

MINUTES OF THE
REGULAR MEETING
OF THE
ST. JOSEPH COUNTY COUNCIL
July 10, 2012

The regular meeting of the St. Joseph County Council was called to order at 7:05 p.m., on July 10, 2012, by the President, Rafael Morton, in the Council Chambers, fourth floor, County-City Building, South Bend, Indiana.

Members in attendance were:

Mr. Dale DeVon
Mr. Michael J. Hamann
Mr. Daniel G. Herbster
Mr. Michael J. Kruk
Mr. Robert J. McCahill
Mr. Rafael Morton
Mr. Corey D. Noland
Mr. Mark Root
Mr. Mark Catanzarite

Present from the Auditor's office were Mr. Pete Mullen, Auditor and Ms. Teresa Shuter, Chief Deputy Auditor. Council staff present were Mr. Michael A. Trippel, Attorney and Ms. Jennifer Prawat, Executive Secretary.

Petitions, Communications & Miscellaneous Matters:

No report from the County Auditor.
No report from the Board of Commissioners.
No report from any Special Committees.

First Readings:

BILL NO. 78-12: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY ELORSE MCCLAIN FOR THE PROPERTY LOCATED AT 57155 WHITE PINE TRAIL SOUTH BEND INDIANA 46619. THE SAME BEING PETITION NO. 07-11-12-16 FILLED WITH THE AREA BOARD OF ZONING APPEALS. - Assigned to the Land Use Planning Committee

BILL NO. 79-12: AN ORDINANCE APPROPRIATING THE SUM OF \$43,689.00 OUT OF THE ST. JOSEPH COUNTY PARKS & RECREATION NON REVERTING FUND 1179 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2012 (Dept. 0057 Parks & Rec.) - Assigned to the Budget and Administration Committee

BILL NO. 80-12: AN ORDINANCE TRANSFERRING THE SUM OF \$11,300.00 FROM VARIOUS ACCOUNTS TO VARIOUS ACCOUNTS ALL BEING WITHIN THE 2012 BUDGET OF ST. JOSEPH COUNTY (Dept. 0025 Juvenile & Probate Court). - Assigned to Human Services/Criminal Justice Committee

BILL NO. 81-12: AN ORDINANCE AMENDING ORDINANCE 108-11, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2012 (Dept. 0018 - Prosecutor). - Assigned to Human Services/Criminal Justice Committee

BILL NO. 82-12: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE XV, LAND USAGE, CHAPTER 154, PLANNING AND ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT THE SOUTHEAST CORNER OF U.S. # 20 & SMLAX ROAD, NEW CARLISLE, INDIANA 46552 FROM A AGRICULTURE DISTRICT TO C COMMERCIAL DISTRICT (Petitioners: Rebecca Roegiers). - Assigned to the Land Use Planning Committee

BILL NO. 83-12: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE XV, LAND USAGE, CHAPTER 154, PLANNING AND ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT 1441 NORTH MICHIGAN STREET FROM: "R" SINGLE FAMILY DISTRICT TO: "U" UNIVERSITY DISTRICT (Petitioner: Brothers of Holy Cross, Inc.). - Assigned to the Land Use Planning Committee

BILL NO. 84-12: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE XV, LAND USAGE, CHAPTER 154, PLANNING AND ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT 1441 NORTH MICHIGAN STREET FROM: "R" SINGLE FAMILY DISTRICT TO: "U" UNIVERSITY DISTRICT (Petitioner: Diocese of Fort Wayne - South Bend, Inc.). - Assigned to the Land Use Planning Committee

Resolutions

Public Hearings:

BILL NO. 56-12: AN ORDINANCE TRANSFERRING THE SUM OF \$4,000.00 FROM VARIOUS ACCOUNTS TO VARIOUS ACCOUNTS ALL BEING WITHIN THE 2012 BUDGET OF ST. JOSEPH COUNTY (Dept. 0062 - Highway Maintenance, Dept. 0061 - Highway Adm.) Assigned to Engineer and Transportation

Mr. Catanzarite reported that Bill No. 56-12 comes with a favorable recommendation.

