

MINUTES OF THE
REGULAR MEETING
OF THE
ST. JOSEPH COUNTY COUNCIL
July 8, 2014

The regular meeting of the St. Joseph County Council was called to order at 6:05 p.m., on July 8, 2014, 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. Corey D. Noland
Mr. James O'Brien
Mrs. Diana Hess
Mr. Rafael Morton
Mr. Daniel G. Herbster
Mr. Mark A. Catanzarite
Mr. McCahill

Present from the Auditor's office were Mr. Pete Mullen, 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. Hamann moved to reappoint Jerry Niezgodski to Historic Preservation and Howard G. Heines to the Housing Authority and was seconded by Mr. O'Brien.

The motion was passed by a voice vote; 8-0. No negatives were heard.

Mr. Noland moved and was seconded by Mr. Hamann to approve the minutes of the June 10, 2014 meeting. The motion was passed by a voice vote; 8-0. No negatives were heard.

No report from the County Auditor.

Report from the Board of Commissioners:

No report from any Special Committees.

First Readings:

BILL NO. 35-14: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY THE ST. JOSEPH COUNTY COMMISSIONERS FOR THE PROPERTY LOCATED AT 58293, 58267 AND 58199 ELM ROAD THE SAME BEING PETITION NO. 07-02-14-08 FILES WITH THE AREA BOARD OF ZONING APPEALS PETITIONER: ST. JOSEPH COUNTY COMMISSIONERS
Assigned to the Land Use Planning Committee

BILL NO. 36-14: 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 59750 CRUMSTOWN HWY. NORTH LIBERTY, IN 46554 FROM A AGRICULTURAL DISTRICT TO B BUSINESS DISTRICT
PETITIONER: JEFF R EICHANADTER & TAMMY GOUKER Assigned to the Land Use Planning Committee

BILL NO. 37-14: 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 52044 31 NORTH, SOUTH BEND, INDIANA 46637 FROM "R" RESIDENTIAL (SINGLE FAMILY) TO "C" COMMERCIAL PETITIONER: JTRL PROPERTY, INC., SOUTH BEND, IN
Assigned to the Land Use Planning Committee

Resolution:

Salary Amendments:

BILL NO. 33-14: AN ORDINANCE AMENDING ORDINANCE 58-13, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2014 DEPT. 0055 HEALTH Assigned to the Human Services/Criminal Justice

Mr. Hamann reported that Bill No. 33-14 comes with a favorable recommendation.

Nick Molchan, Administrator, St. Joseph County Health Department, this salary amendment is brought by health department in order to allow for better administration of our nursing division. In order to deal with changing regulations that have developed in the last year, year and a half, prior to early two thousand eleven our department had multiple assistant directors of nursing that allowed us more managerial staff to deal with those types of issues. At that time it was decided by the nursing division that might operate better by switching once staff position to a public health nurse and only having one assistant director of nursing. Since then we've had to deal with multiple state and federal regulation changes and bring more managerial time involvement needs so therefore we are asking to change this from the present of nine nurses and one assistant director of nursing to eight nurses and two assistant directors of nursing. We have submitted our two thousand and fifteen budget based on that type of set up.

Mr. O'Brien: I just want to make sure I understand, we are not adding any new employees we are just reclassifying, we had ten before and we are still going to have ten.

Nick Molchan: We are still going to have ten, we have an open position in one PhN so we will not have to eliminate an actual person, it will have, go to an eight on position and then we will post and advertise for that open position.

Motion to pass Bill No. 33-14 was made by Mr. Noland and seconded by Mr. Herbster. Bill No. 33-14 was passed to-wit; 8-0.

BILL NO. 34-14: AN ORDINANCE AMENDING ORDINANCE 58-13, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2014 DEPT. 0025 JUVENILE JUSTICE CENTER

Mr. Hamann reported that Bill No. 34-14 comes with a no recommendation.

Pete Morgan, Executive Director at the St. Joseph Probate Court and Juvenile Justice Center, we were not present at the committee meeting which led to the no recommendation, the reason we are seeking the salary amendment is simply that, when we submitted our budget, we did not accurately calculate the state mandated increase for certain probation officers salaries.

Motion to pass Bill No. 34-14 was made by Mr. Noland and seconded by Mrs. Hess. Bill No. 34-14 was passed to-wit; 8-0.

Public Hearing/Public Comment:

BILL NO. 30-14: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY GOVERNMENT

TRANSFERS:

A. Prosecutors Office
General Fund

FROM: 1000-11070-000-0018 Chief Deputy \$ 47,453.00
TO: 1000-11101-000-0018 Deputy 47,453.00

TOTAL: \$ 47,453.00

Mr. Morton: The vote will be for all items except the Project Income seven ninety five location which reflects a total of one million, three hundred seventy four thousand and five hundred and ninety two dollars which will be tabled at the request of the petitioner.

APPROPRIATIONS:

B. Commissioners
Cum Cap

1138-45010-000-0002	Autos	\$ 60,000.00
1138-45510-000-0002	Furniture & Fixtures	85,000.00
1138-44311-000-0002	Emergency Equipment	25,000.00
1138-44605-000-0002	County Police Equipment	110,000.00
	<u>TOTAL: \$ 280,000.00</u>	

C. Commissioners
C.E.D.I.T.

7312-22010-000-0034	Gas, Oil & Lubricants	\$ 500,000.00
7312-31070-000-0034	Other Contractual Services	1,315,000.00
7312-36010-000-0034	Repair Buildings & Structures	80,000.00
7312-39215-000-0034	Economic Development	100,000.00
7312-39450-000-0034	Environmental Control	75,000.00
7312-42010-000-0034	Buildings & Structures	2,500,000.00
7312-43201-000-0034	Road Projects	2,725,000.00
7312-44010-000-0034	Equipment (Chillers)	600,000.00
7312-44011-000-0034	Highway Equipment	300,000.00
7312-44606-000-0034	Emergency Dispatch (Radios)	1,100,000.00
7312-90001-000-0034	Jackson Road Landfill	40,000.00
7312-90002-000-0034	Grade Separation – Mishawaka	500,000.00
7312-90012-000-0034	Highway Materials	850,000.00
	<u>TOTAL: \$ 10,685,000.00</u>	

