

MINUTES OF THE
REGULAR MEETING
OF THE
ST. JOSEPH COUNTY COUNCIL
May 11, 2010

The regular meeting of the St. Joseph County Council was called to order at 7:05 p.m., on May 11, 2010, 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. Dale DeVon
Mr. Michael J. Hamann
Mr. Daniel G. Herbster
Mr. Michael J. Kruk
Mr. Rafael Morton
Mr. Corey D. Noland
Mr. Mark Root
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:

Mr. Kruk motioned to nominate Linda Dotson to serve on the Common Construction Wage Committee representing the City of Mishawaka projects, Mishawaka Schools - replacing Joseph D. Zappia and St. Joseph County Projects - replacing Joseph T. Wagner. His motion was seconded by Mr. Catanzarite. There were no other nominations and the motion passed by a voice vote; 8-0.

Mr. Hamann motioned to reappoint John Ferretti and Rafael Morton to the Early Intervention Plan Advisory Board and Mark Root to the MACOG Policy Board. His motion was seconded by Mr. Catanzarite and passed by a voice vote of 8-0. No negatives were heard.

Mr. Hamann stated that Bill No. 33-10, is being held in Committee, at this point in time they are finding that there are a lot of flaws in this piece of legislation and they are looking for a very simple law that will go after junk vehicles in residential areas and junk in the yard. There is no need for an ordinance that will allow for people to go into homes and the fines are too high.

Mr. Herbster also stated he has been working with Mr. Hamann and Mr. Noland on Bill No. 33-10 and was glad that farmers would be exempt farmers. He stated that he hoped the bill will be much more narrowly tailored to the problem.

Mr. De Von moved and was seconded by Mr. Kruk to approve the minutes of April 13, 2010. 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. 38-10: AN ORDINANCE APPROPRIATING THE SUM OF \$1,000.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 001 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2010. (Dept. 037 - Historic Preservation) - Assigned to the Land Use Planning Committee

BILL NO. 39-10: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY DONALD & BARBARA DAVIS FOR THE PROPERTY LOCATED AT EAST AND ADJACENT TO 32932 CHICAGO TRAIL, THE SAME BEING PETITION NO. 05-05-10-13 FILED WITH THE AREA BOARD OF ZONING APPEALS. - Assigned to the Land Use Planning Committee

BILL NO. 40-10: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY JERRY WOODS FOR THE PROPERTY LOCATED AT 10239 MC KINLEY HWY, OSCEOLA, INDIANA 46561 THE SAME BEING PETITION NO. 05-05-10-14 FILED WITH THE BOARD OF ZONING APPEALS. - Assigned to the Land Use Planning Committee

BILL NO. 41-10: AN ORDINANCE APPROPRIATING THE SUM OF \$1,011.00 OUT OF THE D.R.C.B. FEE FUND - 117 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2010. (Dept. 054 - Domestic Relations) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 42-10: AN ORDINANCE APPROPRIATING THE SUM OF \$6,350.00 and \$54,048.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 001 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2010. (Dept. 018 - Prosecutor) - Assigned to the Human/Services Criminal Justice Committee

BILL NO. 44-10: AN ORDINANCE AMENDING ORDINANCE 86-09 THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2010. (Dept. 034 - Commissioners) - Assigned to the Budget and Administration Committee

BILL NO. 45-10: AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED FIFTEEN MILLION DOLLARS (\$15,000,000) OF ST. JOSEPH COUNTY, INDIANA ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2010 (SAINT MARY'S COLLEGE PROJECT); DESIGNATING THE BONDS AS LIMITED OBLIGATIONS OF THE COUNTY; APPROVING THE FORM OF, AND AUTHORIZING THE EXECUTION AND DELIVERY OF, THE TRUST INDENTURE, LOAN AGREEMENT AND OTHER DOCUMENTS RELATED TO THE ISSUANCE AND SALE OF THE BONDS; 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. - Assigned to the Budget and Administration Committee

Resolutions:

BILL NO. 43-10: A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL APPROVING THE ST. JOSEPH COUNTY PUBLIC LIBRARY CAPITAL PROJECTS PLAN FOR 2011, 2012 & 2013.

Donald J. Napoli, Director, St. Joseph County Public Libraries, 1541 North Adams, gave a presentation explaining the anticipated income for each of the three (3) years, tax rates and the various sources from which it is going to come. He stated that according to the plan, as presented, the Council could see how the money, that was approved for this year, was going to be spent. They propose to accumulate the fund for the next three (3) years and start saving for the construction and expansion of the main library. They originally planned to do this in a bond issue that they currently finished and have decided not to do it this way. They plan to use cumulative funds and plan to have a fund drive. The bond issue will be a supplement. They hope to keep the tax rate at the same level.

