

BE IT REMEMBERED THAT, The Board of Commissioners of the County of St. Joseph met in a regular session in the County City Building on April 15, 2014 at the hour of 10:00 a.m. (EST) at which time in the following members were present: Andrew Kostielney, Marsha McClure, and Dave Thomas were present.

**PLEDGE OF ALLEGIANCE**

The minutes of the last meeting were unanimously approved.

Peter Mullen, County Auditor, was present and recorded the minutes of the meeting.

**OPENING AND READING OF BIDS ON: None**

**REPORTS AND REQUESTS FROM:**

COUNTY CLERK:  
IN THE MATTER OF APPROVING  
AN IN LINE TRANSFER OF FUNDS

The following in-line transfer has been requested.

From: 1000-11142-000-0001	bookkeeper	\$7,362.95
Into: 1000-11950-000-0001	part time	\$7,362.95
From: 1000-33100-000-0001	printing	\$265.00
Into: 1000-39010-000-0001	dues & subscriptions	\$265.00

Ms. McClure moved to accept the above in line transfer as read and outlined.  
Motion seconded by Mr. Thomas.  
Motion adopted by a 3-0 vote.

PURCHASING:  
IN THE MATTER OF APPROVING  
TO ADVERTISE FOR JANITORIAL  
SUPPLY QUOTES TO BE SUBMITTED  
TUESDAY, MAY 20, 2014

The deadline for submitting these quotes will be 10:00 a.m. on Tuesday, May 20<sup>th</sup>, 2014.

Ms. McClure moved to accept the above request as read and outlined.  
Motion seconded by Mr. Thomas.  
Motion adopted by a 3-0 vote.

SHERIFF:  
IN THE MATTER OF APPROVING  
TO PURCHASE A NEW 2015  
CHEVY TAHOE WITH A TRADE  
IN OF A 2007 CHEVY TAHOE USING  
FUNDS FROM THE CUM CAPITAL  
DEVELOPMENT FUND

With the trade in and the discount the total price will be \$30,494.25.

Mr. Thomas comments on the great price that has been extended to the Sheriff's Department for the purchase of this vehicle.  
Ms. McClure moved to accept the above purchase as read and outlined.  
Motion seconded by Mr. Thomas.  
Motion adopted by a 3-0 vote.

WEIGHTS AND MEASURES:  
IN THE MATTER OF APPROVING  
AN IN LINE TRANSFER OF FUNDS

The following in-line transfer has been requested.

From: 1000-31070-000-0031		\$301.84
Into: 1000-32020-000-0031	travel	\$301.84

Ms. McClure moved to accept the above in line transfer as read and outlined.  
Motion seconded by Mr. Thomas.  
Motion adopted by a 3-0 vote.

COMMISSIONERS  
A)  
IN THE MATTER OF APPROVING  
THE ACCOUNTS PAYABLE DOCKETS

Ms. McClure moved to accept the Accounts Payable Docket as read and outlined.  
Motion seconded by Mr. Thomas.  
Motion adopted by a 3-0 vote.

B)  
IN THE MATTER OF APPROVING  
THE CONSENT AGENDA.

Permission was requested to approve the following consent agenda:

<b>Surplus Requests</b>	
<b>Department</b>	<b>Description</b>
Area Plan Commission	One obsolete scanner and one computer
Commissioners	Various obsolete office equipment
County Clerk	Various obsolete office equipment
DRCB	Four obsolete two-drawer file cabinets
Highway Department	Various obsolete street signs, shop vacs and floor scrubber
Probate Court	Various obsolete computers, furniture and a vehicle
Sheriff	Various obsolete or broken office equipment