Roger Mathia, Highway Commission, explained that the transfer of money is being used for a new fax machine, as the old fax machine is 13 years old.

Motion to pass Bill No. 56-12 was made by Mr. McCahill and seconded by Mr. Noland. Bill No. 56-12 was passed to-wit; 9-0.

BILL NO. 60-12: AN ORDINANCE APPROPRIATING THE SUM OF \$7,000.00 OUT OF THE ST. JOSEPH COUNTY 2012 JAG GRANT AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2012 (Dept. 0018 - Prosecutor - 8109 JAG Grant) Assigned to Human Services & Criminal Justice

Mr. Hamann reported that Bill No. 60-12 comes with a favorable recommendation.

Bob Risenhoover, Prosecutor's office, is requesting an appropriation for funds they received through a JAG Grant to purchase equipment for the Special Victims Unit and for Metro Homicide.

Motion to pass Bill No. 60-12 was made by Mr. Kruk and seconded by Mr. Catanzarite. Bill No. 60-12 was passed to-wit; 9-0.

BILL NO. 61-12: AN ORDINANCE APPROPRIATING THE SUM OF \$20,500.00 OUT OF THE ST. JOSEPH COUNTY INELIGIBLE DEDUCTION FUND 1216 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2012 (Dept. 0002 - Auditor) Assigned to Budget and Administration

Mr. Kruk reported that Bill No. 61-12 comes with a favorable recommendation.

Peter Mullen, St. Joseph County Auditor, explained that this appropriation will be used for painting and rehabilitation for the Auditors office, create a space in the Platt Room for Realtors and title companies to come to do their private work. This has not been done for 15 years.

Motion to pass Bill No. 61-12 was made by Mr. Kruk and seconded by Mr. Noland. Bill No. 61-12 was passed to-wit; 9-0.

BILL NO. 62-12: AN ORDINANCE APPROPRIATING THE SUM OF \$40,000.00 OUT OF THE ST. JOSEPH COUNTY INELIGIBLE DEDUCTION FUND 1216 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2012 (Dept. 0002 - Auditor) Assigned to Budget and Administration

Mr. Kruk reported that Bill No. 62-12 comes with a favorable recommendation

Peter Mullen, St. Joseph County Auditor, this appropriation will be used to construct new counter tops, put in new cabinets, as well as create a room for all the old computer equipment, that are currently being stocked in a vault. This will allow the IT department to extend their offices into the Auditors office to give them more space to reconstruct their computers which are used throughout the building. We are creating a new mail area for the independent departments throughout the building to come in and get their mail without wandering through their office. Also, we are lowering parts of the counter tops so it will be handicapped accessible. It is estimated that seventy thousand people come in to the Auditors office per year. The office is well behind the times, it is time for an upgrade. We will also make a semi-private area for the public can use computers so they can access all the information that is public access that is transparent to the public at large. We are ready to move on this, being the face of the county, it is time.

Motion to pass Bill No. 62-12 was made by Mr. Kruk and seconded by Mr. McCahill. Bill No. 62-12 was passed to-wit; 9-0.

Mr. Morton stated that there is a combined public hearing on a separate vote on Bill No. 70-12 and 69-12.

BILL NO. 70-12: AN ORDINANCE APPROPRIATING THE SUM OF \$37,000.00 OUT OF THE ST. JOSEPH COUNTY INELIGIBLE DEDUCTION FUND 1216 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2012 (Dept. 0002 - Auditor) Assigned to Budget and Administration

BILL NO. 69-12: AN ORDINANCE APPROPRIATING THE SUM OF \$55,000.00 OUT OF THE ST. JOSEPH COUNTY INELIGIBLE DEDUCTION FUND 1216 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2012 (Dept. 0002 - Auditor) Assigned to Budget and Administration

Mr. Kruk reported that Bill's No. 70-12 and 69-12 come with a favorable recommendation.