Mr. Kruk commended him for the fund raising to match the Leighton Award of \$100,000.00. Mr. Napoli stated that they exceeded the amount needed by raising \$140,000.00.

Motion to pass was made by Mr. Catanzarite and seconded by Mr. Kruk. Bill No. 43-10 passed to-wit, by a vote; 8-0.

BILL NO. 46-10: RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DESIGNATING THE COUNTY AS A RECOVERY ZONE.

Philip J. Faccenda, Barnes & Thornburg, 100 N. Michigan Street, explained that the "Stimulus" Legislation that was created in 2009 by the government suggested several means by which to promote economic development. This Resolution declaring the County a Recovery Zone will allow the County to make use of two types of bonds that are available. One is Recovery Zone Economic Development Bonds, which are governmental unit (County or other governmental units within the County) type bonds (\$9M). The other type of bonding available under this legislation is Recovery Zone Facility Bonds which are similar to Industrial Revenue Bonds (private companies)(\$13,580M). This will now allow any capital project stimulating the growth of a company. These bonds have to be issued by December 31, 2010, unless the government extends the date. The allocations are assigned by the IRS.

Mr. Morton, if I am a private company, what criteria do I have to meet? Mr. Faccenda stated that if the County wants to put forth any kind of criteria for the borrower, it can as long as it is part of the Economic Development Statute.

Mr. Hamann went over how this works again. Mr. Faccenda explained further that these would be like "Build America Bonds." The Federal Government, instead of having a tax-exempt interest rate, the government will subsidize the interest payment.

Motion to pass was made by Mr. Hamann and seconded by Mr. Noland. Bill No. 46-10 passed to-wit, by a voice vote of 8-0. No negatives were heard.

Public Hearings:

Mr. Morton announced that there would be a combined Public Hearing on Bill Nos. 22-10 and 24-10 but would be voted on separately.

BILL NO. 22-10: AN ORDINANCE APPROPRIATING THE SUM OF \$6,838.00 OUT OF THE ST. JOSEPH COUNTY SEX OR VIOLENT OFFENDER REGISTRATION FEE FUND - 135 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2010. (Dept. 005 - County Police) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 24-10: AN ORDINANCE APPROPRIATING THE SUM OF \$9,900.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 001 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2010. (Dept. 005 - County Police) - Assigned to the Human Services/Criminal Justice Committee

Mr. Hamann reported that Bill No. 22-10 and 24-10 come with favorable recommendations.

Tom Nowicki, Finance Manager, explained that the request for \$6,838.00 was for the purchase of a universal forensic extraction device and a computer. This will be used to extract information from telephones.

Motion to pass was made by Mr. Kruk and seconded by Mr. Noland. Bill No. 22-10 passed to-wit; 8-0.

Motion to pass was made by Mr. DeVon and seconded by Mr. Hamann. Bill No. 24-10 passed to-wit; 8-0.

BILL NO. 25-10: AN ORDINANCE APPROPRIATING THE SUM OF \$21,000.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 001 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2010. (Dept. 056 - Court Substance Abuse Program) - Assigned to the Human Services/Criminal Justice Committee

Mr. Hamann reported that Bill No. 25-10 comes with favorable recommendation.

Linda Wingrove, Director, stated that these funds were from a grant award from the Drug Free Community Council.

Motion to pass was made by Mr. Kruk and seconded by Mr. Noland. Bill No. 25-10 passed to-wit; 8-0.

BILL NO. 35-10: AN ORDINANCE APPROPRIATING THE SUM OF \$600,000.00 OUT OF THE ST. JOSEPH COUNTY MAJOR CUMULATIVE BRIDGE FUND - 023 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2010. (Dept. 023 - County Engineer) - Assigned to the Engineering and Transportation Committee

Mr. Catanzarite reported that Bill No. 35-10 comes with favorable recommendation.

Jessica Clark, Engineer, explained that these funds would be used on the Ironwood Rehabilitation and the Sample Street Overpass.

Motion to pass was made by Mr. Kruk and seconded by Mr. Herbster. Bill No. 35-10 passed to-wit; 8-0.

BILL NO. 36-10: AN ORDINANCE APPROPRIATING THE SUM OF \$9,037,680.00 OUT OF THE ST. JOSEPH COUNTY C.E.D.I.T. FUND - 009 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2010. (Commissioners/Auditor) - Assigned to the Budget & Administration Committee

Mr. Kruk Reported that Bill No. 36-10 comes with a favorable recommendation

Andrew Kostielney, Commissioner, stated that these funds are part of the 2010-2011 C.E.D.I.T.

Mr. Hamann commended him and Ms. Bodle for their work on this plan.

Mr. Catanzarite questioned the distribution to the proposed Morgue Fund... Mr. Kostielney stated that \$750,000.00 was made a couple of years ago and is still sitting there. Commissioner Kovach is in communication with the South Bend Medical Foundation and St. Joseph Hospital to see how we can proceed.