<b>Travel Requests</b>		
<b>Department</b>	<b>Description</b>	<b>Cost Estimate</b>
Comm. Corrections	Indianapolis, IN / April 24-25, 2014	\$689.66
County Recorder	Plymouth, IN / April 15, 2014	\$62.40
EMA	Crawfordsville, IN / April 22-24, 2014	\$105.00
EMA	Elkhart, IN / May 13-15, 2014	\$0.00
Health Department	Indianapolis, IN / May 20-21, 2014	\$450.00
Human Resources	Merrillville, IN / April 23, 2014	\$219.62
Human Resources	Indianapolis, IN / April 28-30, 2014	\$843.48
Probate Court	Indianapolis, IN / April 30-May 1, 2014	\$1,380.00
Probate Court	Indianapolis, IN / May 1-2, 2014	\$1,191.00
Probate Court	Indianapolis, IN / May 13-14, 2014	\$812.00

Motion was made by Ms. McClure to accept the consent Agenda.  
Motion seconded by Mr. Thomas.  
Motion adopted by a 3-0 vote.

**C)**  
IN THE MATTER OF APPROVING  
A LEASE AGREEMENT WITH THE  
CHET WAGGONER LITTLE LEAGE,  
INC

This lease is in affect from May 1<sup>st</sup>, 2014 through April 30<sup>th</sup>, 2034. The price for rent will be \$1.00 per annum.

Mr. Thomas states that this is a great thing for our community and for the children so that they may have a place to play together.

Ms. McClure moves to accept the above lease as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

**D)**  
IN THE MATTER OF APPROVING  
AN INTERLOCAL AGREEMENT WITH  
MARSHALL COUNTY CONCERNING  
CONDUIT FOR METRONET SERVICES

Mr. Thomas makes a motion to table this matter.

Motion seconded by Mr. Kostielney.

Motion adopted by a 3-0 vote.

**E)**  
IN THE MATTER OF APPROVING  
AN INTERLOCAL AGREEMENT WITH  
THE CITY OF MISHAWAKA  
REGARDING THE PAYMENT  
SCHEDULE FOR THE MAIN STREET  
CANADIAN NATIONAL RAILROAD  
GRADE SEPARATION PROJECT

This cleans up an existing agreement that we have between St. Joseph County and the City of Mishawaka for this project.

Mr. Kostielney says that he applauds Councilman Jamie O'Brien who when looking through this document discovered that the length of term had been extended further than originally intended. This would have cost the county and additional million to two million dollars. It was caused by a clerical error and is being addressed in this new memorandum.

Ms. McClure moved to accept the above addendum as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

**F)**  
IN THE MATTER OF APPROVING  
BILLS PASSED BY THE ST. JOSEPH  
COUNTY COUNCIL

<u>BILL NO.</u>	<u>ORDINANCE NO.</u>
13-14	14-14
14-14	15-14
12-14	16-14
05-14	17-14

\*as amended

Ms. McClure calls for a separate vote on each of the individual bills passed by the St. Joseph County Council at their last regular meeting.

Mr. Kostielney asks council if action should be taken on that request.

Mr. Woods says that yes it would be appropriate under this situation to have a second and a vote on the request to separate the items.

Mr. Kostielney states that there is a motion to separate the ordinances.

Mr. Thomas states that he does not believe separating the ordinances is a big legal issue. I think in the past we only grouped them to be expeditious. Sometimes when there is a matter that we don't agree on we break them out in ferity like I did last month but we still have a discussion on the motion.

Mr. Kostielney says that we have a motion on the floor as advised by counsel and I will second that motion.

Motion passed 3-0.

The first bill is 13-14 ordinance 14-14.

Ms. McClure moved to accept ordinance 14-14 as read and outlined.

Mr. Thomas asks if there will be discussion as followed by procedure on the ordinances. Usually before the motion we have comments from the citizens.

Mr. Kostielney says yes that is fine. In reference to ordinance 14-14 are there any additional comments.