D. Commissioners
Indiana State Grant

9107-36015-000-0034	Contractual Services	\$ 2,000.00
	<u>TOTAL: \$ 2,000.00</u>	

E. County Surveyor
Section Corner Fund

1202-31070-000-0023	Other Contractual Services	\$ 20,000.00
	<u>TOTAL: \$ 20,000.00</u>	

F. Adult Probation
Alcohol Drug Testing Fund

4910-31215-000-0024	Drug Test/Lab Supplies	\$ 12,844.15
	<u>TOTAL: \$ 12,844.15</u>	

G. Juvenile Justice Center
Juvenile Community Corrections Grant

9114-11217-015-0797	Home Detention Case Manager	\$ 66,232.00
9114-11334-015-0797	Controller	3,672.00

9114-11646-015-0797	Secretary/Program Support Spec.	28,904.00
9114-11950-015-0797	Part Time	0.00
9114-11967-015-0797	Day Reporting Caseworker	102,685.00
9114-14800-015-0797	FICA	15,415.00
9114-14810-015-0797	PERF	19,143.00
9114-14840-015-0797	Insurance	4,788.00
9114-22417-015-0797	General Supplies	1,000.00
9114-32020-015-0797	Travel	6,500.00
9114-32505-015-0797	Instruction & Training	5,000.00
9114-32208-015-0797	Telephone & Beepers	850.00
9114-36015-015-0797	Contractual Services	24,582.00

TOTAL: \$ 278,771.00

Juvenile Justice Center
IDOC Community Corrections Project Income

9114-14840-015-0798	Insurance	\$ 79,970.00
9114-32020-015-0798	Travel	8,345.00
9114-32050-015-0798	Instruction & Training	19,000.00
9114-32053-015-0798	Public Relations	10,000.00
9114-39750-015-0798	Data Processing	5 00.00
9114-44600-015-0798	Special Equipment	2,000.00
9114-45500-015-0798	Furniture & Fixtures	500.00

TOTAL: \$ 120,315.00

GRAND TOTAL: \$ 399,086.00

H. DuComb Center

9114-11009-000-0080	Director	\$ 55,000.00
9114-11032-000-0080	Executive Administrator, CCAB	45,000.00
9114-11077-000-0080	Executive Administrator Assistant	27,500.00
9114-11211-000-0080	Financial Coordinator	38,000.00
9114-11706-000-0080	Director of Kitchen Services	37,250.00
9114-11216-000-0080	Case Manager (WR)	57,000.00
9114-11217-000-0080	Case Manager (HD)	86,530.00
9114-11291-000-0080	Client Service Coordinator (RD)	38,835.00
9114-11370-000-0080	Detention Officers	469,540.00
9114-11405-000-0080	Receptionist	24,700.00
9114-11601-000-0080	Program Manager/Supervisor	45,000.00
9114-11800-000-0080	Director of Security	45,000.00
9114-11959-000-0080	Maintenance	32,000.00
9114-11967-000-0080	Case Manager (DR)	28,400.00
9114-11571-000-0080	Overtime/Other Compensation	4,185.00

TOTAL: \$ 1,033,940.00

9114-14800-000-0080	FICA	76,767.00
9114-14810-000-0080	PERF	54,944.00
9114-14840-000-0080	Group Insurance	130,556.00

TOTAL: \$ 262,267.00

9114-21030-000-0080	Office Supplies	\$ 4,500.00
9114-22120-000-0080	Garage & Motor Supplies	1,000.00
9114-22215-000-0080	Drug Testing Supplies	5,500.00
9114-24100-000-0080	Food	85,000.00
9114-24110-000-0080	Wearing Apparel	10,500.00

TOTAL: \$ 106,500.00

9114-31015-000-0080	Professional Services	\$ 6,600.00
9114-32020-000-0080	Travel & Training	9,000.00
9114-32200-000-0080	Telephone & Telegraph	1,000.00
9114-32350-000-0080	Postage	2,250.00
9114-33100-000-0080	Printing	750.00
9114-34030-000-0080	Insurance	250.00
9114-35015-000-0080	Utilities	5,000.00
9114-36050-000-0080	Equipment & Leasing	5,652.00
9114-39010-000-0080	Dues & Subscriptions	1,000.00

TOTAL: \$ 31,502.00

TOTAL: \$ 1,434,209.00

DuComb Center

9114-11009-000-0795	Director	\$ 1,650.00
9114-11032-000-0795	Executive Administrator, CCAB	1,500.00
9114-11077-000-0795	Executive Administrator Assistant	2,500.00
9114-11211-000-0795	Financial Coordinator	1,140.00
9114-11706-000-0795	Director of Kitchen Services	1,320.00
9114-11717-000-0795	Dietary Aide	11,050.00
9114-11216-000-0795	Case Manager (WR)	5,280.00
9114-11217-000-0795	Case Manager (HD)	35,696.00
9114-11967-000-0795	Case Manager (DR)	1,000.00
9114-11959-000-0795	Maintenance Tech	30,000.00
9114-11716-000-0795	Cooks	52,650.00
9114-11950-000-0795	Part Time Officers	131,600.00
9114-11291-000-0795	Client Service Coordinator (RD)	1,165.00
9114-11370-000-0795	Detention Officers	282,800.00
9114-11405-000-0795	Receptionist	0.00
9114-11601-000-0795	Program Manager/Supervisor	1,350.00
9114-11800-000-0795	Director of Security	1,350.00
9114-11571-000-0795	Overtime/Other Compensation	60,932.00

