

MINUTES OF THE
REGULAR MEETING
OF THE
ST. JOSEPH COUNTY COUNCIL
June 9, 2009

The regular meeting of the St. Joseph County Council was called to order at 7:08 p.m., on June 9, 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. Corey D. Noland
Mr. Dale DeVon	Mr. W. Randall Przybysz
Mr. Michael J. Kruk	Mr. Mark Root
Mr. Rafael Morton	Mr. Dennis R. Schafer
	Mr. Heath O. Weaver - Absent

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:

Moved by Mr. Przybysz and seconded by Mr. Kruk, the minutes of May 12, 2009 were approved by a voice vote; 8-0. No negatives were heard.

Mr. Schafer nominated Dorothy Wayne to be reappointed to the St. Joseph County Economic Development Commission. No other nominations were heard. Ms. Wayne was reappointed by a voice vote; 8-0. No negatives were heard.

Mr. Noland request that Bill No. 42-09 be continued to the July 14, 2009 meeting of the Council and was seconded by Mr. DeVon. The motion passed by a voice vote; 8-0. 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. 56-09: AN ORDINANCE TRANSFERRING THE SUM OF \$885.00 FROM VARIOUS ACCOUNTS TO VARIOUS ACCOUNTS ALL BEING WITHIN THE 2009 BUDGET OF ST. JOSEPH COUNTY. (Dept. 020 - Superior Court) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 57-09: AN ORDINANCE APPROPRIATING THE SUM OF \$50,000.00 OUT OF THE ST. JOSEPH COUNTY ENHANCED ACCESS FEE FUND - 036 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2009. (Dept. 002 - Auditor) - Assigned to the Budget and Administration Committee

BILL NO. 58-09: AN ORDINANCE APPROPRIATING THE SUM OF \$5,052.00 OUT OF THE ST. JOSEPH COUNTY USER FEES FUND - 058 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 005 - Sheriff/Auditor) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 59-09: AN ORDINANCE APPROVING THE PETITION TO AMEND SPECIAL USE FILED BY RIETH-RILEY CONSTRUCTION CO., INC. FOR THE PROPERTY LOCATED AT 25200 STATE ROAD 23, GREENE TOWNSHIP, SOUTH BEND, INDIANA THE SAME BEING PETITION NO. 06-03-09-08 FILED WITH THE AREA BOARD OF ZONING APPEALS. - Assigned to the Land Use Planning Committee

BILL NO. 60-09: AN ORDINANCE APPROPRIATING THE SUM OF \$30,000.00 OUT OF THE ST. JOSEPH COUNTY 2006 SWIFT WATER RESCUE GRANT FUND - 106 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 009 - Emergency Management Agency) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 63-09: AN ORDINANCE TO VACATE A PUBLIC WAY OR PUBLIC PLACE, LOCATED WHOLLY WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, TO-WIT: A portion of a paper road - Butternut Road . (Petitioner: James Japa & Catherine Martin) - Assigned to the Land Use Planning Committee

BILL NO. 64-09: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT U.S. 20 AND WALNUT ROAD, NEW CARLISLE, INDIANA FROM "A" AGRICULTURAL DISTRICT, TO "L" LIGHT INDUSTRIAL DISTRICT. (Petitioner: Patricia A. McAllister, Trustee, Madgel C. McAllister Trust) - Assigned to the Land Use Planning Committee

BILL NO. 65-09: AN ORDINANCE APPROPRIATING THE SUM OF \$74,532.00 OUT OF THE ST. JOSEPH COUNTY HEALTH LEAD ELIMINATION GRANT FUND - 515 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. 66-09: AN ORDINANCE TRANSFERRING THE SUM OF \$18,000.00 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. 67-09: AN ORDINANCE APPROPRIATING THE SUM OF \$31,700.00 OUT OF THE ST. JOSEPH COUNTY L.E.T.P.P./HAZMAT SPCL EQUIP FUND - 031 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 009 - Emergency Management Agency) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 68-09: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED, IN THE AGGREGATE, FOUR HUNDRED MILLION DOLLARS (\$400,000,000) OF ST. JOSEPH COUNTY, INDIANA EDUCATIONAL FACILITIES REFUNDING REVENUE BONDS (UNIVERSITY OF NOTRE DAME DU LAC PROJECT), IN ONE OR MORE SERIES, AND APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF ONE OR MORE TRUST INDENTURES, LOAN AGREEMENTS AND OTHER DOCUMENTS RELATED TO THE ISSUANCE AND SALE OF SUCH BONDS; DESIGNATING SUCH BONDS AS LIMITED OBLIGATIONS OF THE COUNTY; AND AUTHORIZING PROPER OFFICERS TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION THEREWITH AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO. (Petitioner: University of Notre Dame Du Lac Project) - Assigned to the Budget and Administration Committee

