

MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
February 12, 2013

The regular meeting of the St. Joseph County Council was called to order at 6:05 p.m., on February 12, 2013, by the President, Rafael Morton, in the Council Chambers, fourth floor, County-City Building, South Bend, Indiana.

Members in attendance were:

Mr. Michael J. Hamann  
Mr. Daniel G. Herbster  
Ms. Diana L. Hess  
Mr. James O'Brien  
Mr. Robert J. McCahill  
Mr. Rafael Morton  
Mr. Corey D. Noland  
Mr. Mark Root  
Mr. Mark Catanzarite

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

**Petitions, Communications & Miscellaneous Matters:**

Mr. Morton moved and was seconded by Mr. McCahill to have the minutes from the January 2, 2013 and the January 8, 2013 meeting. The motion passed by a voice vote; 9-0. No negatives were heard.

Mr. Morton made a motion to withdraw the Health Department portion of Bill No. 1-13 at the request of the petitioner. Mr. Root moved and was seconded by Mr. McCahill. The motion passed by a voice vote; 9-0. No negatives were heard.

No report from the County Auditor.

No report from the Board of Commissioners.

Mr. Catanzarite has a Special Committees report: A brief report to council, I serve as your representative on the South Shore Commuter Rail, want to let you know there is a house bill out there in the legislature, house bill 14-50, which was drafted out of Lake County, which threatens the make up of the NICTD Board. NICTD since 1977, since it was formed by Indiana's Government, has had an equal representation of members, one County Commissioner, one Council member from all four counties that are on NICTD. This bill looks to put 80% of the voting power out of Lake County appoint mayor's designees from every city and town in Lake County and only allow one County Commissioner and the Mayor of South Bend, it really takes the equal footing the board has always had for the last 30-33 years and give it all to Lake County. The argument out of Lake County is that 80% of the riders in Lake County, we should have more representation, but as the board has worked over those years, Lake County has enjoyed receiving their equal share, based on the rider ship of the improvements of the railroad. Newer stations, modernization, so the board has not worked in a manner that has been unfair to Lake County. You might want to keep an eye on that bill, if you know anyone in the legislation; you may want to let them know you don't support that bill. I would think it is not in our best interest or any of the four counties interest to have that bill passed.

**Public Hearing/Public Comment:**

**Resolution**

**First Readings:**

**BILL NO. 13-13:** AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY ELIZABETH J. MOSER WEISS FOR THE PROPERTY LOCATED AT 51024 N. TIMOTHY RD. NEW CARLISLE, IN 46552 THE SAME BEING PETITION NO. 02-06-13-11 FILED WITH THE AREA BOARD OF ZONING APPEALS Assigned to Land Use Planning Committee

**BILL NO. 14-13:** AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY WILLIS STREET LLC FOR THE PROPERTY LOCATED AT 54550, 54570, 54606 WILLIS STREET, SOUTH BEND, INDIANA 46637 THE SAME BEING PETITION NO. 02-06-13-13 FILED WITH THE AREA BOARD OF ZONING APPEALS Assigned to Land Use Planning Committee

**BILL NO. 15-13:** AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE BY WILLIS STREET LLC FOR THE PROPERTY LOCATED AT 54650 WILLIS STREET, SOUTH BEND, IN 46637 THE SAME BEING PETITION NO. 02-06-13-12 FILED WITH THE AREA BOARD OF ZONING APPEALS Assigned to Land Use Planning Committee

**BILL NO. 17-13:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC.6-1.1-12.1-1, ET SEQ. ON THE PETITION OF DIVERSIFIED REAL ESTATE, LLC FOR THE BENEFIT OF MS SOUTH BEND, LLC DECLARATORY RESOLUTION Assigned to the Budget and Administration Committee

**BILL NO. 18-13:** A RESOLUTION DETERMINING THAT THE QUALIFICATIONS FOR AN ECONOMIC REVITALIZATION AREA HAVE BEEN MET AND CONFIRMING RESOLUTION NO. \_\_\_\_\_ OF THE ST. JOSEPH COUNTY DECLARING AN AREA OF THAT COUNTY TO BE AN ECONOMIC REVITALIZATION AREA (PETITIONER DIVERSIFIED REAL ESTATE, LLC FOR THE BENEFIT OF MS SOUTH BEND, LLC) CONFIRMING RESOLUTION Assigned to the Budget and Administration Committee