TOTAL: \$ 622,983.00

9114-14800-000-0795	FICA	\$ 55,076.00
9114-14810-000-0795	PERF	157,452.00
9114-14840-000-0795	Group Insurance	93,000.00

TOTAL: \$ 305,528.00

GRAND TOTAL: \$ 928,511.00

9114-31030-000-0795	Supplies	\$ 2,000.00
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9114-22120-000-0795	Garage & Motor Supplies	27,200.00
9114-22215-000-0795	Drug Testing Supplies	12,000.00
9114-22200-000-0795	Household Supplies	5,000.00

TOTAL: \$ 46,200.00

9114-31015-000-0795	Professional Services	\$ 10,000.00
9114-31070-000-0795	Contractual Services	82,200.00
9114-32020-000-0795	Travel & Training	13,000.00
9114-32200-000-0795	Telephones	7,400.00
9114-32203-000-0795	Cellular Telephones	6,900.00
9114-33100-000-0795	Printing	1,250.00
9114-34030-000-0795	Insurance	1,250.00
9114-35015-000-0795	Utilities	53,600.00
9114-36011-000-0795	Repair & Maintenance	3,500.00
9114-36050-000-0795	Equipment Leasing	14,561.00

TOTAL: \$ 193,661.00

9114-44250-000-0795	Office Equipment	\$ 1,000.00
9114-44438-000-0795	Security Equipment	5,000.00
9114-44600-000-0795	Other Equipment	5,000.00
9114-45520-000-0795	Date Equipment	2,500.00
9114-45521-000-0795	Home Monitoring Equipment	25,000.00

TOTAL: \$ 38,500.00

GRAND TOTAL: \$ 1,374,592.00

DuComb Center

9115-11219-000-0080	Case Manager	\$ 31,200.00
9115-14800-000-0080	FICA	2,387.00
9115-14810-000-0080	PERF	3,432.00
9115-14840-000-0080	Group Insurance	4,224.00

TOTAL: \$ 41,243.00

9115-11219-000-0795	Case Manager	\$ 31,200.00
9115-14800-000-0795	FICA	2,387.00
9115-14810-000-0795	PERF	3,432.00
9115-14840-000-0795	Group Insurance	4,224.00

TOTAL: \$ 41,243.00

Motion to pass Bill No. 38-14 was made by Mr. Herbster and seconded by Mr. Noland. Bill No. 38-14 was passed to-wit; 8-0.

Public Hearing/Miscellaneous Matters:

Public Hearing/Land Use Planning:

BILL NO. 22-14: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE XV, LAND USAGE, CHAPTER 154, PLANNED AND ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, FOR PROPERTY LOCATED AT 15316 STATE ROAD 23, GRANGER, IN FROM R SINGLE FAMILY DISTRICT TO OB OFFICE BUFFER DISTRICT PETITIONER: LARRY M & CHRISTINE A COLE
Assigned to the Land Use Planning Committee

Mr. Noland reported that Bill No. 22-14 comes with a favorable recommendation.

Angela Smith, Area Plan Commissioner, petitioner is seeking to rezone from R Residential District to OB Office Buffer for an office at a site located at State Road 23, here you can see the areal view of the property. The petition is proposing to reuse the existing residential structure as an office. With along with reusing the structure as an office he will be installing the appropriate parking that is required and installing the required landscaping and buffering per the St. Joseph County zoning ordinance. The surrounding properties are all R single family residential. This comes to you from the Area Plan Commission with a favorable recommendation.

Larry Cole, 15234 Grand Vista, Granger, we are petitioning we rezone 15316 State Road 23 from Residential to Office Buffer. This is the second time I have petitioned this, most of you may recall last year Area Plan did send and unfavorable recommendation. However, the County Council still voted 8-1 to proceed with it at the following meeting. Unfortunately, the public hearing ended up 5-4 against only after remonstrations from St. Pius and one of the Area Plan Commission members. I am here again, now we have a favorable recommendation from the Area Plan Commission with a vote of 11-1. A vote two weeks ago from this council of 7-1 in favor. At the first petition, I brought signed letters from seven of the ten neighbors saying their not objectionable to having it zoned office buffer and at the previous meetings I use maps showing Office Buffer along State Road 23, between multiple residences but not adjacent to office or commercial in either direction. Most of this was on a stretch of 23 between the mall and Ironwood. I tried to take pictures but I couldn't park because it's only five lanes. I showed spot zoning in multiple areas near here and most of those were instances of zoning as far or farther away than my property is from the commercial approaching on the west. I propose by making my property Office Buffer it will be just that, a buffer to St. Pius property, east of us, so those two houses to the right of that red box is residential and I will buffer them from commercial coming in from them from the west. Regarding the nature this section of State Road 23, it was considered in the past to be residential in nature and that's why last year I got an unfavorable recommendation. For the last year since then, I've tried sell as residential, I've reduced the price below what it should be, what it should sell for elsewhere, nearly every looker has rejected it because of the location sighting the busy road and commercial nature or the lookers just assumed it was already commercial. I thought I would make a point, I didn't bring this up before but just the fact that this has a center lane four driving lanes and two additional deceleration lanes, shows us the Department of Transportation anticipated and prepared for this being more than just residential nature. I hope I have made it obvious that it's really time to address this, the business nature of this road, and then please consider the reasons for the remonstrations from others here. At the Area Plan Commission meeting, one remonstrator, I can almost quote this but I didn't get it exact but, they made it clear they wanted this property to square off their campus and one of the Area Plan Commissioners remarked it sounds like St. Pius is just talking business what's this got to do with rezoning? I think St. Pius is a big in this, and I'm not sure of the issue of this being rezoned commercial nature is really related to them based on what we have going on there. This will be Office Buffer if you vote favorable for this, it can never be anything else but what is allowed in the Office Buffer district. That being limited office types. Before absolutely any other based zoning can take place such as office, commercial, retail or business the owner will have to go through this exact same process again. This will be a buffer. I would ask that it doesn't get stopped for fear something else later on may be more aggressive than Office Buffer is now. I have a letter from a neighbor who handed me a letter on the way here, do I have time to read a short letter? To whom it may concern, as a long term resident of this neighborhood, this is on Santa Monica, forty years, I have no objections or concerns regarding safety

or traffic concerns that could possibly be created by the proposed business of Mr. Larry Cole. The current traffic and safety issues created by the church into our small neighborhood are a far greater risk to our residents and their children than any safety issues that could occur from a small business access several lots away from the church property. I would hope the council would take this into consideration. Mrs. Zinette Conston, 15119 Grand Vista Drive Granger, Indiana.