BILL NO. 69-09: ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL AUTHORIZING ISSUANCE OF BONDS FOR THE PURPOSE OF PROVIDING FUNDS TO BE APPLIED TO PAY FOR CAPITAL AND ECONOMIC DEVELOPMENT PROJECTS AND INCIDENTAL EXPENSES IN CONNECTION THEREWITH AND ON ACCOUNT OF THE ISSUANCE OF THE BONDS, SAID BONDS TO BE PAYABLE SOLELY FROM ECONOMIC DEVELOPMENT INCOME TAX REVENUES. - Assigned to the Budget and Administration Committee

BILL NO. 70-09: ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL APPROPRIATING THE PROCEEDS OF THE ST. JOSEPH COUNTY ECONOMIC DEVELOPMENT INCOME TAX REVENUE BONDS OF 2009. - Assigned to the Budget and Administration Committee

Resolutions:

BILL NO. 61-09: A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL FOR RECOGNITION OF OUTSTANDING SERVICE TO ROBERT "BOBBY K" KRUSZYNSKI.

Motion to pass was made by Mr. Kruk and seconded by Mr. Schafer. Bill No. 61-09 passed by a voice vote of; 8-0.

BILL NO. 62-09: A RESOLUTION OF THE COUNTY COUNCIL OF ST. JOSEPH COUNTY, INDIANA APPROVING AN AGREEMENT EXTENDING THE ST. JOSEPH COUNTY HOUSING CONSORTIUM AND AUTHORIZING THE EXECUTION THEREOF.

Pam Meyer, Community Development Director City of South Bend, 224 W. Jefferson, this will extend an inter-local agreement between the County, City of Mishawaka and South Bend. This will allow the Consortium to receive Federal Home Partnership dollars to help with housing assistance. This renewal is for a three (3) year period of time.

Mr. Schafer asked if they also work with the outlying towns? Ms. Meyer stated that the Consortium is made up of six (6) different members, two from each jurisdiction. The County members are Mr. Thomas and Mr. Kostielney. The application process brings forward entities that can implement the housing assistance. For the County it has primarily been Habitat for Humanity and the Housing Assistance Office. Both of those have worked in the outlying communities.

Motion to pass was made by Mr. Catanzarite and seconded by Mr. Kruk. Bill No. 62-09 passed by a voice vote of; 8-0. No negatives were heard.

Public Hearings:

BILL NO. 45-09: AN ORDINANCE APPROPRIATING THE SUM OF \$25,800.00 OUT OF THE ST. JOSEPH COUNTY PLAT BOOK MAINTENANCE FUND - 037 AND THE COUNTY GENERAL FUND - 001 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2009. (Dept. 002 - Auditor) - Assigned to the Budget and Administration Committee

Mr. Kruk reported that Bill No. 45-09 comes with a favorable recommendation.

The Clerk read the amendment stating that the title and the body of the bill that references County General Fund - 001 and the accounts referencing 001 are to be removed.

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

Mr. Morton asked the petitioner if he agreed with the proposed amendment. A yes response was heard.

Peter Mullen, Auditor, was present for questions.

Motion to pass was made by Mr. Przybysz and seconded by Mr. Kruk. Bill No. 45-09 passed as amended; 8-0.

BILL NO. 46-09: AN ORDINANCE APPROPRIATING THE SUM OF \$6,674,017.00 OUT OF THE ST. JOSEPH COUNTY C.E.D.I.T. FUND AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Commissioners/Auditor) - Assigned to the Budget and Administration Committee

Mr. Kruk reported that Bill No. 45-09 comes with a favorable recommendation.

Andy Kostielney, Commissioner, stated that after the use of these funds there will be a balance of about \$2.3 million.

Motion to pass was made by Mr. Kruk and seconded by Mr. Root.

Mr. De Von questioned if these were all budgeted items? Mr. Kostielney stated correct. Bill No. 46-09 passed to-wit; 8-0.

Mr. Morton announced that there would be a combined public hearing on Bill No. 48-09 and 49-09 but would be voted on separately.

