

MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
June 10, 2014

The regular meeting of the St. Joseph County Council was called to order at 6:05 p.m., on June 10, 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  
Mr. Mark Root

Present from the Auditor's office were 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:**

Mrs. Hess moved to appoint Lee Slavinskis to the Alcoholic Beverage Board and was seconded by Mr. McCahill. The motion was passed by a voice vote; 9-0. No negatives were heard.

Mr. Hamann moved to reappoint Judy Jankowski, Linda Baechle, Michael Dvorak, Charles Hurley, Joseph Prahlow, Michael Gotsch, Liz Hurley, Linda Cioch, Corey Noland, Kristin Brandon, Jesse Carlton, Virginia Calvin, Mary Butiste-Jones and Patricia Hancock and appoint Ron Teachman to the Domestic Violence Fatality Review Team and was seconded by Mr. McCahill. The motion was passed by a voice vote; 9-0. No negatives were heard.

Mr. Noland moved and was seconded by Mr. Hamann to approve the minutes of the May 13, 2014 meeting. The motion was passed by a voice vote; 9-0. 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. 31-14:** 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 13398 MCKINLEY HIGHWAY MISHAWAKA, IN 46545 FROM B BUSINESS DISTRICT, TO C COMMERCIAL DISTRICT PETITIONER: DR. & MRS. JAMES BURKHART BURKHART PROPERTIES LLC Assigned to the Land Use Planning Committee

**Resolution:**

**BILL NO. 29-14:** ADOPTING MORNINGSIDE LAND USE AND PEDESTRIAN PLAN  
DEPT. 0023 AREA PLAN

Larry Magliozzi, Area Plan Commission, this is the Morningside Plan; the reason for this plan is an attempt to preserve and protect the old residential area. There has been a lot of development as everybody knows, starting with the Irish Crossings and the high density rental and student housing in this area. We wanted to present a plan to get the Plan Commission and the Council guidance in any future development proposals. We held an open house on April 1<sup>st</sup> with the residents; everyone was notified by letter in the residential area and the high density area. We had about sixty people, we didn't really hear any opposition, there were concerned about what was going on but in general they were supportive of the direction we were heading into. So the land use plan essentially recommends the area along Ironwood on the east side develop the way it's been developing now. Most of these parcels are full with large type uses, this being the church and an apartment complex. Along 23 we are going to recommend this remain commercial, it's all commercial oriented. The last component of the plan is a pedestrian plan. We proposed to continue a concept whether it's through private development of the balance of the remainder of these properties being developed or perhaps the County going out and seeking some federal or local dollars to finish some of the pedestrian ways to create that safety that we are looking for.

Mr. Catanzarite: First I'd like to apologize for being late, my apologies to you and the rest of the Council, members of the public that are here. Mr. Magliozzi, on this plan does the city of South Bend also sign off on this, because some of these areas are in the city of South Bend, some of these addresses.

Larry Magliozzi, the city limits are pretty jagged. Everything in the city is already developed, pretty much fully, at the moment, I don't anticipate going to the city council to get this plan approved. Basically because everything is in the county now and would be developed in the county. If it gets annexed the city council has respected some of the plans the county has done, so the city is positioned to annex if they do.

Motion to pass Bill No. 29-14 was made by Mr. Noland and seconded by Mr. Catanzarite. Bill No. 29-14 was passed to-wit; 9-0.

**Salary Amendments:**

**Public Hearing/Public Comment:**

**BILL NO. 28-14: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY GOVERNMENT**

**TRANSFERS:**

A. Community Corrections  
CTP

FROM: 9115-65030-014-0080 Inter Fund Transfer	\$ 70,000.00
TO: 9114-05205-014-0795 Transfer of Funds	70,000.00
	<b><u>TOTAL: \$ 70,000.00</u></b>

B. Project Income  
Community Corrections Building Fund

FROM: 4922-65030-014-0795 Inter Fund Transfer	\$ 200,000.00
TO: 9114-05205-014-0795 Transfer of Funds	200,000.00
	<b><u>TOTAL: \$ 200,000.00</u></b>

C. Community Corrections  
Community Corrections Grant

FROM: 9114-32020-014-0080	Travel & Training	\$ 3,479.96
9114-32350-014-0080	Postage	2,197.83
9114-33100-014-0080	Printing	750.00
9114-34030-014-0080	Insurance	250.00
9114-39010-014-0080	Dues & Sub.	340.45

TO: 9114-24100-014-0080 Food \$ 7,018.24

**TOTAL: \$ 7,018.24**

D. Prosecutor's Office  
Adult Protective Services Grant

FROM: 9108-33100-000-0018	Printing	\$ 580.00
FROM: 9108-23050-000-0018	Training	2,000.00

**TOTAL: \$ 2,580.00**

TO: 9108-32020-000-0018	Travel	\$ 1,580.00
TO: 9108-39750-000-0018	Data Processing	1,000.00

**TOTAL: \$ 2,580.00**

**APPROPRIATIONS:**

E. Commissioners  
Indiana State Grant

9107-36015-000-0034 Contractual Services \$ 2,000.00

**TOTAL: \$ 2,000.00**

F. County Engineer  
Local Major Moves

1172-43031-000-0023 Safety Projects \$ 150,000.00

**TOTAL: \$ 150,000.00**

G. Circuit Court  
Drug Free Fund

1148-39205-000-0019 Community Grants \$ 74,400.00

**TOTAL: \$ 74,400.00**

H. Emergency Management  
RACES Communications

8119-44010-000-0009 Equipment \$ 6,266.28

**TOTAL: \$ 6,266.28**

I. Parks Department  
Non-Reverting

1179-11428-000-0057 Part-Time	\$ 4000.00
1179-14800-000-0057 FICA	\$ 500.00

**TOTAL: \$ 4,500.00**

Judge Gotsch, Circuit Court Judge, I am here to ask for the approval of the request that was made for community grants which was actually the drug free community fund to move seventy four thousand, four hundred dollars from the fund into, so that it can be utilized by the drug free council also known as the Partnership for Education and Prevention of Substance Abuse. Normally you see me here in the fall and normally I would have been here in the fall but this year the state changed the process slightly and so now the Governors Commission on Drug Free Indiana must review the grant applications prior to us coming before the Council and so because of the new process this took some time and we finally got a letter on May the 7<sup>th</sup> to Auditor Mullen indicating that the Governors Commission is writing to advise that the St. Joseph County Local Coordinating Council has recently submitted their grant for review and the attached grant for recommendations which are the ones before you today, has been approved.