Mr. O'Brien: Mr. Cole, you referenced nearly every looker decided not to purchase or decided to offer, make an offer on the property.

Larry Cole: Yes. I do have one standing offer, I lowered, I mentioned at the last meeting, I finally had the price at one thirty nine nine, I got an offer of a hundred, eighteen and I am kind of desperate right now, I'm trying to pay the tax's, I'm not able to use the building for anything so it's sitting there empty. Out of desperation, I told her she could have it for a hundred twenty five. That didn't go.

Mr. O'Brien: When did you purchase the property?

Larry Cole: It will be three years this coming November.

Mr. O'Brien: It was residential when you bought it, right?

Larry Cole: Yes.

Mr. O'Brien: So you knew it was residential when you bought it.

Larry Cole: Yes.

Mr. O'Brien: How much did you pay for it?

Larry Cole: One hundred thousand dollars.

Mr. O'Brien: Am I correct that you have already sold the back three acres of the property for ninety thousand?

Larry Cole: Yes.

Mr. O'Brien: So you paid a hundred, got ninety and your concern that you are not able to sell enough right now?

Larry Cole: Well, I'm not going have, someone sell a bar gold because they are friends of mine and they prayed about it thought that they'd sell it to me for one third the cost of what's it's worth....

Mr. O'Brien: Oh I understand that.

Larry Cole: And then turn around and sell it for what they sold it to me. They prayed about it after six weeks, they deliberated and prayed and said I think God wants you to have this property. I don't have to give it away now.

Mr. O'Brien: Perhaps God does want you to have the property, I understand that, you're suggesting that there is economic problems or economic motivation and you are trying to get the property rezoned and you referenced that you didn't want give it away, it sounds to me like you have already recovered significant amount of the purchase price.

Larry Cole: I've got many thousands of dollars in cleaning it and rehabbing it. New roof, new paint, I've just....

Mr. O'Brien: In addition to the letter you just read today, a letter, do you have any other letters in support this time? Not last time, this time.

Larry Cole: No.

Mr. O'Brien: And you referenced at the committee meetings of various spot zonings in and around the Granger area, do you remember that presentation?

Larry Cole: Yes.

Mr. O'Brien: And you identified six or seven properties where there is office or Office Buffer surrounded by residential properties.

Larry Cole: Yes.

Mr. O'Brien: Did you happen to check and see if there were objections or remonstrance's at those rezonings?

Larry Cole: No.

Mr. O'Brien: That's all the questions I have.

Linda Grubbs, 15408 State Road 23, I'm just two properties west of Mr. Cole's property, I'm agreeing with it due to the fact that I've had my property up for sale currently, I am struggling, I've got it both residential and potential commercial or O Office Buffer and I'm struggling, I've gotten nothing for a residential, I've have several, people that are interested with office information of making that more of a business area. We do have west of us, we do have two businesses, we have a little strip mall going in at the corner by Arbor Wood as well as we also have Artistic Touch beauty shop across the street. So there is kind of a spot zoning that's already happened, so I am just here to say that I agree with that because of trying to move, not just for the value of the money but just to be able to sell the property now, currently, with the 23 that has now been widened it's getting more commercial, I'm very busy in that area, that's my only concern is, I think we need to change it and kind of re look at this area just from Gumwood to Fir Road is my concern at this time.

Gary Cole, 10501 Martindale Road, Wakarusa, I also have a real estate license and real estate broker's license and I have associated my license with Larry for his business so I work for Larry as a realtor only in a referral capacity though. So I have an interest in this piece of property becoming a small office so we can have a real estate office there and my daughter may be interested in working with us. I know he struggled with it because as much as he's put in renovations and not being able to use it for office, he's not been able to realize anything from it, it's a bit a financial hardship on him. The property there is adjacent to a seven lane highway, it has sixteen thousand cars per day, that's the INDOT average traffic count for that area. The church being just seven hundred feet away, they are planning a twenty million dollar church expansion, they have ten thousand parishioners, seventy five employees, and students that go to church there, school there, activities there. There's many, many cars there, particular with seventy five employees. I am not sure if they are all full time or not but even if they are part time, they have to get there and back. We are talking about two or three employees for a small real estate that has no walk in traffic. I am not sure why anybody would be against it, it's simple little business and in order for it to be anything other than that, it has to go before you again for further approval. That little two or three cars that would be coming in and out of that house is probably less than a resident, a typical resident would have. And then when you compare it with tens of thousands of cars coming into the church and seventy five employees, that church is zoned residential also but it has seventy five employees so it's kind of a mega church with multiple employees and it would just over shadow the two or three cars that would be coming in and out of this little office and that many cars for the big operation is kind of unsafe for traveling public as you can see when you see the traffic control it takes to get all those people in and out. We are not asking for much and I don't understand why the behemoth next door would be opposed to the two or three little cars going into that resident to be used as a real estate office. I think it's eventually going to be changed to commercial anyway.

