

MINUTES OF THE
REGULAR MEETING
OF THE
ST. JOSEPH COUNTY COUNCIL
September 8, 2009

The regular meeting of the St. Joseph County Council was called to order at 7:00 p.m., on September 8, 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

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 moved to approve the minutes of July 14 and July 15, 2009, August 11, 2009 and August 25, 2009. The motion was seconded by Mr. Weaver. The motion passed by a voice vote; 9-0. No negatives were heard.

Mr. Przybysz moved to withdraw Bill No. 41-09 at the request of the petitioner. The motion was seconded by Mr. Kruk and passed 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. 95-09: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY MATT FILIPOWSKI, WALSH CONSTRUCTION COMPANY, LAPORTE, IN FOR THE PROPERTY LOCATED AT 19696 MILLER ROAD, SOUTH BEND, IN 46614 THE SAME BEING PETITION NO. 09-02-09-17 FILED WITH THE AREA BOARD OF ZONING APPEALS. - Assigned to the Land Use Planning Committee

BILL NO. 96-09: AN ORDINANCE TRANSFERRING THE SUM OF \$415.00 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. 97-09: AN ORDINANCE TO ESTABLISH AND APPROPRIATE THE 2010 ANNUAL BUDGET OF THE ST. JOSEPH COUNTY BOARD OF MANAGERS FOR HOTEL-MOTEL TAX, IN THE AMOUNT OF \$3,264,317.00 OUT OF THE ST. JOSEPH COUNTY CONVENTION AND EXHIBITION FUND. (Hotel-Motel Tax Board) - Assigned to the Budget and Administration Committee

BILL NO. 98-09: AN ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL ESTABLISHING THE "ST. JOSEPH COUNTY H1N1 FLU VIRUS FUND" AND SETTING FORTH THE TERMS AND CONDITIONS GOVERNING THE ST. JOSEPH COUNTY H1N1 FLU VIRUS FUND - FUND 705 (Petitioner - Health Department) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 100-09: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTIES LOCATED AT 54688 & 54692 BURDETTE STREET AND 54687 & 54689 IRISH CROSSINGS DRIVE WEST, SOUTH BEND, INDIANA 46637 FROM R-2 RESIDENTIAL DISTRICT TO PUD PLANNED UNIT DEVELOPMENT DISTRICT. (Petitioners: Stone Manor Investment Corp.) - Assigned to the Land Use Planning Committee

BILL NO. 101-09: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT 11825 EAST MCKINLEY HIGHWAY, MISHAWAKA, IN FROM RESIDENTIAL DISTRICT TO COMMERCIAL DISTRICT. (Petitioner: Rodney and Jenifer Daniel) - Assigned to the Land Use Planning Committee

BILL NO. 102-09: AN ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL, ST. JOSEPH COUNTY, INDIANA, ESTABLISHING CONSUMER FIREWORKS RESTRICTIONS. - Assigned to the Land Use Planning Committee

BILL NO. 103-09: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT 14154 CLEVELAND ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT. (Petitioner: Randy Miller) - Assigned to the Land Use Planning Committee

BILL NO. 104-09: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE 26, ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR THE PROPERTY LOCATED AT 25701 WESTERN AVENUE, SOUTH BEND, INDIANA, FROM R RESIDENTIAL AND C COMMERCIAL DISTRICTS TO C COMMERCIAL DISTRICT. (Petitioner: Amerigas Propane LP #5393) - Assigned to the Land Use Planning Committee

Public Hearings:

BILL NO. 84-09: AN ORDINANCE APPROPRIATING THE SUM OF \$1,653,284.00 OUT OF THE ST. JOSEPH COUNTY EM. TEL. SYS. FUND - 075 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2009. (E-911/Auditor) - Assigned to the Human Services/Criminal Justice Committee

Mr. Przybysz reported that Bill No. 84-09 comes with a favorable recommendation.

The Clerk read the amendment stating that in the caption the amount appropriated was to be \$1,495,000.00 and in Section 1, line item 32205 was to be \$700,000.00 and line item 39600 was to be \$795,000,000 for a total of \$1,495,000.00.

