINANCE TRANSFERRING THE SUM OF \$2,392.00 FROM VARIOUS ACCOUNTS TO VARIOUS ACCOUNTS ALL BEING WITHIN THE 2009 BUDGET OF ST. JOSEPH COUNTY. (Dept. 006 - County Jail Administration) - Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 37-09:** AN ORDINANCE APPROPRIATING THE SUM OF \$10,000.00 OUT OF THE ST. JOSEPH COUNTY HEALTH BIOTERRORISM GRANT FUND - 510 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. 38-09:** 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

**BILL NO. 39-09:** AN ORDINANCE AMENDING TITLE 16, ENTITLED REVENUE & FINANCE OF THE ST. JOSEPH COUNTY CODE, BY REPEALING CHAPTER 16.60, ENTITLED SUPPLEMENTAL JURY FEES - Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 40-09:** AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR THE PROPERTY LOCATED AT 17150 STATE ROAD 23, SOUTH BEND, INDIANA, FROM R SINGLE FAMILY DISTRICT TO O/B OFFICE/BUFFER DISTRICT. (Petitioner: Robert J. and Becky R. Quimby) - Assigned to the Land Use Planning Committee

**BILL NO. 41-09:** AN ORDINANCE TO AMEND SECTION 6.08.080(C) - LOW VOLTAGE PERMIT FEES OF TITLE 6 OF THE ST. JOSEPH COUNTY CODE ENTITLED "BUILDING AND CONSTRUCTION" (Petitioner: Building Department) - Assigned to the Land Use Planning Committee

**BILL NO. 42-09:** AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED IN THE 54100 BLOCK OF IRONWOOD DRIVE, SOUTH BEND, INDIANA 46637 FROM PUD PLANNED UNIT DEVELOPMENT TO THE PUD PLANNED UNIT DEVELOPMENT DISTRICT. (Petitioner: RWD Campus Development LLC) - Assigned to the Land Use Planning Committee

**BILL NO. 43-09:** AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED IN THE 54600 BLOCK OF BURDETTE STREET, 54600 BLOCK OF WILLIS AVE., 54600 BLOCK OF IRISH CROSSINGS DRIVE EAST, 54600 BLOCK OF IRISH CROSSINGS DRIVE WEST AND THE 18300 BLOCK OF IRISH CROSSINGS DRIVE NORTH, SOUTH BEND, INDIANA 46635 FROM PUD PLANNED UNIT DEVELOPMENT DISTRICT TO PUB PLANNED UNIT DEVELOPMENT DISTRICT. (Petitioners: Irish Crossings Developers, LLC, Et Al.) - Assigned to the Land Use Planning Committee

**Resolutions:**

**BILL NO. 30-09:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL ISSUING CONGRATULATIONS ON A COMMUNITY-WIDE SCIENCE EXPERIMENT.

Motion to pass was made by Mr. DeVon and seconded by Mr. Przybysz. Bill No. 30-09 passed by a voice vote; 9-0. No negatives were heard.

**BILL NO. 32-09:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL HONORING AND CONGRATULATING THE JOHN ADAMS HIGH SCHOOL INDIANA MOCK TRIAL TEAM, THE USUAL SUSPECTS, FOR WINNING THE 2009 MOCK TRAIL STATE CHAMPIONSHIP.

Motion to pass was made by Mr. Weaver and seconded by Mr. Kruk. Bill No. 32-09 passed by a voice vote; 9-0. No negatives were heard.

**Public Hearings:**

**BILL NO. 21-09:** AN ORDINANCE APPROPRIATING THE SUM OF \$750,000.00 OUT OF THE ST. JOSEPH COUNTY HEALTH PLAN RESERVE FUND - 050 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Auditor/County Council) - Assigned to the Budget and Administration Committee

Mr. Kruk reported that Bill No. 21-09 comes with a favorable recommendation.

Peter Mullen, Auditor, stated that consistent with balancing the budget for 2009 these funds will be used to this end. This will leave a balance of \$250,000.00 in this fund.

Motion to pass was made by Mr. Kruk and seconded by Mr. DeVon. Bill No. 21-09 passed to-wit; 8-0. (Mr. Weaver was out of the room for the vote.)

**BILL NO. 16-09:** AN ORDINANCE TRANSFERRING THE SUM OF \$38,799.00 FROM VARIOUS ACCOUNTS TO VARIOUS ACCOUNTS ALL BEING WITHIN THE 2009 BUDGET OF ST. JOSEPH COUNTY. (Auditor) - Assigned to the Budget and Administration Committee

Mr. Kruk reported that Bill No. 16-09 comes with a favorable recommendation.

Peter Mullen, Auditor, explained that the transfer will be used the re-codification of the Code Book at \$18,650.00 with the remainder staying in the contractual line item. These funds were left from the salary bonuses given last year.

Motion to pass was made by Mr. Kruk and seconded by Mr. Kubsch. Bill No. 16-09 passed to-wit; 9-0.