Peter Mullen, St. Joseph County Auditor, Bill No. 69-12, this appropriation budget out of the Ineligible Deduction Fund, we contracted earlier this year with a consulting company to give us an idea as to what it would cost to have this building, the county part, made wireless. Without the wireless equipment, we cannot use our wireless technology. With Ordinance 70-12, is a partner ordinance to Bill No. 69-12. It is for the switching gear within the switching station. This is from the Ineligible Deduction Fund, as well as the other three ordinances.

Mr. Catanzarite asked Mr. Mullen, has this been presented to the Data Board? Mr. Mullen stated, yes, it has all been passed by the Data Board.

Motion to pass Bill No. 70-12 was made by Mr. McCahill and seconded by Mr. Kruk. Bill No. 70-12 was passed to-wit; 9-0.

Motion to pass Bill No. 69-12 was made by Mr. Kruk and seconded by Mr. DeVon. Bill No. 69-12 was passed to-wit; 9-0.

Mr. Morton stated that there is a combined public hearing on a separate vote on Bill No. 71-12, 75-12 and 74-12.

BILL NO. 71-12: AN ORDINANCE AMENDING ORDINANCE 108-11, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2012 (Dept. 0018 - Prosecutor) Assigned to Human Services & Criminal Justice

Bill No. 75-12: AN ORDINANCE APPROPRIATING THE SUM OF \$250,674.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 1000 FROM VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2012 (0018 - Prosecutor) Assigned to Human Services & Criminal Justice

Bill No. 74-12: AN ORDINANCE DECREASING AN APPROPRIATION IN THE SUM OF \$157,594.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 1000 FROM VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2012 (0018 - Prosecutor) Assigned to Human Services & Criminal Justice

Mr. Hamann reported that Bill's No. 71-12, 75-12 and 74-12 come with no recommendation.

Mr. Morton stated Bill's No. 71-12, 75-12 and 74-12 all need to be amended.

Ms. Shuter read the proposed amendment.

Motion to amend Bill's No. 71-12, 75-12 and 74-12 were made by Mr. Hamann and seconded by Mr. Noland.

Mr. Dvorak agreed with the proposed amendment.

Mr. Dvorak, Prosecuting Attorney, the Prosecutors is first and foremost a public safety office. All criminal case must be handled by sworn prosecutor. I am here to ask for additional funds to provide for pay increases for twenty nine deputy prosecutors, twenty nine deputy prosecutors that our community is in jeopardy of losing, if we cannot improve their compensation.

Mr. Devon stated, the reason he questions this now is we are fearful of moving forward with this right now because even in the last few years the County has been strapped for funds, and other departments have come forward for the same reason, and we are not paying qualified people to do the job they are hired to do, the fear is opening up a "Pandora's Box" as far as other departments coming forward for the same reason, during mid year. That would be my only concern.

Mr. Dvorak, the only response I can give you is it is truly a public safety concern. The bulk of these raises are going to mid level deputy prosecutors. Part of what they do, they are groomed and they develop their on the job training by taking bench trials on misdemeanor offenses, low level felonies, and moving up. And what is happening is by the time we are getting people experienced doing D-felonies and jury trials they then become more marketable to go to another county where they can get increases. It's a real jeopardy.

Mark Roul, Chief Deputy Prosecuting Attorney, stated this is a legitimate need for public safety. Our new prosecutors get developed, they become talented assets, and they get opportunities to go somewhere else for eight to ten thousand dollars more. Everything that's bad that happens in this community comes through our office and we need committed, confident, experienced people to handle the worst things that occur in our community.

Amy Cressy, Deputy Prosecuting Attorney, what we are asking is that you make it a little easier for us to continue to do the job we love in this community, by making it a career path and not a resume builder. We are asking the Council to invest in us so we can continue to do justice for a living, in this County.

Ken Cotter, Chief Deputy Prosecutor, I'm here to talk about the talented folks who want to make this a career. When they are balancing out not the private sector, but other public safety sectors, other prosecutor's office's who take our deputies once they get three, four, five years of experience and pay them ten thousand dollars more than we could. There are some really good deputies here, help us keep them.

Motion to amend Bill's No. 71-12, 75-12 and 74-12 was made.