Andrew Piper, 15005 Grande Vista Drive, Granger, this is the corner of Fir and Grand Vista, where I live. I have been there thirty years. If anyone knows what goes on in that neighborhood it's going to be me. I've been self employed, operated a small private business out of my home there for twenty five years. Never had a sign out. Really Mr. Cole, you asked if he had another letter, I'm that letter. Mr. Cole has been in our neighborhood for all those years that I've been there, he's always improved the whole neighborhood with his help, he snow plows us in the winter time if we need, he cuts brush, he hauls things for us, he's got tractors, he's cleared areas, including across the street from my place. It's just been one thing after another, Mr. Cole's has done nothing but improve our area and since he's taken on this project with the hopes of turning into a real estate office himself, he isn't looking to sell it, he wants he wants to put in a real estate office for himself there. That will be a beautiful buffer but when they first got that, that was an over grown jungle, there was a house there, yes and he finally cleared that so he could see it, he's done nothing but improve that property and he will continue to improve it. I have utmost faith in Mr. Cole, is forthright and upright and what he's intending to do there, I have no doubts. He's been my neighbor there for thirty years. He's a great man and I put all my faith in him. That is all I have to say except the fact I want to reiterate just a little bit about our Catholic church friends in our neighborhood. All they have done is increase the commercial pressure and traffic and presence in our neighborhood, you'd have to live there to see it. The addition to athletic fields, the addition of the new church coming, the addition of the rectory, we have parking lots, we've had five of our homes in our little bitty circle have been

purchased by the church, three of them that have been raised and one of them is being used as a church function of some sort and one of them is a day care. They have actually brought in a day care in our little street. And there are cars going in and out of there all the time. I cannot understand, I have been at the last meeting and they brought up this problem of pressure of the traffic and things like that. There is no pressure from what he is proposing. It's only pressure, there has to be an alternative motive somewhere, I don't know what it is, but there has to be for this negative pressure.

Michael Urbanski, 11797 Old Oak Drive, Granger, speaking on behalf of St. Pius of which I am on a pastoral council at the church. Just to clarify a couple of things, the day care center is solely for the use of teachers. The number of seventy five total employees including the teachers, with eight grades, there's two grades in each and with helpers in all, we are lucky to come to forty, I'm sorry I would have brought that number along with me. I was the one that said that Cole property would square off our campus. Right behind it is being cleared out now, the three acres that we spent ninety thousand dollars for two years ago. It would square it out. Our concern is the fact that having something as Office Buffer or any type of commercial with kids playing behind, the soccer fields are behind the baseball diamond is behind and another softball, either softball or baseball's going to be when we finish cleaning out the woods on the ninety thousand dollar three acres we had. We have a commitment from the two other individuals on Fir Road of us purchasing it, we purchase land for the one neighbor on the corner, Gloria wants to live out her life there which we agreed to, she sold her back half of her property of which the rectory is going, we are building a new rectory due to the fact that the church is going on the rectory property, I mean the church is going to go where the rectory stood at the present time. About a buyer, I was in Mr. Cole's office in March of this year with two individuals looking to buy it, walking through it. As we are going in, there was one lady going out, Mr. Cole does have a desk, Mr. Cole has all office equipment in there, I have been in business, I have been in real estate, home construction and it was a functional office, ok. Since April, and I am sorry I don't have the exact date, I think Mr. O'Brien, I gave him a copy of a purchaser agreement that Mr. Cole made out from a doctor from Memorial Hospital and his wife who is a doctor at United Hospital, they wanted to buy this place since March, she was the lady that came out of the house, she contacted Father Bill and said you know, she recognized me from there and was just was wondering, her parents are from Wisconsin, they live in Florida and they want to move up there to take care of the kids, which they have three children there. The offer was made by Mr. Cole, for the price, it was a cash offer, why it wasn't taken, I'm in real estate and there was no expiration date when the offer was to be done, the dr. contacted him as late as noon or early afternoon last Monday to purchase it as a cash offer. He pulled, he said he pulled it off which I'm not disagreeing with him two months, I think he said over two months ago, but it's got to be about two weeks ago when it left the County Council with the approval, County Council board. The main reason St. Pius is concerned about it is having children in a back, that's where the playground is, having kids say kindergarten say through eighth grade outside, we provide a place, I mean, every day you drive by there, there's kids out there playing. About the traffic.....when school lets out, we have a county police officer that we pay to direct traffic on 23 and Santa Monica. Every Sunday for the mass's we have another police officer, he happens to be a Mishawaka, special crime, so we have police traffic, let traffic out both times. One last thing, most of the traffic leaving Santa Monica goes out to 23. There are very few that go back south all the way, south. I hope you consider voting this down for the sake of the kids, St. Pius and the community.

Douglas Merritt, I own property in Mishawaka, I also represent my grandparents who live at 15362 State Road 23. They have just shy of six acres and their property directly abuts Mr. Cole's office that is for sale, the subject property. So I am imploring you that our position is important as the adjacent property owner. My grandparents are elderly, my grandfather suffers from dementia, they have a life in caretaker which is my cousin, they are not able to attend so I am that representative speaking on their behalf. My family has owned the property directly adjacent to this property since nineteen sixty seven. I basically was raised on the property and while I am a St. Pius parishioner, my child do attend St. Pius, my son does play on the soccer fields directly behind this property, I have watched all the changes in my short lifetime, I have watched the changes along State Road 23, I've watched INDOT take my family homestead that was built in eighteen eighty five and was demolished by a bulldozer, so with that being said, we have seen a lot of changes, we've seen the progress, we've also seen Mishawaka has presented us with a U shaped annexation around the area. I think that if you look at the zoning map, it's evident and very clear this a heavy residential area, regardless of what roadway was put in for future expansion by the state. We are just not at the time yet that a property that is centered around residential should be zoned anything but residential. Mr. Cole only owns one point two six acres for this specific property, he owns other properties in what I consider the triangle of old Cleveland, Fir Road and State Road 23, now I'm a firm believer he should be able to capitalize on his investment, I fully appreciate that, he's been a long lifetime resident in the area as my family has as well. We may just differ on opinions, but that's the beauty of public policy, that we can have opposing opinions, but more importantly, while my grandparents are still alive and enjoying their twilight years, our kitchen, specifically at our house directly faces this residence. The property is bound by residential, it's not bound by any other zoning classification other than residential and that as that Heritage, Harbor Wood, as time goes on, yes we fully appreciate the fact that Mishawaka may engulf State Road 23 up to Capitol, we understand that, in time that will but allow the properties that are on hard corners to be transitioned appropriately over