Mr. Thomas says that he would support this ordinance and that he would also like to commend Mr. Kelsheimer our Director of the Veterans Office. He has annually been near the top in receiving funds and serving the many veterans of St. Joseph County. This is in excess of 10 million dollars in additional benefits that they would not be receiving. We have often thanked Kevin once a year when he gets awarded from the state. He has done this with a small part time staff and no take home car. I believe we have approximately 25, 000 veterans in St. Joseph County and I believe in Elkhart county they have approximately 17,000 and have a staff of four with take home cars. So in giving Kevin the full time staff and hopefully in the future more office space as we are able to relocate and modernize and streamline the entire county operations. Thank you again Mr. Kelsheimer for all your dedication because you certainly don't do it for the pay you do it for the love of our community and our veterans thank you.

Mr. Kostielney says that he would echo Mr. Thomas' comments. He does more with less both financially and certainly space as well. Now may we have a motion?

Ms. McClure moved to accept ordinance 14-14 as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

Next we will move onto ordinance 15-14. Is there anyone who wishes to speak? Are there any questions or comments.

Mr. Thomas says that he would support ordinance 15-14 passed by the Honorable County Council. I am in my sixth year as Commissioner and I have been hearing about parity raises for some of the Prosecution staff for years and it seems the last few budget cycles the raises are pledged and at the last minute seem to be withdrawn. It's a positive sign to see this go through.

Mr. Kostielney says that before he calls for a vote and casts his vote the concern that he has is twofold. First it was addressed at budget time and the decision of the Council was to remove that and then it was also passed by the Commissioners. But more importantly the issue of parity raises especially in the Prosecutors Office was up until two or three years ago they had salary ranges for their employees. If you look into budget books as recently as 2009 they had a salary range from \$27,000 and \$29,000. What would happen is an employee would come in and get hired at a lower range. You had employees doing the exact same function and getting paid a different amount and that was by design of that department. Now it appears as though there is some inequity there and they are trying to correct that. We had a very similar situation in the Board of Commissioners. We had two positions that were making different pay amounts. What we did instead of raising everyone to the highest amount we adjusted and lowered the higher paying position and increased the lower pay so there was equity that way. It was revenue neutral from a county budget standpoint. Is there a motion.

Mr. McClure moves to veto ordinance 15-14 in its entirety as read and outlined.

Motion seconded by Mr. Kostielney.

Motion adopted by a 2-1 vote.

Next we have ordinance 16-14. Are there any questions or comments? Is there a motion?

Ms. McClure calls for a separate vote on section f. The portion dealing with the Prosecutors office of transfer and appropriation of bill 12-14, proposed as ordinance 16-14.

Mr. Kostielney asks counsel is this allowed on that suggestion or should we take a motion.

Mr. Woods says that I think that you would need a motion when there is a motion relating to a single subject that contains several subparts that can be divided. Such as in this case when you are dealing with an appropriation to various departments it would be proper to have a vote to treat them as distinct.

Mr. Thomas addresses council. It seems that whenever in the separation of powers, authorities, whether it be the Mayor, City Council, the Governor, and the State Legislature, President Obama and the Senate and the Congress. The Senate and the Congress the legislative ordinances in our case, in their case bills. Laws that are passed have to be identical. So, if he Honorable St. Joseph County Council passed ordinance 16-14 I would think that we would have to pass the identical ordinance or is that not accurate.

Mr. Woods says that he thinks you can treat them as distinct parts and act on portions thereof and send it back. That is what we have done in the past. I think that we have had experiences here at the Commissioners level where we approved certain parts or consider certain parts so I am comfortable with that.

Mr. Thomas says again in my six years as Commissioner I have never, and I have never missed a meeting and I have never missed a Commissioner vote have never seen that happen. It seems like a violation of the Separation of Powers. Clear and cut but I could be wrong I am not a lawyer.

Mr. Woods says that he is comfortable dividing it as proposed by Commissioner McClure under Roberts rules of evidence and having to vote on these separate and distinct parts of the ordinance that is coming before you today.

Mr. Kostielney says that he believes separation of power would have, I don't even know what that means in relating to splitting something out.