Motion to pass amended Bill No. 71-12 was made by Mr. Kruk and seconded by Mr. Hamann. Bill No. 71-12 was passed to-wit; 5-4.

Against: Root, DeVon, Herbster and Catanzarite.

Motion to pass amended Bill No. 75-12 was made by Mr. Hamann and seconded by Mr. Kruk. Bill No. 75-12 was passed to-wit; 5-4.

Mr. DeVon, stated that it's not that I don't believe that they are not worth it, and I know they are, and it doesn't mean I won't support it come budget time, but I still can't support it because of the timing issue.

Mr. Catanzarite, stated, in keeping with what Mr. DeVon just said, I agree, I am in total support of supporting these mid-level prosecutors, I can see the need for an increase in salary, it's just the timing issue with budget talks coming up within a month, I can support it at budget time. Several other county departments have the same issue as you do, but because of the timing, I have to say no.

Against: Root, DeVon, Herbster and Catanzarite.

Motion to pass amended Bill No. 74-12 was made by Mr. Hamann and seconded by Mr. Noland. Bill No. 74-12 was passed to-wit; 5-4.

Against: Root, DeVon, Herbster and Catanzarite.

Mr. Morton stated that there is a combined public hearing on a separate vote on Bill No. 72-12 and 76-12.

Bill No. 72-12: AN ORDINANCE AMENDING ORDINANCE 108-11, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2012 (Dept. 0048 - Prosecutor Title IV) Assigned to Human Services & Criminal Justice

BILL NO. 76-12: AN ORDINANCE APPROPRIATING THE SUM OF \$8,709.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 1000 FROM VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2012 (0018 - Prosecutor) Assigned to Human Services & Criminal Justice

Mr. Hamann reported that Bill No. 72-12 and 76-12 come with no recommendation.

Mr. Morton stated Bill's No. 72-12 and 76-12 both need to be amended.

Ms. Shuter read the proposed amendment.

Motion to amend Bill's No. 72-12 and 76-12 was made.

Motion to pass amended Bill No. 72-12 was made by Mr. Hamann and seconded by Mr. Kruk. Bill No. 72-12 was passed to-wit; 6-3

Against: Herbster, Catanzarite and Root.

Motion to pass amended Bill No. 76-12 was made by Mr. Hamann and seconded by Mr. Noland. Bill No. 76-12 was passed to-wit; 6-3

Against: Herbster, Catanzarite and Root.

BILL NO. 64-12: AN ORDINANCE AMENDING ORDINANCE 108-11 THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2012 (Dept. 0023 - Engineer) assigned to Engineering and Transportation

Mr. Catanzarite reported that Bill No. 64-12 comes with a favorable recommendation.

Jessica Clark, stated this is an in line transfer, adjusting monies within existing line items of our position, that relates to differences in job responsibilities.

Motion to pass Bill No. 64-12 was made by Mr. Noland and seconded by Mr. Kruk. Bill No. 64-12 was passed to-wit; 9-0.

Mr. Morton stated that there is a combined public hearing on a separate vote on Bill No. 59-12, 57-12 and 58-12.

BILL NO. 59-12: AN ORDINANCE AMENDING ORDINANCE 108-11 THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2012 (Dept. 0012 - Assessor) Assigned to the Budget and Administration

BILL NO. 57-12: AN ORDINANCE TRANSFERRING THE SUM OF \$170,000.00 FROM VARIOUS ACCOUNTS TO VARIOUS ACCOUNTS ALL BEING WITHIN THE 2012 BUDGET OF ST. JOSEPH COUNTY (Dept. 012 - County Assessor) Assigned to Budget and Administration

BILL NO. 58-12: AN ORDINANCE TO REDUCE THE 2012 ST. JOSEPH COUNTY REASSESSMENT FUND-0008, 2012 BUDGET REDUCTION (Dept. 012 - County Assessor) Assigned to Budget and Administration

Mr. Kruk reported that Bill's No. 59-12, 57-12 and 58-12 come with a favorable recommendation.

