

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 November 17, 2015 at the hour of 10:00 a.m. (EST) at which time in the following members were present: Andrew Kostielney, Dave Thomas, and Dr. Deborah Fleming D.M.D. were present.

**PLEDGE OF ALLEGIANCE**

The minutes of the last meeting were unanimously approved.

Michael J. Hamann, County Auditor, was present and recorded the minutes of the meeting.

Dr. Fleming asks for a moment of silence for the attacks that happened over in Paris.

Mr. Kostielney announces that the next meeting date will be changed to December 8, 2015.

**OPENING AND READING OF BIDS ON:**

Office supply and printer/toner bids.  
Scott MacKenzie, Purchasing Manager, offices on the 7<sup>th</sup> floor.

Office 360  
Mishawaka, IN.

Office Depot  
Buchanan, MI.

Staples Contract and Commercial, Inc.  
Framingham, MA.

Dr. Fleming moved to accept the bids and turn them over to purchasing for further study and review.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

**REPORTS AND REQUESTS FROM:**

**COMMISSIONERS**

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

Dr. Fleming 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>Settlement Requests</b>	
<b>Department</b>	<b>Description</b>

<b>Surplus Requests</b>	
<b>Department</b>	<b>Description</b>
Historic Preservation	A broken HP printer and a broken office chair

<b>Travel Requests</b>		
<b>Department</b>	<b>Description</b>	<b>Cost Estimate</b>
Adult Probation	Indianapolis, IN / November 23, 2015	\$181.00
Prosecuting Attorney	Boston, MA / November 2-3, 2015	\$210.00
Prosecuting Attorney	Indianapolis, IN / December 6-9, 2015	\$3,917.60

Motion was made by Dr. Fleming to accept the consent Agenda.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

C)

IN THE MATTER OF APPROVING  
AN ESCROW DEPOSIT AGREEMENT  
AND REDEMPTION OF THE ST.  
JOSEPH COUNTY, INDIANA  
ECONOMIC DEVELOPMENT  
REVENUE BONDS, SERIES 2006A  
(HOLY CROSS VILLAGE AT  
NOTRE DAME PROJECT) ISSUED  
MARCH 30, 2006, CURRENTLY  
OUTSTANDING (BONDS)

Counsel states that during the 2006 year the county served as a conduit issuer for Holy Cross Village Inc. three series of bonds first in the principle amount of approximately \$5 million. The second principle amount of approximately \$13 million. The third in the principle amount of approximately \$4 million. By this escrow deposit agreement the County will agree to the redemption of those bonds, they are authorizing the redemption. The new money that will come from another series of bonds where a financial transaction between Holy Cross Village and a new issuer will be deposited in an escrow. Those monies will then be used to pay off the rest of the balances on the existing bonds. I will advise the County also as part of this to as Holy Cross Village has agreed to enter into an indemnification and release agreement with the county where they are assuming any and all responsibility for reporting requirements securities in exchange permission requirements and any and all other issues relating to the bonds. It is truly at no expense to the county. I will note that some of the financials are subject to final negotiations with Holy Cross Village and maybe changed but the substance agreement will not.

Motion was made by Dr. Fleming to accept the above agreement as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

D)

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

<u>BILL NO.</u>	<u>ORDINANCE NO.</u>
80-15	59-15
76-15	60-15
77-15	61-15
78-15	62-15
79-15	63-15
75-15	64-15
56-15*	65-15

\*As amended

Dr. Fleming moved to approve all of the above ordinances except for 65-15.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

Mr. Thomas states that he would like to hear what legal counsel has to say about this ordinance.

Counsel says this is a policy decision of the Board of Commissioners as to if they approve the ordinance or not. Indiana law, more specifically Indiana code 36.2 3 1/2-4 provides that the County Executive, this Board of Commissioners has the exclusive power to be the contracting agency and negotiate and enter into contracts on behalf of the County. That being said the actions of the County Council were lawful. There was an ordinance that was adopted in an open meeting and the Commissioners do have the ability under the same statute to allow and assign other elected office holders and agencies to become involved in their sole executive powers. So it is really a policy decision for the Commissioners as to if they are going to cede control of the ability to contract to the Council or if they are going to retain it here. That is my legal opinion. The policy decision is entirely yours. From my review of the ordinance and experience of working with the Commissioners the last three years, you guys have been very dedicated to transparency. There are a lot of actions you have taken to increase transparency over the last three years. I think that you are accomplishing a very large percentage of this ordinance just by your own commitment.

Mr. Thomas says that from his thoughts of reading the state statutes that it does infringe on the separation of powers. Although it could be done willingly do you feel the ordinance is a violation of separation of powers?

Counsel states that the ordinance infringes upon the Commissioners sole authority to being the contracting agency to negotiate contracts for St. Joseph County Indiana. Yes I do believe that.

Mr. Thomas says he believes the Auditors office, Treasures office, and the Board of Commissioners have been meeting all of the requirements and expectations of state law as far as transparency. I am also concerned about if a firm has to break down who works on what and how their business model operates other firms could simply copy that or steal their intellectual property.

Dr. Fleming moved to approve ordinance 65-15.

Motions fails for a lack of a second.

Mr. Thomas moves to veto ordinance 65-15.

Motion seconded by Mr. Kostielney.