Mr. Thomas says with the understanding that we are the Executive Branch of government and the Honorable Council is the Legislative branch so when one house, branch of government passes something the other branch would then pass the identical item or not.

Mr. Kostielney says that would be in Federal case a line item veto. So that clearly has little to do with separation of powers but powers granted to the Executive Branch but anyway. So we have a motion on the table to split them out and act separately. I will second that motion.

Motion passes 2-1.

Are there any questions or comments about the entirety of ordinance 16-14?

Mr. Thomas says he makes the same comments as he made on the last motion.

Ms. McClure moves that section F, the portion dealing with the Prosecutors office of transfer and appropriation of Bill 12-14 proposed as ordinance 16-14 be vetoed.

Mr. Kostielney seconds that motion.

Mr. Thomas asks for clarification on the motion.

Ms. McClure says that the portion dealing with the prosecutor's office of transfer and appropriation of Bill 12-14 proposed as ordinance 16-14 be vetoed.

Motion passes 2-1.

Ms. McClure moves for passage of the remaining portions of transfer and appropriation of Bill 12-14 proposed as ordinance 16-14 excepting the portion dealing with the Prosecutors office.

Motion seconded by Mr. Kostielney.

Mr. Thomas says he makes the same comment as the last two motions.

Motion passes 2-1.

The last bill is ordinance 17-14 which is a land usage bill.

Mr. Thomas asks if there is anyone from the audience that would like to speak on this matter.

No response from audience.

Motion made by Ms. McClure to accept the above ordinance as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

**BOARD OF PUBLIC WORKS:**

A)

IN THE MATTER OF APPROVAL  
OF A BID AWARD FOR THE 2014  
TRAFFIC AND MISCELLANEOUS  
PAINT

It is requested that the paint items be awarded to Davies Imperial Coatings, Inc. It is also requested that the signage items be awarded to Frost Signs. It is recommended that all bids be accepted and purchased from the lowest and most responsive bidder depending on availability.

Motion made by Ms. McClure to accept the recommendation of the Department of Public Works in reference to the above bid award as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

B)

IN THE MATTER OF APPROVAL  
OF A BID AWARD FOR THE 2014  
BITUMINOUS PATCHING MATERIALS

It is requested that the bituminous patching materials be awarded to Walsh and Kelly, Inc. It is recommended that all bids be accepted and purchased from the lowest and most responsive bidder depending on availability.

Motion made by Ms. McClure to accept the recommendation of the Department of Public Works in reference to the above bid award as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

C)

IN THE MATTER OF APPROVAL  
OF A BID AWARD FOR THE 2014  
LIQUID BITUMINOUS MATERIALS

It is requested that the liquid bituminous materials be awarded to Bit-Mat Products. It is recommended that all bids be accepted and purchased from the lowest and most responsive bidder depending on availability.

Motion made by Ms. McClure to accept the recommendation of the Department of Public Works in reference to the above bid award as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

D)

IN THE MATTER OF APPROVAL  
OF A BID AWARD FOR THE 2014  
MISCELLANEOUS AGGREGATES

It is recommended that all bids be accepted and purchased from the lowest and most responsive bidder depending on availability.

Motion made by Ms. McClure to accept the recommendation of the Department of Public Works in reference to the above bid award as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

E)  
IN THE MATTER OF APPROVAL  
A CHANGE ORDER NO. 3 FOR  
GUMWOOD ROAD RECONSTRUCTION

The revised contract amount is \$4,480,639.61. The increase amounts \$6,200.00.

Motion made by Ms. McClure to accept the recommendation of the Department of Public Works in reference to the above change order as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

F)  
IN THE MATTER OF APPROVAL  
OF A CHANGE ORDER FOR  
INTERSECTION IMPROVEMENT AT  
CLEVELAND ROAD AND ASH ROAD

The revised contract amount is \$1,177,836.37, which is an increase of 1.7 percent. Change order no. 3 provides for the installation of traffic calming devices the replacement of property irons and mailbox assemblies disturbed during the construction. The increase amounts to \$8083.60.