to those lesser intensive uses that are Office Buffer and let those progress on a natural course, not in the middle of a road way that's not on a corner. I appreciate your time. I would also like to point out several letters from other neighbors were introduced as late as this afternoon to Council, several members including Christian Davey who could not attend this evening, he did submit a letter, I hope that is brought into the minutes, the Bailey family. Just in closing, I hosted a neighborhood meeting at St. Pius last night, St. Pius was gracious enough to open up their facility to all the property owners that are impacted by this petition. We had a wonderful turn out, Larry Magliozzi attended, Mark Lyons and everyone got along. Everyone had an opportunity to ask our county officials how does this petition impact the property owners. I must say, I thought the spirit of the meeting and the intent as a neighborhood meeting was outstanding. Mr. O'Brien was in attendance, members of St. Pius council were in attendance. I just think that you can have an effective and positive growth as long as it's smart growth and I think rezoning a property in the middle of State Road 23 surrounded by residential is not smart growth.

Laura Bailey, I am here to represent Kevin Bailey co-owner of 15504 and his mother Ingabord Bailey, owner of 15462 that are adjacent properties equaling ten acres, because of my voice quality I feel like it might be better if I can just hand you the letter that Kevin drafted this afternoon.

A pause was had to read the letter.

Sam Doyle, 10103 Hunters Crossing Drive, I am a parishioner at St. Pius. My only concern is safety of the children. If it's a residential property, you know who lives there, you know who should be around the property. If there is a commercial property there we don't know who's around the property, we don't know who's parking in the back, we don't know what the heck is going on and I would just be concerned about the safety of the children.

Tom Ahearn, 14476 Northhampton Drive, Granger, I am the president of the St. Pius Parish Council, there's not much I can add to what the parish members have said already, we of course are very concerned about the playing fields for the children and any property that would abut that, I would like to add also that the most recent property purchased on Santa Monica as part of the expansion of the parish facility is paid above market value and the whole purpose of the construction of everything going on right there is to simplify things and make traffic less intrusive to the neighborhood and surrounding area. When I say less intrusive I mean fewer times. Again, we respectfully request you reject said petition.

John DeLee, 15600 Winding Brook Mishawaka, I wanted to speak in terms of planning and how zoning should be administered especially this property is going to be spot zoned, you have eleven homes together that are residential and one of them on the far end is asking to be rezoned office buffer. In this area we have busy highways, all those roads route of residential properties, everyone of them. If all of the sudden if one person in the group decides if he wants to go Office Buffer or some how increase the value of his property, he can come in and rezone it, he has that right, in the past we have always been very pro to those who have some sort of real problem and need to be rezoned and he will get it. In this case we have not heard any difficult. This is not a bad residential property, some day is going to be all commercial, maybe, most of the residential areas are buffered maybe from a filling station or a gas station on one side by office zoning like we are talking about here. I just recommend you vote for this unfavorably.

Eric King, 12066 Balsom Circle, Granger, my family have been parishioners at St. Pius for a little over fifteen years, what concerns me about this as others have said, but I do worry about the safety for our children. You heard Larry Cole say part of this reasoning of wanting to get this rezoned is to maybe recoup his, to make some sort of profit on his investment, which I understand but, by rezoning it, he's saying he would like to possibly sell it for additional money, he's had offers for the property, I don't think they were unusually low offers and going back to what I said about uncertainty, you heard by his brother, down the road you, said several times, made reference to two or three cars going in and out and wanting to use it as an office for their business. On one hand you heard Mr. Cole, the owner of the property say that he's hoping to increase the value of it so he can sell it and the brother says you are not going to see cars coming in and out you will see maybe two or three because we already have an intention for the property, what our intent is turn it into a real estate office and have two or three cars in and out all day. My concern is not so much if that were the case of that maybe wouldn't be a bad thing but we don't know if that's their actual intention, we don't know what's going to rezoned what's going to end up happening to it, the other thing there was a statement made by Larry Cole that struck me, the road has been wide and it was their intent for this area to grow. I don't think we can speak to, or I can't or he can't speak to everyone's intent on growing this, I think their intent was to move traffic. We had issues where traffic was backed up. Those are my concerns. I ask you seriously deny this request.

Tim McTigue, 15668 Emberg, Mishawaka, I am also a parishioner and a member of the finance committee and just wanted to speak in opposition of this, I have called a couple members in regards to this and expressed my opinion and since I have been with St. Pius we have made a significant investment in the neighborhood, we have invested about

eight hundred thousand to pull up all of the sewer lines so we could put the school in, the school was about another thirteen million dollar investment and on top of that we are looking into building a new church which will be an additional twenty million dollar investment into the community. We see this as something that is detrimental to St. Pius in the way that we want to continue to grow. I just wanted to express that opinion.