Motion to pass was made by Mr. Kruk and seconded by Mr. Hamann. Bill No. 36-10 passed to-wit; 8-0.

BILL NO. 37-10: AN ORDINANCE APPROPRIATING THE SUM OF \$80,000.00 OUT OF THE ST. JOSEPH COUNTY CLERKS RECORD PERPETUATION FUND - 083 AND THE COUNTY GENERAL FUND - 001 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2010. (Dept. 001 - County Clerk) {increase/decrease appropriation} - Assigned to the Budget and Administration Committee

Mr. Kruk reported that Bill No. 37-10 comes with favorable recommendation.

Rita Glen, Clerk, explained that these funds are being appropriated to cover expenses for the rest of 2010. This is being done since they lost their budget in 2009. The funds that are not used will be returned to the Clerks Record Perpetuation Fund.

Mr. Morton asked if this was approved by the State Board of Accounts? Ms. Glen responded that it was.

Motion to pass was made by Mr. DeVon and seconded by Mr. Noland. Bill No. 37-10 passed to-wit; 8-0.

Mr. Morton announced that there would be a combined Public Hearing on Bill Nos. 29-10 and 30-10 but would be voted on separately.

BILL NO. 29-10: AN ORDINANCE TO REDUCE THE 2010 BUDGET OF ST. JOSEPH COUNTY, DEPT. 034 - COMMISSIONERS - FUND 001 & DEPT. 062 - HIGHWAY MAINTENANCE - FUND 002. (Auditor - Budget Reduction) - Assigned to the Budget and Administration Committee

BILL NO. 30-10: AN ORDINANCE APPROPRIATING THE SUM OF \$27,365.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 001 & \$87,568.00 OUT OF THE ST. JOSEPH COUNTY HIGHWAY FUND - 002 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2010. (Auditor - Budget Reduction Appropriation) - Assigned to the Budget and Administration Committee

Mr. Kruk reported that Bill No. 29-10 and 30-10 come with favorable recommendations.

Peter Mullen, Auditor, explained that Bill No. 29-10 reduced the 2010 budget to comply with the request of the Department of Local Government and Finance (DLGF). The second bill appropriates these funds.

Motion to pass was made by Mr. Kruk and seconded by Mr. Noland. Bill No. 29-10 passed to-wit; 8-0.

Motion to pass was made by Mr. Catanzarite and seconded by Mr. DeVon. Bill No. 30-10 passed to-wit; 8-0.

BILL NO. 32-10: AN ORDINANCE TRANSFERRING THE SUM OF \$13,000.00 FROM VARIOUS ACCOUNTS TO VARIOUS ACCOUNTS ALL BEING WITHIN THE 2010 BUDGET OF ST. JOSEPH COUNTY. (Dept. 012 - County Assessor) - Assigned to the Budget and Administration Committee

Mr. Kruk reported that Bill No. 32-10 comes with favorable recommendation.

Jodi Sass, Administrative Assistant, stated that the transfer to postage was needed to send out the property tax bills. She said that they help the Treasurer's Office offset the cost of the postage and some of the forms charges.

Motion to pass was made by Mr. Hamann and seconded by Mr. Kruk. Bill No. 32-10 passed to-wit; 8-0.

BILL NO. 26-10: AN ORDINANCE AMENDING ORDINANCE 28-10 AS PASSED BY THE ST. JOSEPH COUNTY COUNCIL DUE TO A SCRIVENER'S ERROR. - Assigned to the Rules Committee

Mr. Morton reported that Bill No. 26-10 comes with favorable recommendation.

Joan Pawlowski, Executive Secretary to the Council, explained that the error was due to inadequate information from the petitioner.

Mr. Root asked what the correction was? Ms. Pawlowski stated that a wrong Fund was used. The amount did not change.

Motion to pass was made by Mr. Kruk and seconded by Mr. Noland. Bill No. 26-10 passed to-wit; 8-0.

BILL NO. 28-10: ST. JOSEPH COUNTY, INDIANA AN ORDINANCE AMENDING TITLE 4, ANIMALS CHAPTER "ANIMAL CONTROL AND LICENSING," 4.10.273 "Licenses" OF THE ST. JOSEPH COUNTY CODE BY AMENDING THE FOLLOWING IN ITS ENTIRETY. - Assigned to the Human Services/Criminal Justice Committee

Mr. Hamann reported that Bill No. 28-10 comes with favorable recommendation.

The Clerk stated that Bill No. 28-10 is to be amended by replacing the bill as originally filed with the bill filed on May 6, 2010.

Motion to amend was made by Mr. Catanzarite and seconded by Mr. Noland.

Mr. Morton asked if the petitioner agreed with the proposed amendment? The petitioner's response was yes.

Dr. Carol Ecker, Humane Society Director, stated that this bill will clarify the language and designate where they should go.