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

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

Peter Mullen, Auditor, stated that this was an annual appropriation. These funds come from the Telephone Company and in return are redistributed.

The amendment passed by a voice vote; 9-0. No negatives were heard.

Motion to pass was made by Mr. Kruk and seconded by Mr. Przybysz. Bill No. 84-09 passed as amended; 9-0.

BILL NO. 88-09: AN ORDINANCE APPROPRIATING THE SUM OF \$1,525.00 OUT OF THE 2007 - S.H.S.P. RACES GRANT FUND - 107 AND \$14,739.00 OUT OF THE ST. JOSEPH COUNTY 2007 - L.E.T.P.P. - G.I.S. GRANT FUND - 108 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

Mr. Przybysz reported that Bill No. 88-09 comes with a favorable recommendation.

John Carlson, GIS Manager, explained that the funds will be used for computers, software and licences and maintenance for two (2) years. These grants will be reimbursed by grants from IDHS at 100 percent. Part of these funds will be used to provide data to IDHS for the Indiana Map Project. This will give emergency responders access to GIS for the County and surrounding counties.

Motion to pass was made by Mr. Noland and seconded by Mr. Catanzarite. Bill No. 88-09 passed to-wit; 9-0.

BILL NO. 91-09: AN ORDINANCE APPROPRIATING THE SUM OF \$200,000.00 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, 2009. (Dept. 021 - County-City Bldg.) - Assigned to the Budget and Administration Committee

Mr. Kruk reported that Bill No. 91-09 comes with a favorable recommendation.

Peter Mullen, Auditor, represented the petitioner stated there was a current balance of only \$106,000.00 for the remainder of the year. There is a projected budget of \$300,000.00 for the rest of the year.

Motion to pass was made by Mr. DeVon and seconded by Mr. Weaver. Bill No. 91-09 passed to-wit; 9-0.

BILL NO. 94-09: AN ORDINANCE APPROPRIATING THE SUM OF \$129,393.00 OUT OF THE ST. JOSEPH COUNTY HEALTH H1N1 FLU VIRUS FUND - 705 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

Mr. Przybysz reported that Bill No. 94-09 comes with a favorable recommendation.

Nick Molchan, Administrator, stated that this grant appropriation was Phase One allocation for the H1N1 Virus from funds that will be received from the Indiana State Department of Health Center for Disease Control. This is a response to prepare for and respond to ongoing emergency outbreak of the H1N1 virus.

Secretary's Note: Mr. Weaver asked a question of Mr. Molchan. He was inaudible.

Mr. Molchan's response was that there have been six (6) confirmed cases. The only doctors testing now are sentinel physicians. Flu that has been going around lately has probably been the H1N1 flu.

Secretary's Note: Mr. Weaver responded and again was inaudible.

Motion to pass was made by Mr. Kruk and seconded by Mr. Catanzarite. Bill No. 94-09 passed to-wit; 9-0.

BILL NO. 92-09: AN ORDINANCE TRANSFERRING THE SUM OF \$324.00 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

Mr. Przybysz reported that Bill No. 92-09 comes with a favorable recommendation.

Nick Molchan, Administrator, explained that this transfer will get rid of the negative balance in the insurance line and allow them to close out for the grant cycle.

Motion to pass was made by Mr. Noland and seconded by Mr. Catanzarite. Bill No. 92-09 passed to-wit; 9-0.

BILL NO. 77-09: AN ORDINANCE AMENDING ORDINANCE 98-08, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2009. (Dept. 001 - Clerk) - Assigned to the Budget and Administration Committee

Mr. Kruk reported that Bill No. 77-09 comes with a favorable recommendation.

Rita Glen, Clerk, stated that they had partnered with the Prosecutor's office in January, 2008 for the Family Justice Center for protective orders. There is an employee who was placed there through a Federal Grant and they need to supplement the income by an additional \$1700 to finish out this year and \$3400.00 that will go through the end of the grant in January 2011. After that time, they will have to apply for a new grant.