Motion made by Ms. McClure to accept the recommendation of the Department of Public Works in reference to the above change order as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

G)  
IN THE MATTER OF APPROVAL  
OF A FINAL CHANGE ORDER NO 1  
FOR THE MISHAWAKA AVENUE  
BRIDGE, EROSION REPAIRS

The revised total project cost is \$9653.20. This amounts to a decrease of \$8846.80.

Motion made by Ms. McClure to accept the recommendation of the Department of Public Works in reference to the above change order as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

H)  
IN THE MATTER OF APPROVAL  
OF AN IRREVOCABLE LETTER  
OF CREDIT/CASH IN FOR  
LAUREL CREEK, SECTIONS  
1, 2, AND 3

This is drawn under Mutual Bank letter of credit no. 2544730114, dated April 26, 2013, in the amount of \$10,000.00

Motion made by Ms. McClure to accept the recommendation of the Department of Public Works in reference to the above irrevocable letter of credit as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

D)  
IN THE MATTER OF APPROVAL  
FOR THE STATE LOCAL PUBLIC  
AGENCY PROJECT COORDINATION  
PROJECT CONTRACT FOR THE  
ROAD RECONSTRUCTION OF  
CLEVELAND ROAD OVER THE  
ST. JOSEPH RIVER TO ST. RD. 933

This is a legal agreement between the Indiana Department of Transportation and St. Joseph County for the road reconstruction and bridge rehabilitation of Cleveland Road from the St. Joseph River to SR 933. The funding is an 80/20 split.

Motion made by Ms. McClure to accept the recommendation of the Department of Public Works in reference to the above contract as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

**OLD BUSINESS: NONE**

**PUBLIC COMMENTS:**

Phylcia Scott, 52682 Ida St.

Ms. Scott says that she lives in Clay Township and lives by some elderly neighbors. I was retrieving our dog from the backyard and noticed a horrible odor coming from 52704 Ida St., my neighbor's house. Knowing he had several animals inside I had great concern for his safety. After consulting with a friend we decided that the best way to handle this was to call the police to do a welfare check on him. Upon entry it was very apparent the animals needed to be rescued and the home needed to be condemned. Now most of the animals have been recovered and the elderly man can no longer live there. As the mother of three children, the youngest one having pulmonary issues I am asking the County to step in and take further action. As property owners we are asking for the house to be demolished. So any children in the neighborhood will not be curious and enter it. The home is a great health and safety issue for our community. This being located in multiple school zones people pass by it at all times. The amount of diseases that will come with such filth is contaminating the environment and will bring all surrounding property values down. The pollutants are so great that my youngest son cannot even play outside. So I am asking you to understand my concern for my community as well as my family and to remove this home for everyone's health and safety.

Mr. Kostielney states that upon getting the email last week he has contacted the building department and they are getting together a list of properties that would be appropriate to be torn down or demolished. This is one of the areas that will be looked at and we will also be contacting the Health Department. It may be more appropriate for the health department to step in if it is a health risk then we can address it that way. That would be a little quicker also.

Ms. Scott says that the Health Department has been notified already.

Mr. Kostielney says that since the Health Department has already condemned it is a different method that we can go through not just through the building department it can make it easier since they have stepped in and condemned it.

Ms. Scott asks for a time frame.

Mr. Kostielney says for a decision to be made will take place within the next few weeks.

Mr. Thomas comments on the illegal burning that has been taking place.

15<sup>TH</sup> DAY OF TERM APRIL TERM TUESDAY, APRIL 15, 2014

There being no further business to come before the Board at this time, Mr. Kostielney asked for a motion to recess, Ms. McClure so moved, seconded by Mr. Thomas. Meeting recessed by a 3-0 vote.

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ST. JOSEPH COUNTY COMMISSIONERS