**ADDITIONAL APPROPRIATIONS: Bill No. 1-13**

**Drug Free Community Fund and Public Defender Fund**

Circuit Court

(1) 1148-39025-000-0019 Community Grants	\$78,000.00
(2) 1148-39208-000-0019 St. Joseph County Drug Coalition	\$32,500.00
(3) 1148-39209-000-0019 Metro Special Ops Section	\$ 2,000.00
(4) 1148-39600-000-0019 Refunds, Awards & Indemnities	\$17,500.00

**Total Fund 1148 Dept. 0019 \$130,000.00**

Peter Mullen, County Auditor, in Judge Gotches absence, I will read his letter in detail, in which this appropriation was spoken about in great detail at our committee meeting in January. Please find the attached letter from Stacy Burk, director of the Partnership for Education Prevention of Substance Abuse of the Healthy Communities Initiative, HCI of St. Joseph County, this letter details the allotment of monies of the Drug Free Community Fund for calendar year 2011. As noted in this letter, the proposed allotment from the fund totals a hundred thirty thousand dollars, according to the Indiana Criminal Justice Institute guidelines. The operating expenses for the local partnership for education prevention of substance abuse should be first deducted from the gross funds leaving a net balance for equal distribution among criminal justice prevention and treatment programs. The grant review committee recommends the expenditures in the following manner. (See above.) Please note that I am recommending the criminal justice funds be distributed as follows: ten thousand for drug court, eleven thousand five hundred for relapse prevention for reentry for healthy community initiative, and thirty five hundred for district 24 patrol canine programs Indiana State police alliance, seven thousand five hundred for drug court Getting Ahead Program Bridges out of Poverty. As you know from prior years, the local courts have authorized to assess a fee against offenders who use public defenders resources. A court assesses a fee when a judge determines the defendant has financial means to contribute to the legal expense incurred by the assignment of a public defender. Typically the funds are assigned against any bond previously posted by the defendant. For the coming calendar year, I have authorized the expenditure of twenty five thousand dollars

from the public defender fund to be used for education and training. I respectfully request that the board of County Commissioners and the County Council approve the use of the Drug Free Community Fund and the Public Defenders Fund as detailed above.

Motion to pass Bill No. 1-13 was made by Mr. Hamann and seconded by Mr. Noland. Bill No. 1-13 was passed to-wit; 9-0.

**2012 EMPG Competitive Grant:**

Emergency Management

(5) 8107-44250-000-0009 Office Machines \$4,054.00

Bill Zimmerman, Director of Emergency Management, the request is reimbursement grant from the State of Indiana. During the course of our annual assessment, they assess how many things and programs are involved with emergency management. We were able to obtain enough points to get an addition four thousand, fifty four dollar reimbursement, the money has to be used for the emergency management program, we are going to upgrade some computer equipment in our office, a computer, a lap top, signs and banners for outreach programs, computer monitors and some projectors and software. The state has pretty strict guidelines on what we can and cannot buy. They have approved these items. Just to say, this is the third year we have been able to do this, so we have saved the county over eleven thousand dollars in supplies and office equipment and upgrades for emergency management office.

Motion to pass Bill No. 1-13 was made by Mr. McCahill and seconded by Mr. Noland. Bill No. 1-13 was passed to-wit; 9-0.

**Surveyor Corner Funds:**

County Surveyor

(6) 1202-31070-000-0023 Contractual Services \$20,000.00

Jessica Clark, County Engineer, this money is generated every time a deed is recorded in our community; five dollars of those deeds go into this fund. This is not property tax money, it will be used for updated surveying equipment, GPS equipment within our department and also to be updating section corners throughout the county. Our office performs the majority of this work and we have personnel in our office that uses this equipment, which saves the county approximately a minimum of 75% every year by doing this work in house, that enables us to be able to do more work.

Motion to pass Bill No. 1-13 was made by Mr. Herbster and seconded by Mr. Root. Bill No. 1-13 was passed to-wit; 9-0.

**Ineligible Deduction Fund**

Auditors Office

**Bill No. 9-13: AN ORDINANCE AMENDING ORDINANCE 110-12, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2013**

(7) 1216-11664-000-0002 Property Tax Clerk \$ 26,951.00

Peter Mullen, County Auditor, this is for a salary amendment; the second part is for an appropriation for this salary.