**BILL NO. 17-09:** AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY DARRELL P. JR. & DAWN D. GILL & E.S. WAGNER CO. FOR THE PROPERTY LOCATED AT 20400 ROCKSTROH ROAD THE SAME BEING PETITION NO. 03-04-09-14 FILED WITH THE AREA BOARD OF ZONING APPEALS. - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 17-09 comes with a favorable recommendation.

Mark Lyons, Building Department, stated that this Special Use request is for a borrow pit needed for the building of the new U.S. 31. This comes with a favorable recommendation.

Doug Spencer, E.S. Wagner Co., Oregon, OH stated how they need the additional dirt to build the new U.S. 31 Project.

Motion to pass was made by Mr. Schafer and seconded by Mr. Przybysz. Bill No. 17-09 passed to-wit; 9-0.

**BILL NO. 18-09:** AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY JOE BORKHOLDER FOR THE PROPERTY LOCATED AT 10522 PATTERSON ROAD, WAKARUSA, IN THE SAME BEING PETITION NO. 03-04-09-15 FILED WITH THE AREA BOARD OF ZONING APPEALS.  
- Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 18-09 comes with a favorable recommendation.

Mark Lyons, Building Department, explained that this Special Use request was for a home based business. This comes with a favorable recommendation.

Doug Peddler, DP Design Services, 308 N. Elkhart Street, Wakarusa stated that the permit is needed to build custom counter tops out of the petitioner's residence.

Mr. Catanzarite asked for a explanation. Mr. Peddler stated that Mr. Borkholder was part of an Amish Community and would like to have an addition put on to an existing facility where he would manufacture these counter tops for residential use. There are two family employees that work at the business.

Motion to pass was made by Mr. Schafer and seconded by Mr. Root. Bill No. 18-09 passed to-wit; 9-0.

**BILL NO. 23-09:** AN ORDINANCE TO VACATE A PUBLIC WAY OR PUBLIC PLACE, LOCATED WHOLLY WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, TO-WIT: FIRST EAST-WEST ALLEY SOUTH OF BULLA ROAD RUNNING BETWEEN PALMER STREET AND BERNICE STREET. BERNICE STREET RUNNING SOUTH FROM BULLA ROAD FOR APPROXIMATELY 880 FEET TO ITS TERMINATION. (Petitioner: University of Notre Dame Du Lac) - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 23-09 comes with a favorable recommendation.

Joel Klug, Area Plan Commission, reported that this vacation comes with a favorable recommendation from the staff.

Mike Danch, Danch, Harner & Associates, 1643 Commerce Drive, stated that these requests by the University of Notre Dame are for paper street and alley. The University owns all the surrounding property. These vacations will become part of their Master Plan for the University. This area may become surface parking.

Motion to pass was made by Mr. Kubsch and seconded by Mr. DeVon. Bill No. 23-09 passed to-wit; 9-0.

**BILL NO. 19-09:** AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT THE NORTHWEST CORNER OF WALNUT ROAD AND THE CONRAIL RAILROAD RIGHT-OF-WAY FROM A AGRICULTURAL DISTRICT TO M MANUFACTURING INDUSTRIAL DISTRICT. (Petitioner: APC Initiated) - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 19-09 comes with a favorable recommendation.

Christa Nader, Area Plan Commission, stated that this rezoning was to allow for the continued production of fertilizer products. There is no site plan since this has been initiated by the Area Plan Commission. This ordinance is fixing a mistake in zoning that got past the Commission and will bring the land back into compliance. This comes with a favorable recommendation from the Area Plan Commission.

Motion to pass was made by Mr. Schafer and seconded by Mr. Kubsch. Bill No. 19-09 passed to-wit; 9-0.

**Unfinished Business:**

**BILL NO. 134-08 - Ordinance No. 23-09** - Vetoed by the Board of Commissioners on 3/17/09

AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT 17490 S.R. #23, FROM "O/B" OFFICE/BUFFER DISTRICT TO "O/B" OFFICE BUFFER DISTRICT. (Petitioners: Dr. Jeffery Mader)

Motion to override was made by Mr. Przybysz and seconded by Mr. Weaver. The override passed by a vote of 7-2. (Kubsch, Catanzarite)

**BILL NO. 90-08 - As Amended - Ordinance No. 24-09 - Vetoed by the Board of Commissioners on 3/24/09**

AN ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL REPEALING TITLE 6, CHAPTER 6.24, AS AMENDED, OF THE ST. JOSEPH COUNTY CODE AND REPLACING WITH A NEW TITLE 6, CHAPTER 6.24 ENTITLED RESPONSIBLE TAX PHASE-IN PROCEDURES & GENERAL STANDARDS.

Motion to continue until the May 12, 2009 meeting was made by Mr. Kruk and seconded by Mr. DeVon. Motion passed by a vote; 9-0. Bill No. 90-08 was continued to the May 12, 2009 meeting.

**New Business:**

**Privilege of the Floor:**

**Adjournment:**

Mr. Morton stated that the meeting was adjourned at 7:45 p.m.

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Auditor, St. Joseph County

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President, St. Joseph County Council