Rosemary Mandrichi, County Assessor, Bill 59-12 is an amendment to our original salary ordinance for some additional help. Bill 57-12 is an ordinance reducing that line item and transferring funds into our part time account and into our appraiser account, so we can hire additional appraiser. And the third Bill, 58-12 is a reduction in the overall deputy account because of Bill 52-12 using up the funds from the 2006 levy.

Motion to pass Bill No. 59-12 was made by Mr. Kruk and seconded by Mr. McCahill. Bill No. 59-12 was passed to-wit; 9-0.

Motion to pass Bill No. 57-12 was made by Mr. Kruk and seconded by Mr. Catanzarite. Bill No. 57-12 was passed to-wit; 9-0.

Motion to pass Bill No. 58-12 was made by Mr. Kruk and seconded by Mr. Noland. Bill No. 58-12 was passed to-wit; 9-0.

Bill No. 73-12: AN ORDINANCE TRANSFERRING THE SUM OF \$1,500.00 FROM VARIOUS ACCOUNTS TO VARIOUS ACCOUNTS ALL BEING WITHIN THE 2012 BUDGET OF ST. JOSEPH COUNTY (Dept. 0055 - Health) Assigned to Human Services & Criminal Justice

Mr. Hamann reported that Bill No. 73-12 comes with a favorable recommendation.

Nick Molchan, Health Administrator, this out of line transfer is needed for travel expenses for a new employee to attend a needed two week training course, that is required by state health department.

Motion to pass Bill No. 73-12 was made by Mr. Kruk and seconded by Mr. Noland. Bill No. 73-12 was passed to-wit; 9-0.

BILL NO. 67-12: AN ORDINANCE OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, APPROPRIATING THE PROCEEDS DERIVED FROM THE BONDS HERETOFORE AUTHORIZED TO BE ISSUED AND DESIGNATED AS "COUNTY OF ST. JOSEPH, INDIANA, MENTAL HEALTH REVENUE REFUNDING BONDS, SERIES 2012" FOR THE PURPOSE OF PROVIDING FUNDS TO CURRENTLY REFUND CERTAIN OUTSTANDING ST. JOSEPH COUNTY, INDIANA, ECONOMIC DEVELOPMENT REFUNDING REVENUE BONDS, SERIES 1997 (MADISON CENTER PROJECT), TOGETHER WITH EXPENSES INCIDENTAL THERETO, INCLUDING EXPENSES IN CONNECTION WITH THE ISSUANCE OF THE BONDS. Assigned to Budget and Administration

Mr. Kruk reported that Bill No. 67-12 comes with a favorable recommendation.

Mr. Augustino, Attorney for County Commissioners, Bill No. 67-12 ties in with 68-12, we are asking for the refinance to be approved, with bonds that a rate not to exceed four and a half percent. Resulting in present value savings to the County estimated by our financial advisor, between four hundred, eight three thousand and four hundred, eighty seven thousand dollars.

Motion to pass Bill No. 67-12 was made by Mr. Hamann and seconded by Mr. Herbster. Bill No. 67-12 was passed to-wit; 9-0.

BILL NO. 68-12: AN ORDINANCE OF THE COUNTY OF ST. JOSEPH, INDIANA, AUTHORIZING THE ISSUANCE AND SALE FO COUNTY MENTAL HEALTH REVENUE REFUNDING BONDS OF THE COUNTY PAYABLE FROM THE MENTAL HEALTH LEVY TAX LEVY FUNDS MADE AVAILABLE FOR SUCH PURPOSE TO PROVIDE FUNDS TO CURRENTLY REFUND CERTAIN OUTSTANDING ST. JOSEPH COUNTY, INDIANA, ECONOMIC DEVELOPMENT REFUNDING REVENUE BONDS, SERIES 1997 (MADISON CENTER PROJECT) Assigned to Budget and Administration

Mr. Kruk reported that Bill No. 68-12 comes with a favorable recommendation.

Mr. Augustino, Attorney for County Commissioners, I incorporate what I said earlier without repeating it.

Motion to pass Bill No. 68-12 was made by Mr. Kruk and seconded by Mr. Hamann. Bill No. 68-12 was passed to-wit; 9-0.