Mr. Kostielney says this is one of the more challenging votes he has had to make. This is purely a vote against the mechanics not the merits of this particular ordinance. As Mr. Woods has said the majority of the things in this ordinance are currently being done by the Board of Commissioners. I think they should be done and have tried to be very transparent especially in the past three years. From a public stand point we have put everything on the agenda that we could. Every contract regardless of the sizes, we are including those asking for grant money, all settlement agreements, everything that we have we now put on the agenda in efforts to making ourselves as transparent as possible. I don't think it is appropriate to have one body of government impact so directly how another body of government performs given there be statutory requirements. I also like to add we had a similar situation about a year ago when the Board of Commissioners were hearing land use issues. Which we felt after some research was not appropriate because we were infringing upon the powers given to the County Council. We were taking action where we did not feel it was appropriate so we no longer take that action. We let the people that are to do that do it.

Motion approved by a 2-1 vote.

ADD ON:

AUDITOR

IN THE MATTER OF APPROVAL

OF A DIRECT DEPOSIT REQUIREMENT

Michael Hamann, St. Joseph County Auditor, offices on the 2<sup>nd</sup> floor.

Mr. Hamann says that we are making the recommendation for direct deposit and that the Commissioners would have the final say so in the matter. When we get new employees they are steered towards direct deposit. Out of the 11000 employees there are about 200

that do not have direct deposit. We are trying to take out the worry of doing this and some people don't have a bank account so I will turn this over to Sue to handle this. Susan Bybee, payroll, offices on the 2<sup>nd</sup> floor.

Ms. Bybee says that she has spoken with 1<sup>st</sup> Source Bank, they currently handle our direct deposit, so for those who do not have a bank account there are several options the bank has suggested. You can open a savings account and still get a debit card, they offer a program on handling your finances. We do not currently have that information but I will be getting it soon.

Mr. Kostielney asks how many people do not have direct deposit.

Ms. Bybee says 220. Every day that number is whittling down as I am getting approximately 10 forms a day for direct deposit.

Mr. Thomas says that at first glance he was not a huge fan of it. I am old fashion. I like a paper check. I don't use a debit card. I thought maybe doing this for just new employees but for your staff that probably isn't fair for 200 or less people with all of the paperwork it creates and the delivering of these checks and paystubs.

Ms. Bybee says everyone has access to doculivery and can access all of their paystubs with or without direct deposit.

Mr. Thomas says at first he was not a big fan of it but it seems to be more productive. I like this and would like to help in freeing up your office and staff. Do you think February 1<sup>st</sup> is a good date?

Ms. Bybee says as of now it is.

Short discussion on W-2's and trying to get them on doculivery for the future.

Dr. Fleming also gives her thanks for this.

Motion was made by Dr. Fleming to accept above request as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

#### **BOARD OF PUBLIC WORKS:**

##### **CONSENT AGENDA:**

<b>Development / Subdivision Requests</b>
<b>Description</b>
Irrevocable Standby Letter of Credit, Amendment #8 as Surety, Evergreen Plaza, Section One

<b>Special Event Requests</b>
<b>Description</b>

<b>Traffic Regulatory Requests</b>
<b>Description</b>

<b>Project Completion Affidavit Requests</b>
<b>Description</b>

Motion made by Dr. Fleming to accept the recommendation of the Department of Public Works in reference to the above consent agenda as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

A)  
IN THE MATTER OF APPROVAL  
OF AN INDOT CONTRACT R-33572  
GUMWOOD PHASE II RECONSTRUCTION  
AND ADDED TRAVEL LANES FROM  
NORTH OF BRICK ROAD TO  
INDIANA/MICHIGAN STATE LINE,  
CHANGE ORDER NO. 12

This change order incorporates user activated flashing strobe beacons at key locations of the roundabout at Gumwood and Adams Roads. These beacons will alert motorists to existing pedestrian movement in advance of encountering the crossing movement. This results in an overall increase of \$21542.29.

Motion made by Dr. Fleming to accept the recommendation of the Department of Public Works in reference to the above request as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

B)  
IN THE MATTER OF APPROVAL  
OF INDOT TRAFFIC SIGNAL  
INTERCONNECTION CONTRACT  
FOR THE LASALLE TRAIL PHASE  
I EXTENSION

This contract outlines each party's responsibilities and provides the County the ability to interconnect the bike/pedestrian mid-block crossing equipment on Cleveland Road for LaSalle Trail with the traffic signal at SR 933 and coordinate the timing to enhance safety at the crossing.

Motion made by Dr. Fleming to accept the recommendation of the Department of Public Works in reference to the above request as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

C)  
IN THE MATTER OF APPROVAL  
OF AN INDOT RAILROAD  
COORDINATION AGREEMENTS  
FOR THE OLIVE-SAMPLE  
OVERPASS RECONSTRUCTION  
PROJECT

This agreement outlines each party's responsibilities and identify the reimbursable railroad services necessary to reconstruct the overpass and overhead bridge structures.

Motion made by Dr. Fleming to accept the recommendation of the Department of Public Works in reference to the above request as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

D)  
IN THE MATTER OF APPROVAL  
OF A PRELIMINARY ENGINEERING  
AGREEMENT FOR THE LASALLE  
TRAIL EXTENSION FROM  
CLEVELAND ROAD TO DARDEN  
ROAD PROJECT

This agreement establishes the fee necessary to perform these services at an amount not to exceed \$33500.00

Motion made by Dr. Fleming to accept the recommendation of the Department of Public Works in reference to the above request as read and outlined.

Motion seconded by Mr. Thomas.

Motion adopted by a 3-0 vote.

**OLD BUSINESS: None**

**PUBLIC COMMENTS:**

Michael Hamann, County Auditor, offices on the 2<sup>nd</sup> floor.

Mr. Hamann says he wants to give an update on LOW. We have hired four of the gentlemen from LOW. One of the gentlemen we may be able to share with the city and the costs. We should be able to save the County several thousands of dollars.

Commissioners give there thanks for all efforts involved.

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