Larry Cole, I've spent about just five thousand dollars just renting equipment just to clear that property, the neighbor to the west, the Merritt's have even extended their appreciation to me because I've cleaned and asked me if there are a few more trees to take out and I will when I can. I am out of money for renting excavators, backhoes and bob cats and chippers. I never once said I want to increase the value, I said I don't want to sell it cheap because I got cheaper. I'm not intending to increase the value by doing this, I'm intending to use this as my office. If I can't use this as my office I have to rent an office, I have to pay six or seven hundred dollars a month to have an office of the same size, probably twelve hundred dollars a month to have the same size square footage in an office and I would like to have an office, I started a brokerage, it looks like it could be successful and I am getting tired of fixing furnaces, so I am not doing this to increase the value to sell it. On top of that they just talked about St. Pius investing eight million here, thirty two million here, twenty five million here, I'm thinking for the safety of the kids, they can put up a twenty five hundred dollar fence on the back of the property, I'm going to do extensive and expensive landscaping and I will promise St. Pius I won't put rose bushes up so that there won't be any safety issues if the kids come across the fence. I have no intentions but use that as a real estate office and try to make a living doing this. I have been a service man, I own heating/air company, I work my butt off and I'm tired of getting on my knees to fix furnaces and I like real estate and it's a perfect place for it. I think the kids running across, going across the street on Santa Monica, I stop maybe twice a day because kids are crossing Santa Monica to get to the play area, I think that's equally or more unsafe than rose bushes in my back yard. I humbly request that you consider this, we have big business trying to stop this for some reason, I was gracious to, I sent them a letter and said you know what, I see that you have a land lock campus, I need the money, I will sell you those three acres, if I would have kept it at four and a half acres, it would be worth a whole lot more, I can't do this, I can't continue this, I'm trying to get this business going, those are my intentions. I took this off the market the day Area Plan gave me a favorable recommendation. I've had six realtors since then, it's like something's up, including the person who did make that hundred twenty thousand dollar offer and said our offer still stands, I said this is not on the market, I took it off because I would like use it for my office. There is a desk, a copier, my bag stinks from sitting on that floor in that office, I'm not in there using that office. There is no internet, there's no phone. I will put a fence up if it's that critical.

Mr. O'Brien: I have a lot of concerns about this, I am going to oppose it and I asked my colleagues to give some serious consideration to opposing it. This is effectively spot zoning with a lot of opposition, it's not a matter of spot zoning like the dental office we did not too far from this property around the corner from Fir Road, where no one opposed it, in fact, it seemed very supportive and enthusiastic. It seems to me it's very important to consider if we are doing something like this, what do the neighbors think and particularly the adjacent neighbors, which Mr. Merritt pointed out his grandparents who live right next door, are opposed, I have been contacted many folks by St. Pius and also in the area, they seemed to be unanimously in opposition, this is a matter that came to us about six or seven months ago and it was rejected. I see nothing new in Mr. Cole's petition, he still seeks Office Buffer, it's smack in the middle of residential, each of the council folks have a big map on our wall with color coding and the yellow that we see on the screen, there is even a lot more yellow if we draw back further, this is in a residential area. The road is wide but road is busy because there are a lot of people that live in Granger now. I think there is some confusion, perhaps, some level of ingenuity, the suggest the property couldn't be sold when in fact there have been offers, sound like reasonable offers on the property and as Mr. DeLee and as Mr. Merritt suggested, to the extent there is going to rezoning in this area it should proceed with a natural course or if there is going to be a change in the overall master plan, but there isn't yet. I would note that I have received no one, I have received contact from no one supporting this, no direct contact. I have heard of obviously, Mr. Cole and the folks here today, but I have no fewer than twenty phone calls, emails, people stopping me saying hey, I want you to oppose this, I am very concerned about this and I am going to vote against it.

Mr. Hamann: I too will oppose it. I opposed it initially six or seven months ago is the reason I did was due to the large part of the very compelling arguments Mr. DeLee made, that just because you have a busy street doesn't mean commercial. You have areas in the county where you have these busy roads and you have the residential pockets and that, I'm all for business, I've even supported spot zoning, I've even gone against Area Plan's recommendations when they said they didn't want something. This one doesn't make sense to me to vote for this, not only on the merits of the argument of Mr. DeLee but also because of the opposition on behalf of not only the parish but the surrounding properties. A lot of these you get a mix, this is pretty, people are very strongly opposed to this, I also have gotten numerous emails and phone calls to oppose this. I opposed this before and I will oppose it again.

Mr. Noland: Been through several of these one neighbor wants to do a rezoning and another neighbor is opposed to it and as it grows, it's always troubling to see where the neighbors start biting at each others heals a little bit so I hope no matter which way this turns out that those things can be resolved. I wanted to say that first. It was mentioned that there was a neighborhood meeting and just to anybody who may be involved in one of these in the future, I wish that you would invite all of the members of the Council, not necessarily just the people on your side because I would have very much like to have attended that and you would have had the opportunity to give me more than three minutes of your thoughts. I have struggled with this myself as far as I believe, if this doesn't end up belonging to the church, Office Buffer is probably the best use of this because it's going to buffer commercial however so many things in life come down to the timing and my concern is it may just not be the right time for that yet. I did want to say to Mr. Cole, I would like to apologize on behalf of the Council, I do not think it's not appropriate that you're asked about your financial matters in a public meeting like this, I am sorry that happened, but I do intend to oppose this.

Motion to pass Bill No. 23-14 was made by Mr. McCahill and seconded by Mr. Noalnd. Bill No. 23-14 was passed to-wit; 5-3. Against: Mr. Hamann, Mr. Noland and Mr. O'Brien.

BILL NO. 25-14: 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 14133, 14151, 14159, AND 14165 DRAGOON TRAIL AND STATE ROAD 331 FROM R RESIDENTIAL DISTRICT TO C COMMERCIAL DISTRICT
PETITIONER: MICHAEL R AND JANICE G COFFMAN
Assigned to the Land Use Planning Committee

Mr. Noland reported that Bill No. 25-14 comes without a recommendation.

Angela Smith, Area Plan Commission, the petition is seeking to rezone from R Single Family district to C Commercial. There are four existing buildings on the site. This is four point six acres. There are three commercial building and a single family home. At this time the commercial buildings are legal non conforming, if the property were to be rezoned, the home would be legal non conforming. As legal non conforming, they can improve the property, they simply cannot expand the commercial uses and make them more intense. The intent of legal non conforming is over time for those uses to sort of phase out or come into conformance with the residential zoning that is on this property. This comes to you with an unfavorable recommendation; the area has long been established as a residential area. Both the comprehensive and Capital Avenue Plan have identified to remain residential, both of those plans have gone through this commission, they believe the commercial on 331 should be limited to, along 12th street, where there is water available, and then a more office capacity along 331 and further north of 12th street as well. Capital Avenue does not allow access to this property so all access would come from Dragoon Trail, rezoning would only conflict the two plans in place but it would a precedence that anything within the commercial district would be allowed to go on this property so you can see anything from a gas station to a major pharmacy or any other commercial use which would conflict with surrounding area.