BILL NO. 48-09: AN ORDINANCE TO AMEND ORDINANCE 99-08 AN ORDINANCE APPROPRIATING MONEYS FOR THE PURPOSE OF DEFRAYING THE EXPENSES OF THE SEVERAL DEPARTMENTS OF THE COUNTY GOVERNMENT OF ST. JOSEPH COUNTY, INDIANA FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2009 AND ENDING DECEMBER 31, 2009, INCLUDING ALL OUTSTANDING CLAIMS AND

OBLIGATIONS AND FIXING A TIME WHEN THE SAME SHALL TAKE EFFECT. - Assigned to the Budget and Administration Committee

BILL NO. 49-09: AN ORDINANCE APPROPRIATING THE SUM OF \$1,269,661.00 OUT OF THE ST. JOSEPH COUNTY RAINY DAY FUND - 022 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. 48-09 and 49-09 come with a favorable recommendation.

The Clerk read an amendment to Bill No. 48-09 stating 049 Juvenile Justice Center line items were cut and replaced with 025 Juvenile and Probate Court, 11385 Probation Officer I for the same amount of \$65,266.00 reduction.

Motion to amend was made by Mr. Kruk and seconded by Mr. Przybysz.

Mr. Morton asked the petitioner if he agreed with the proposed amendment. His response was yes.

Peter Mullen, Auditor, stated that these ordinances will be part of the balancing of the 2009 budget. Bill No. 48-09 reduces the budget by \$225,339.00. Bill No. 49-09 appropriates \$1,269,661.00 from the Rainy Day Fund for the year 2009.

Mr. Kruk stated that there was a reduction in the Juvenile and Probate Court, Probation Officer by \$65 thousand. Payroll accounts are usually set up by specific salaries and number of personnel. The way this is being done, does it work? Mr. Mullen stated that it will work.

Mr. Catanzarite asked what the remainder in the Rainy Day Fund would be after this appropriation? Mr. Mullen stated that the balance was as of 5:00 p.m. tonight \$2,676,000.00 and the C.E.D.I.T. Funds \$2,512,000.00. We have spent 64 percent of these funds already this year just to make ends meet.

Motion to pass was made by Mr. Przybysz and seconded by Mr. Root. Bill No. 48-09 passed as amended; 8-0.
Motion to pass was made by Mr. Kruk and seconded by Mr. Noland. Bill No. 49-09 passed to-wit; 8-0.

BILL NO. 53-09: AN ORDINANCE APPROPRIATING THE SUM OF \$8,300.00 OUT OF THE ST. JOSEPH COUNTY AIDS GRANT FUND - 605 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (Dept. 055 - Health - Aids Grant) - Assigned to the Human Services/Criminal Justice Committee

Mr. Przybysz reported that Bill No. 53-09 comes with a favorable recommendation.

Mary Benninghoff, Executive Assistant, explained that these were grant funds that the Indiana State Department of Health received from the government and passed it along to us.

Motion to pass was made by Mr. Noland and seconded by Mr. Przybysz. Bill No. 53-09 passed to-wit; 8-0.

BILL NO. 50-09: AN ORDINANCE AMENDING ORDINANCE 13-09 AND ORDINANCE NO. 20-09 AS PASSED BY THE ST. JOSEPH COUNTY COUNCIL DUE TO A SCRIVENER ERROR. - Assigned to the Rules Committee

Mr. Morton reported that Bill No. 50-09 comes with a favorable recommendation.

Mr. Trippel, Council Attorney, stated how this ordinance corrected a numerical typo.

Motion to pass was made by Mr. Kruk and seconded by Mr. Schafer. Bill No. 50-09 passed to-wit; 8-0.

BILL NO. 52-09: AN ORDINANCE TO AMEND SECTION 16.54 PLAT BOOK MAINTENANCE FUND FEES OF TITLE 16 OF THE ST. JOSEPH COUNTY CODE ENTITLED "PLAT BOOK MAINTENANCE FUND" (Petitioner: Auditor) - Assigned to the Budget and Administration Committee

Mr. Kruk reported that Bill No. 52-09 comes with a favorable recommendation.

Peter Mullen, Auditor, seeking an amendment to the County Code in order to raise the fee from \$2.00 to \$5.00 for transfers. This could generate approximately an additional \$36,000.00 a year in revenue.

Motion to pass was made by Mr. Kruk and seconded by Mr. Noland. Bill No. 52-09 passed to-wit; 8-0.