The amendment passed by a voice vote of 8-0. No negatives were heard.

Motion to pass was made by Mr. DeVon and seconded by Mr. Hamann.

Mr. Root explained that in good conscious he could not support the bill as it is written. The last couple of years the County has struggled time and again with budgets and this bill is not revenue natural from the point of view of the County. He stated that he believed that it cost the County several thousand dollars that the County was currently getting the way the Ordinance is written and we will not get under the new Ordinance.

Bill No. 28-10 passed as amended; 6-2 (Herbster, Root).

BILL NO. 31-10: AN ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL OF ST. JOSEPH COUNTY, INDIANA, ADOPTING THE RE-CODIFIED VERSION OF THE ST. JOSEPH COUNTY CODE - 2010. - Assigned to the Rules Committee.

Mr. Morton reported that Bill No. 31-10 comes with favorable recommendation.

Joan Pawlowski, Executive Secretary to the Council, stated that when she arrived in January of 2000, one of the first things that she wanted to accomplish was the re-codification of the County Code Book. Ten years, three attorneys and a list of Councilmen have come and gone... and presented the 2010 Code Book. She gave special thanks to Rafael Morton, Andrew Kostielney and Michael Trippel for all their help in getting the project completed. She stated that the "Book" will be online, there will be a link on the County Website and there will also be hard copies.

Mr. Hamann commended Ms. Pawlowski for her good work on the project.

Motion to pass was made by Mr. Noland and seconded by Mr. Herbster. Bill No. 31-10 passed to-wit; 8-0.

BILL NO. 27-10: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY CARL KRATHWOHL AND DRYER CONSTRUCTION CO., INC. FOR THE PROPERTY LOCATED AT 60724 LOCUST RD., SOUTH BEND, IN 46614. - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 27-10 comes with favorable recommendation.

Mark Lyons, Building Department, the Area Board of Zoning sent this with no recommendation on April 7, 2010. This is for a bike path and community trail that is going in with conjunction with the capping of the landfill.

Jon Shaner, Dyer Construction, 1716 Sheffield Avenue, Dyer, IN, that this borrow pit will be for the execution and completion of a Public Works project for the County, administered by the State of Indiana.

Motion to pass was made by Mr. Root and seconded by Mr. Herbster. Bill No. 27-10 passed to-wit; 8-0.

BILL NO. 21-10: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT PARCEL 1: 51700 SR 933 NORTH, PARCEL 2: 51688 SR 933 NORTH, PARCEL 3: 51674 SR 933 NORTH, AND PARCEL 4: V/L EATON, SOUTH BEND FROM O/B - OFFICE/BUFFER DISTRICT TO R - SINGLE FAMILY DISTRICT. (Petitioner: Teachers Credit Union and Kimberly D. Sandfur)

Mr. DeVon reported that Bill No. 21-10 comes with favorable recommendation.

Derek Spier, Area Plan, explained that this zoning was requested for the land to be returned to R - Single Family District. The Area Plan Commission sent this with a favorable recommendation. There is no one who spoke in favor or against this petition.

Jim Tuesley, Barnes & Thornburg, 100 North Michigan Street, requested passage so that these properties could revert to R - Single Family District.

Motion to pass was made by Mr. DeVon and seconded by Mr. Hamann. Bill No. 21-10 passed to-wit; 8-0.

Unfinished Business:

The Public Hearing on Bill No. 13-10 was held on 4/13/10. At that meeting Mr. Noland moved to withdraw the amendment to the bill that stated the Special Use was "limited to occupancy of five (5) unrelated people." This motion was seconded by Mr. Hamann and passed by a voice vote; 9-0. Mr. Noland moved to withdraw his motion to deny and was seconded by Mr. Hamann. The motion passed by a voice vote; 9-0. Mr. Hamann moved to table Bill No. 13-10 and was seconded by Mr. DeVon. The motion passed by a voice vote; 9-0.

BILL NO. 13-10: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FOR GROUP RESIDENCE FILED BY: PAUL VANDEWALLE, STEVE KUBSCH & PAT RUSZKOWSKI FOR THE PROPERTY LOCATED AT: 54550 WILLIS ST., SOUTH BEND, IN 46637. PARCEL ID 002-1106-5354, LOT 36 VANESS PLAT, CLAY TOWNSHIP, ST. JOSEPH COUNTY. THE SAME BEING PETITION NO. 03-03-10-08 FILED WITH THE AREA BOARD OF ZONING APPEALS.

Motion to deny was made by Mr. Noland and seconded by Mr. Hamann. Bill No. 21-10 was denied; 5-3 (Catanzarite, Kruk, Morton).

New Business:

Privilege of the Floor:

Adjournment:

Mr. Morton stated that the meeting was adjourned at 8:00 p.m.

Auditor, St. Joseph County

President, St. Joseph County Council