Ed Fisher, I am here representing Mike and Janice Coffman in their petition to rezone. This property was rezoned residential in nineteen sixty one when the rest of the property was zoned residential. Prior to that and as long ago as the nineteen forties, this was commercial in use. There was a car dealership there, it has remained commercial in use for the last sixty some years. When it was blanket zoned, State Road 331 was not there. The zoning was not there. When 331 came through, it basically ruined this property for residential uses. No one will build a house next to 331. The Coffmans have maintained the property as well as they can, they can't do anything with it. I would point out at the Area Plan there was no remonstrance. I think you should take into consideration no one is here to speak against this.

Michael Coffman, I am said owner of said property, I am Osceola business man. I have these buildings also rented. One of the tenants needs a commercial zoning, is the reason I am here to be licensed by the State of Indiana. I called Mark Lyons and asked him what needed to be done and he recommended to seek rezoning. I have had this property for fourteen years, it was a distress property, it had contamination, I cleaned it up, I spent twenty five thousand dollars cleaning it up, then 9-11 happened. My intentions were to flip the property at that time. After 9-11 happened, I couldn't sell it. The recession happened. I am here trying to retain a tenant, who has been with me for a year. If you do not accept the rezoning, I don't get a lot of rent out of these buildings, I didn't build these building. If I am not able to rent them, my alternative is to tear them down and you will get eighty seven dollars per lot instead of thirty five hundred. That is all I can do.

Motion to pass Bill No. 25-14 was made by Mr. Herbster and seconded by Mr. McCahill. Bill No. 25-14 was passed

to-wit; 8-0.

BILL NO. 27-14: 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 54700 BLOCK OF BURDETTE STREET, SOUTH BEND, INDIANA 46637 FROM R SINGLE FAMILY TO DISTRICT TO PUD PLANNED UNIT DEVELOPMENT DISTRICT PETITIONERS: UNIVERSITY OF NOTRE DAME DU LAC
Assigned to the Land Use Planning Committee

Mr. Noland reported that Bill No. 27-14 comes with a favorable recommendation.

Angela Smith, Area Plan Commission, the petitioner is seeking this rezoning for a parking lot. The reason they are seeking PUD is because a parking lot is not allowed in any other district, it's simply a parking lot. It's for the intention for the Overlook on this side of Burdette. They will be installing twenty nine spaces. This comes to you with a favorable recommendation.

Stephen Studer, 1404 Edison Lakes Parkway, Mishawaka, it will be use for over flow parking, it will provide additional twenty nine spaces, it will be managed by the same developer as the Overlook, which is fully leased.

BILL NO. 15-14: AN ORDINANCE TO VACATE A PUBLIC WAY OF PUBLIC PLACE, LOCATED WHOLLY WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, TO WIT; A PORTION OF A 40 FOOT WIDE PLATTED PUBLIC STREET NAMED "EAST SANDY HILL LANE AND CHRISTIAN DRIVE ADJACENT TO LOTS #43,44 AND 49 OF THE PLAT OF "WHIPPOORWILL VALLEY SOUTH SECTION ONE" PETITIONERS: JOY M. LANKFORD FOR LEGACY PROPERTY DEVELOPMENT, ROBERT & CAROL MAGOR, ROBERT & DEBRA URBANSKI AND IM SOON & SOOJINN SONG

Mr. Trippel: Mr. President, this matter already received a public hearing before the Council. You are certainly entitled to ask any questions, but it doesn't need to be opened up for public hearing because it's already had one.

Mr. Catanzarite: I see in attendance tonight, the Fire Marshall of the Clay Fire Territory, Marshall Cherron, can I ask you, has this or have the meetings progressed where you are satisfied with the proposal?

Marshall Cherron, 18355 Auten Road, South Bend, I met with Mr. Danch shortly after the last meeting and expressed our concerns, if those additional ingress and egress areas were proposed initially, we would support those all the way through and we gave the options that, the concern is the additional traffic from other areas using that as a cut through and we made the recommendations for both areas there's also a street at the south end of the project that initially petitioned to be connected to the Sandy Hills Subdivision, and we suggested remote access gates at both ends, so we have access to those but general traffic is restricted.

Mr. Danch: Chief and I did talk about this particular one, what I mentioned to him was the two options the Chief brought up, what I mentioned to him is the two options the Chief had brought up were one was, he would still want a road in, whether it was to county standards or private road. If it's private, there is a huge expense. We will have the forty eight foot elevation curve. What we have preferred to do was to put conditions on improvements, which I have given the Council. Jessica Clark has reviewed the stipulations in the ordinance, she was satisfied with those, she can't be in favor of the vacation but she was satisfied with the wording, she actually made some changes to the wording that would protect the County. So we will put the other street in so there is an inner connection between this subdivision, but the connection would be down at that south road way so we will put that in.

Motion to pass Bill No. 15-14 with the proposed amendment was made by Mr. Catanzarite and seconded by Mr. Noalnd. Bill No. 15-14 was passed
to-wit; 8-0.

Dave Cherron, Clary Fire Territory, what I wanted to come to you tonight is to promote a business registration ordinance for the unincorporated areas of St. Joseph County in the areas such as South Bend and Mishawaka, there are general permits that have to be acquired to open a business no matter where or when. They would have to register with their local fire service provider, that would allow the fire department to do a safety survey of the building to accomplish three things, one to determine what you want to do that property is properly zoned for, two, that it's code compliant and three to align the business proprietor with someone who can make their business safer.

Adjournment: Mr. Morton stated that the meeting was adjourned at 7:40 p.m.

Auditor, St. Joseph County

President, St. Joseph County Council