BILL NO. 63-12: AN ORDINANCE AMENDING TITLE XV, LAND USAGE, CHAPTER 154, PLANNING AND ZONING OF THE ST. JOSEPH COUNTY CODE, BY ADDING A NEW SUB CHAPTER 154.602, COMBINED PUBLIC HEARING PROCEDURE. Assigned to Land Use Planning

Mr. DeVon reported that Bill No. 63-12 comes with a favorable recommendation.

Christa Nayder, Area Plan, this is a proposal to have a combined public hearing. Currently we have four different processes. This would combine so that all four of those, or any combination of those four could be heard at one public hearing.

Mr. Morton, asked, how do you plan on getting the word out about the change to the petitioner, because in most cases they really don't know the procedure as it stands.

Christa Nayder, if it is a common petitioner, we would have to inform them, people like Mr. Danch, who are here on a regular basis, will become more familiar with it as we go along.

Mr. Morton, in most cases, when you are dealing with Mr. Danch, people don't know proper procedure.

Christa Nayder, and I think that this will help people because you have to go to so many different hearings. Once they know about it, it will make it clearer.

Motion to pass Bill No. 63-12 was made by Mr. Kruk and seconded by Mr. Noland. Bill No. 63-12 was passed to-wit; 9-0.

BILL NO. 66-12: AN ORDINANCE TO VACATE A PUBLIC WAY OR PUBLIC PLACE, LOCATED WHOLLY WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, TO WIT: WOODLAWN AVENUE BETWEEN TOLEDO AVENUE AND MCKINLEY HWY OF LAWNSDALE ACRES, PART OF THE NW 1/4 OF SEC. 4, T37N, R4E, PENN TOWNSHIP ST. JOSEPH COUNTY, INDIANA (Petitioner: John Ferguson; Resolve Mortgage and Finance, LLC; German Concepts, LLC) Assigned to Land Use Planning

Mr. DeVon reported that Bill No. 66-12 comes with no recommendation.

Mr. Morton stated Bill No. 66-12 needs to be amended.

Ms. Shuter read the proposed amendment.

Motion to amend Bill No. 66-12 was made.

Christa Nayder, Area Plan, stated that the staff has reviewed this petition and finds that it meets the requirements, however, Nipsco has a gas main extending two hundred eight nine feet south of the right of way of Toledo Avenue, and AT&T has also indicated they have facilities in this right of way, therefore the staff recommends if you vacate it is subject to easements for Nipsco and AT&T, amending the ordinance to include the language subject to any utility easements, which is the amendment you just read.

John Ferguson, petitioner, agreed to the proposed amendment just read.

John Ferguson, owner of German Concepts and Resolve Mortgage and Finance, stated by being able to use this road, I can use this as my entrance, that would eliminate two entrances off of McKinley and allow more parking. Also, by closing I would be paying more taxes, so I would be paying more taxes to the County, and also reduce maintenance cost not having to plow. German Concepts started out a small company, over seventeen years, I have employed seventeen people. I am contributing to small business growth.

Vicki Reese, 10692 Toledo Avenue, Mr. Ferguson's property comes up to our property, and the traffic pattern that comes up off of Woodlawn, just flies. I would like to see that road closed for Mr. Ferguson's benefit as well as ours. He's a hard worker, it would do our neighborhood good to have that little road closed.

Terry Daniels, 10965 Starr Road, I have been a twenty five year resident of this subdivision, other than the home I own on Star Avenue, I own a home on Toledo Avenue, as well as six other lots in the subdivision. I just want to say I am in favor of the closing of this street too.

Motion to amend Bill No. 66-12 was made.

Motion to pass Bill No. 66-12 was made by Mr. Root and seconded by Mr. McCahill. Bill No. 66-12 was passed to-wit; 9-0.

Unfinished Business:

BILL NO. 25-12: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE XV, LAND USAGE, CHAPTER 154, PLANNING AND ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT 14404 S.R. #23, GRANGER, INDIANA 46530 FROM R SINGLE FAMILY DISTRICT TO O OFFICE DISTRICT. (Petitioners: Brandywine Development Corp., Inc.)