BILL NO. 55-09: AN ORDINANCE TO AMEND CHAPTER 6.08 OF THE ST. JOSEPH CODE ENTITLED "PERMIT FEES" (Driveway & Utility Permits and adding Section 6.08.076 Stop Work Order). (Petitioner: Dept. 023 - County Engineer) - Assigned to the Engineering and Transportation Committee

Mr. Catanzarite reported that Bill No. 55-09 comes with a favorable recommendation.

Jessica Clark, Engineer, explained the requested change to the County Code. She stated that they would like to increase various fees. These fees have not been increased since 1998 and also including a Stop Work Order and a violation fee for improper maintenance of traffic. They want to separate Agricultural and Residential Driveway Permits and access points versus Commercial Business and Industrial.

Motion to pass was made by Mr. Noland and seconded by Mr. Kruk. Bill No. 55-09 passed to-wit; 8-0.

BILL NO. 44-09: AN ORDINANCE APPROVING THE PETITION FOR TEMPORARY SPECIAL USE FILED BY RIETH-RILEY CONSTRUCTION CO., INC. FOR THE PROPERTY LOCATED AT 11801 MCKINLEY HIGHWAY, PENN TOWNSHIP, MISHAWAKA, INDIANA THE SAME BEING PETITION NO. 05-06-09-07 FILED WITH THE AREA BOARD OF ZONING APPEALS. - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 44-09 comes with a favorable recommendation.

Mark Lyons, Building Department, reported that the petition comes with a favorable recommendation from the Area Board of Zoning Appeals meeting of May 6, 2009. This will only be in operation for a total of 8-10 days.

Rob Konopinski, Assistant General Counsel with Rieth-Riley, 3626 Elkhart Road, Goshen, stated that this will be a portable concrete batch plant and will be located on McKinley. The owners of the property have given the ir permission. This will help to facilitate the project of the widening of the road. The project could last 4-5 months.

In Favor:

Jessica Clark, Engineer, also spoke in favor of this Special Use since this was a Federal Aid/County Project. This will lower construction costs and save the County money.

Motion to pass was made by Mr. Root and seconded by Mr. Schafer. Bill No. 44-09 passed to-wit; 8-0.

BILL NO. 51-09: AN ORDINANCE TO VACATE A PUBLIC WAY OR PUBLIC PLACE, LOCATED WHOLLY WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, TO WIT: Commonly known as 12370 E. McKinley, Osceola. (Petitioner: PHM School Corporation) - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 51-09 comes with a favorable recommendation.

The Clerk read the amendment stating that there was a new legal description.

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

Christa Nader, Area Plan Commission, stated that the staff sends this with a favorable recommendation. Three sides of the vacation area are owned by the PHM School Corporation.

Jessica Clark, Engineer, stated that legal description needed to include proper language to include the area for the McKinley HWY Federal Aid Project. The County has acquired an additional five feet that was not reflected in the original legal description.

Mr. Morton asked the petitioner if he agreed with the amendment. His response was yes.

Tom Hartman, Director of Facilities PHM School Corporation, stated that a high school class was given an assignment to take this property and determine its designated zoning, legal description, etc. on the property in question. This is when the sixty-foot alley was discovered and we have found that it would be beneficial for us to have it vacated.

Motion to pass was made by Mr. Root and seconded by Mr. Przybysz. Bill No. 51-09 passed as amended; 8-0.

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

Mr. DeVon reported that Bill No. 40-09 comes with a favorable recommendation.

Christa Nader, Area Plan Commission, stated that the Area Plan Commission sends this petition to allow for an insurance office with a favorable recommendation. There will be built a new structure consisting of 2,152 square feet, with eight parking spaces.

Bernard Feeney, LANG, FEENEY & ASSOCIATES, 715 S. Michigan, stated that this office would be for an attorney. He stated that they would be changing the length of the driveway and not the location. The property taxes will be about \$8,000.00 a year.

Mr. DeVon questioned if the property will have a residential look? Mr. Feeney stated that it was the plan at the moment.

Motion to pass was made by Mr. Noland and seconded by Mr. DeVon. Bill No. 40-09 passed to-wit; 8-0.

Unfinished Business:

New Business:

Privilege of the Floor:

Rita Kopala, 66559 Ivy Road, Lakeville asked when the meeting with Project Future was to take place? Mr. Morton responded that they did not know and that it would be posted when available.

Adjournment:

Mr. Morton stated that the meeting was adjourned at 8:14 p.m.

Auditor, St. Joseph County

President, St. Joseph County Council