Motion to pass Bill No. 1-13 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 1-13 was passed to-wit; 9-0.

Motion to pass Bill No. 9-13 was made by Mr. O'Brien and seconded by Ms. Hess. Bill No. 9-13 was passed to-wit; 9-0.

**General Fund:**

Domestic Relations

**Bill No. 7-13:** AN ORDINANCE AMENDING ORDINANCE 110-12, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2013

(8) 1000-11375-000-0054 Family Court Specialist \$791.00

Beth Kerns, Director of Domestic Relations, asking for this salary to be amended due to an oversight at budget time.

Motion to pass Bill No. 7-13 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 7-13 was passed to-wit; 9-0.

Motion to pass Bill No. 1-13 was made by Mr. Hamann and seconded by Mr. Noland. Bill No. 1-13 was passed to-wit; 9-0.

**Bill No. 5-13:** AN ORDINANCE AMENDING ORDINANCE 110-12, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2013 Dept. 0797 Juvenile Monitoring

Peter Morgan, Executive Director of the St. Joseph Probate Court, we are seeking salary amendments to allow us to give raises to members of our juvenile community correction's department. No additional appropriation is needed on this measure. All these salaries are funded by a grant from the Indiana Department of Correction's.

Motion to pass Bill No. 5-13 was made by Mr. O'Brien and seconded by Mr. Root. Bill No. 5-13 was passed to-wit; 9-0.

**Bill No. 8-13:** AN ORDINANCE AMENDING ORDINANCE 110-12, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2013 Dept. 0025 Juvenile and Probate Court

Peter Morgan, Executive Director of the St. Joseph Probate Court, this is another amendment; there is no addition appropriation here as well. This is in our probation department; all salaries in this department are mandated by a state schedule.

Motion to pass Bill No. 8-13 was made by Mr. Noland and seconded by Mr. Hamann. Bill No. 8-13 was passed to-wit; 9-0.

**BILL NO. 129-12:** 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 67450 BEECH ROAD, WAKARUSA, INDIANA FROM "A" AGRICULTURAL DISTRICT TO "B" BUSINESS DISTRICT PETITIONER: WYMAN & EDNA HOCHSTETLER

Mr. Noland reported that Bill's No. 129-12 comes with a favorable recommendation.

Christa Nayder, Area Plan, they are showing a five thousand square foot building, half grocery store half for warehousing, fourteen parking spaces. This use offers a daily use of resources for the community down in that corner of the county. This comes to you with a favorable recommendation from Area Plan.

Bernie Feeney, registered land surveyor, this property has already been improved by the Hochstetler's after they purchased it in 2008. They also own a particular piece of property immediately south of it. This is going to be an Amish operated business and will provide daily staples along with canned goods for the community.

Mr. Noland: Could you or Christa confirm the legal description that we have.

Mr. Feeney: I was unaware that there was a problem even at committee.

Mr. Noland: I just want to make sure what we are voting on is the right parcel.

Christa Nayder: The initial one included either the entire parcel, instead of just the south half or some sort of an L shape that took in some of the property behind the current house, the very original legal description. Do you want me to read the what we have?

Mr. Noland: I think you should.

Christa Nayder: Read the legal description.

Motion to pass Bill No. 129-12 was made by Mr. Herbster and seconded by Mr. Root. Bill No. 129-12 was passed to-wit; 9-0.

Mr. Herbster: I met with Mr. Hochstetler on Saturday and took a look at the property; it looks like a good fit for the neighborhood and talking with him, sounds like it meets a need there in the community.

**BILL NO. 166-12:** AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE XV, LAND USAGE, CHAPTER 154, PLANNING AND ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTIES LOCATED AT 18290, 18330 & 18370 DUNN ROAD & VACANT PROPERTIES LOCATED SOUTHEAST AND ADJACENT TO 18290, 18330 & 18370 DUNN ROAD, SOUTH BEND, INDIANA 46637 FROM R SINGLE FAMILY DISTRICT AND PUD PLANNING UNIT DEVELOPMENT DISTRICT TO PUD PLANNING UNIT DEVELOPMENT DISTRICT PETITIONERS: DUNN PLACE, LLC

Christa Nayder, Area Plan, the whole site is now about three and a half acres up from about three acres, there are now four three story apartment buildings, but from the street side of the building will appear to be two stories, as previously approved and the height of the buildings will stay the same. There will be ninety eight total units, with a population of a hundred and eighty eight residents, split up into one, two and three bedroom units. This comes to you with a favorable recommendation from the Area Plan, subject to the note about the buildings being two stories from the street and the accompanying elevation.