Mr. Devon, on behalf of the residents, the reason they are asking for this to be tables for a few months is because one, SR 23 is under construction right and some of the roads are closed off, several of them realize that some Council members went out to view the site at a time that it wasn't at it's normal operating traffic patterns. So there are safety concerns for the property owners and traffic flow. They were wondering if there is a need for a traffic study. So one of the main questions we have is the new entrance, coming off of Brick Road, would the traffic patterns need to be studied for any reason? I know you talked to Jessica about that and did she feel the need for traffic study?

Mr. Studer, no, the council asked us to make a report at the last council meeting, that was tabled back in June, the council asked two things, one that we meet with the residents and two, that we make a report. I would like to report at this time. Mr. Danch and I met with many of the residents, also at that meeting was Councilman Morton and Councilman DeVon. I would tell you that the personal concern that we came across to us was potential safety issue, with respect to only one entrance and exiting off of SR 23. Even though the State Highway Department issued a letter saying they thought it was more than safe. We are willing, to include in the final site plan internal signing, including language that will require internal signage that would encourage all patrons exit and enter off of Brick Road.

Mr. Devon, based on the new entrance and reconfiguring of the site building, what does that do to drainage and septic?

Mr. Danch, it won't affect either one of those. We still have enough room to put the drainage with retention areas on the site. The septic system has always been shown on the back portion of the property.

Mr. Devon, is there an urgency for this project to start now or waiting two or three months.

Mr. Studer, we have been at this process some months, by the time Mr. Danch finishes the engineering study and final site plan, we suspect that all that construction that area will be done. They finished paving on Brick Road, to the north, some of the signage is already down. We suspect by the next month or so this will be done. This is our final shot, if we don't get it tonight, the developer won't be developing this property.

Mr. Hamann, I appreciate all the effort that has gone into this, we had an issue with safety with this entrance so the petitioner goes to the engineer office, and they are able to get an opening onto Brick Road. I have worked with Jessica for twelve years, she worked for me when I was County Commissioner. Jessica is always very concerned with safety, and based on my long experience in working with Jess, that if Jessica would say that this would make the property much safer to have that additional entrance to Brick Road, that's good enough for me, I take that at her word.

Christa Nayder, as Mr. Studer eluded to, there is a ninety day window and Area Plan heard it on April 17, so the ninety day window would be July 17, so the tabling issue is at the voting point.

Mr. DeVon, so we cannot table this for any period of time?

Mr. Morton, no, then it would be their decision.

Mr. DeVon, when they could come back with a new site plan?

Mr. Studer, I can pretty much assure you that given the time and effort the developer has put into this, it won't be brought back by this developer. It will stay residential. And he has put a lot of time, money and effort into this project.

Mr. DeVon, as a representative of the people I would make a motion to deny at this point.

Motion to deny Bill No. 25-12 was made by Mr. DeVon and seconded by Mr. Kruk. Bill No. 25-12 was denied to-wit; 6-3.

Motion to pass Bill No. 25-12 was made by Mr. Hamann and seconded by Mr. Herbster. Bill No. 25-12 was passed to-wit; 6-3.

Against: McCahill, Root and DeVon.

Mr. Kruk, I am going to support this bill. A month ago, I was undecided, I did have concerns for the safety, I went out there one time by myself, and it did seem like it was rather busy that day, and I expressed my concerns to our President, Mr. Morton, we went out there again yesterday, and at that time, it seemed like it was not that busy at all. The addition of the Brick Road exit, that took a lot off my mind seeing that added to that plan.

New Business:

Pursuant to I.C. 6-3.5-1.1-24(q), the St. Joseph County Council shall hold a public hearing on increase in the adjusted gross income tax.

Mr. Morton, we are lodged to do this on an annual basis, we now invite the public or any government official to address the County Council in regards to whether or not the adjusted gross income tax should be increased or opposed as allowed by the Indiana law.

Privilege of the floor:

Adjournment:

Mr. Morton stated that the meeting was adjourned at 8:45 p.m.

Auditor, St. Joseph County

President, St. Joseph County Council