Motion to pass was made by Mr. Kruk and seconded by Mr. Weaver. Bill No. 77-09 passed to-wit; 9-0.

Mr. Morton announced that there would be a combined public hearing on Bill No. 89-09 and 90-09 but would be voted on separately.

BILL NO. 89-09: AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 2.20, AREA PLANNING DEPARTMENT, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, AUTHORIZING THE AREA PLAN COMMISSION AND AREA BOARD OF ZONING APPEALS TO ESTABLISH AND COLLECT FEES. (Petitioner: Area Plan) - Assigned to the Land Use Planning Committee

BILL NO. 90-09: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION. - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 89-09 and 90-09 come with a favorable recommendations.

John Byorni, Director, the first bill replaces a bill adopted by the County in 1989 that was deleted during the re-codification of the Code around 1997. The second bill sets the fees for what the Area Plan does. The last time these fees were updated was in 1989. The Area Plan Commission has approved this request by resolutions.

Motion to pass was made by Mr. DeVon and seconded by Mr. Schafer. Bill No. 89-09 passed to-wit; 9-0.

Motion to pass was made by Mr. Schafer and seconded by Mr. Kruk. Bill No. 90-09 passed to-wit; 9-0.

BILL NO. 71-09: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY SCHOOL CITY OF MISHAWAKA, FOR THE PROPERTY LOCATED AT: 14590 JACKSON RD. MISHAWAKA, IN 46544 THE SAME BEING PETITION NO. 07-01-09-20 FILED WITH THE AREA BOARD OF ZONING APPEALS.

Mr. DeVon reported that Bill No. 71-09 comes with a favorable recommendation.

Mark Lyons, Building Department, reported that this petition comes with a favorable recommendation from the Area Board of Zoning Appeals on August 5, 2009.

Dave Buckley, Facilities Coordinator, School City of Mishawaka, stated that this request was to relocate a temporary wind tower to measure wind velocity and temperature. This is a six (6) inch steel tubular pole extending fifty (50) meters in height.

Mr. DeVon stated that a property owner asked that it be placed out of his sight. Mr. Buckley talked to this gentleman and they will meet with him where to place the tower.

Motion to pass was made by Mr. Root and seconded by Mr. Schafer. Bill No. 71-09 passed to-wit; 9-0.

Unfinished Business:

BILL NO. 85-09: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2010.

BILL NO. 86-09: 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, 2010, AND ENDING DECEMBER 31, 2010, INCLUDING ALL OUTSTANDING CLAIMS AND OBLIGATIONS, AND FIXING A TIME WHEN THE SAME SHALL TAKE EFFECT.

BILL NO. 87-09: AN ORDINANCE LEVYING TAXES AND FIXING THE RATE OF TAXATION FOR THE PURPOSE OF RAISING REVENUE TO MEET THE NECESSARY EXPENSE FOR THE FISCAL YEAR ENDING DECEMBER 31, 2010 FOR THE COUNTY OF ST. JOSEPH, INDIANA.

Mr. Kruk motioned to continue these bills until the October 13, 2009 meeting. The motion was seconded by Mr. Przybysz and passed by a voice vote; 9-0. No negatives were heard.

New Business:

Mr. Morton read:

Pursuant to I.C. 6-1.1-17-3.5; (09), the St. Joseph County Council shall review any proposed or estimated tax rate or tax levy or proposed budget filed by a civil taxing unit with the county fiscal body under this section; and issue a nonbinding recommendation to a civil taxing unit regarding the civil taxing unit's proposed or estimated tax rate or tax levy or proposed budget.

The budgets considered are:

Clay Township
Penn Township
Mishawaka Penn Harris Library
St. Joseph County Public Library
Mishawaka
New Carlisle
North Liberty
South Bend
Walkerton
South Bend Public Transportation

The main criteria to be considered is that the following units of government did not exceed 3.8% of the taxing levy. All in favor; by voice, 9-0. No negatives were heard.

Privilege of the Floor:

Adjournment:

Mr. Morton stated that the meeting was adjourned at 7:35 p.m.

Auditor, St. Joseph County

President, St. Joseph County Council