Mr. Noland reported that Bill's No. 166-12 comes with a favorable recommendation.

Steven Studer, partner with Krieg DeVault, we come to you with a unanimous favorable recommendation by the Area Plan Commission. This is a continuation of a project, in stead of amending the PUD we have to come back a new PUD, so we are seeking a fourth building which will have twenty occupants, twenty one bedrooms, or two/three bedrooms, that building is subject to restrictive covenant as we indicated at the land use committee, that covenant restricts those people that live there to be university users, which is a defined term. In addition, recognizing the need for graduate student housing, we have asked to include eight one single bedrooms across the back of each of these building.

Motion to pass Bill No. 166-12 was made by Mr. Noland, with the inclusion of the area plan commission notes and no more than one family as defined as in the St. Joseph County Code and seconded by Mr. Hamann. Bill No. 166-12 was passed

**BILL NO. 175-12:** AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE BY RAE AND JAY CORP (RACHEL AND JASON SPARKE) FOR THE PROPERTY LOCATED AT 52170 S.R. 933, SOUTH BEND INDIANA 46637 THE SAME BEING PETITION NO. 01-19-13-08 FILED WITH THE AREA BOARD OF ZONING APPEALS

Mr. Noland reported that Bill's No. 175-12 comes with a favorable recommendation.

Mark Lyons, Building Department, this is a special exception request to allow boarding kennels in conjunction with the veterinarian clinic. It comes to you with a favorable recommendation.

Tony Laniger, Carmine Design Group, my client currently operates Roseland Animal Hospital Clinic, about a half mile down the road from the proposed location, they just recently purchased the property that we are speaking of, the property includes an existing facility that would be renovated and added on to for the purpose of expanding their business. Prior to the public hearings, Jason and Rachel went into the residential community to the east, gave their vision as to what they are looking to do, came away with some very positive comments from that community.

Rachel: It was actually the past owner of Roseland Animal Hospital, I, and Dr. David Visor, introduced ourselves, let them know we are the new owners of the property and that we were looking to come that neighborhood. We visited with six homes, which about nine total, six of which were home and of those six, four were already current clients, were very ecstatic that we were going to be down the street from them. The two that were not currently clients did not have any concerns or questions for us.

Motion to pass Bill No. 175-12 was made by Mr. Hamann and seconded by Mr. Noland. Bill No. 175-12 was passed to-wit; 9-0.

**BILL NO. 3-13:** AN ORDINANCE TO VACATE A PUBLIC WAY OR PUBLIC PLACE, LOCATED WHOLLY WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, TO-WIT 1<sup>ST</sup> ALLEY TO NORTH OF DRAGOON TRIAL, GOING WEST TO EAST, ENDING AT PROPERTY LINE OF 58836 STATE STREET APPROXIMATELY 125 FEET GOING EAST FROM STATE STREET PETITIONER: JOHN A. KWIST

Mr. Noland reported that Bill's No. 3-13 comes with a favorable recommendation.

John Kwist, home owner, I recently purchased this home, when I purchased the home, I was misled and thinking that the property to the south of me which was nicely graveled was a drive way for the property. When I had my certified home inspection, both of them said I had a gravel drive way. I had no reason to take the survey so I waived it, after the fact, it was brought to my attention that it was an actually an alley way, by one of my neighbors. I am just trying to make more parking for my family.

Michael Hall, 58844 State Street, I have no objection to him getting that alley way.

Motion to pass Bill No. 3-13 was made by Mr. McCahill and seconded by Mr. Root. Bill No. 3-13 was passed to-wit; 9-0.

**Unfinished Business:**

**New Business:**

**Privilege of the floor:**

**Adjournment:** Mr. Morton stated that the meeting was adjourned at 6:40 p.m.

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Auditor, St. Joseph County

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President, St. Joseph County Council