Motion to pass Bill No. 28-14 was made by Mr. Catanzarite and seconded by Mrs. Hess. Bill No. 28-14 was passed to-wit; 9-0.

**Public Hearing/Miscellaneous Matters:**

**BILL NO. 20-14:** AN ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO.146-11, ADOPTING DOMESTIC RELATIONS COUNSELING BUREAU FEE SCALE POLICIES AND PROCEDURES DEPT. 0054 DOMESTIC RELATIONS

Mr. Hamann reported that Bill No. 20-14 comes with a favorable recommendation.

Beth Kerns, Director, Domestic Relations, when we first developed our fee scale, it was based on federal poverty guide lines and in researching the federal poverty guidelines, and I discovered that the methodology, those thresholds are very outdated. Based on nineteen fifty spending patterns, the thresholds are very low compared to median incomes; do not change in light of changing standards of living, etc. What I discovered was that our fees are not meant to hurt low income and modest means people, our fees are meant to hit middle and upper, and what I propose adopting area meeting income, which is used by HUD in conjunction with federal poverty guide lines and so to adjust our fee scale.

Judge Gotsch, Circuit Court, I'd like to speak in favor of the bill as the Council who were here originally when we passed the sliding scale would recall, the purpose of this was to avoid people who were coming to our domestic relations counseling bureau and asking for services and paying no fee. There were various service providers in the local community who were charging thousands of dollars for the exact same function that the DRCB was performing and DRCB was performing it for free.

Motion to pass Bill No. 20-14 was made by Mrs. Hess and seconded by Mr. Noland. Bill No. 20-14 was passed to-wit; 9-0.

**Public Hearing/Land Use Planning:**

**BILL NO. 16-14:** 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 18980 AUTEN ROAD FROM PUD PLANNED UNIT DEVELOPMENT DISTRICT, TO R SINGLE FAMILY DISTRICT PETITIONER: AREA PLAN COMMISSION

Assigned to the Land Use Planning Committee

Mr. Noland reported that Bill No. 16-14 comes with a favorable recommendation.

Angela Smith, Area Plan Commission: this property was rezoned in two thousand and twelve to a Plan Unit Development to allow the then property owner to have a carpet manufacturing/storage facility on their property. The condition was placed on it if the property was sold it would be rezoned back to single family. Obviously the petitioner in selling it didn't take that step so the Area Plan Commission upon seeing the transfer in the tax roll contacted the new owner to let them know that we were going to initiate the step to rezone it back to R Single Family per the written commitments on the property. We never heard from the property owner, we held a public hearing and this comes to you from the Area Plan Commission with a favorable recommendation.

Mr. Catanzarite: Mr. Noland, you were going to hand carry that, did you happen to make any contact with the resident?

Mr. Noland: There is somebody that's living there but I have never talked to them. I have been by there twice and they were not there either times.

Angela Smith: We sent multiple notifications to the actual property itself.

Motion to pass Bill No. 16-14 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 16-14 was passed to-wit; 9-0.

**BILL NO. 17-14: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY MARK & MICHELE KLOTA FOR THE PROPERTY LOCATED AT 19447 KERN ROAD, SOUTH BEND, INDIANA 46614 THE SAME BEING PETITION NO. 05-07-14-09 FILED WITH THE AREA BOARD OF ZONING APPEALS Assigned to the Land Use Planning Committee**

Mr. Noland reported that Bill No. 17-14 comes with a favorable recommendation.

Mark Lyons, Area Board of Zoning Appeals, this is a special exception to allow a kennel at 19447 Kern Road. It was given public hearing at the May 8, 2014 meeting of the Area Board of Zoning Appeals; it comes to you with a unanimous favorable recommendation subject to personal use with no commercial outdoor runs.

Mark & Michele Klota, 19447 Kern Road, we are seeking a special use permit for a kennel license so we can continue to have the pets that we have. We have no intention of breeding dogs or cats, no intention of building runs or kennels; it's just for our own personal use. We have all of our dogs are up to date on all their vaccinations, cats are up to date and are all spade or neutered. We have spent the past two and a half months working through an overwhelming, time consuming, emotionally and financially draining process just to keep the pets we love. We respectfully ask for your votes to allow special use so we may continue to keep and care for the pets we love.

Bill Sykes, 18927 Darden Road, South Bend, the Klotas and me have a mutual friend, Jan Claudel, she is teacher at Project 360, which I am involved in, she knew what I had gone through to get my variance for a kennel permit and asked that I talk to Michele and offer my advice. But I had to first get to know Michele, go to her house, see what kind a set up they have for their animals just to determine whether or not they were healthy and well cared for. I have over ten years experience at Pet Refuge of doing home checks, so I have a little bit credibility. In my opinion, these animals are better cared for than kids, unfortunately, but it's true.

Motion to pass Bill No. 17-14 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 17-14 was passed to-wit; 9-0.

Mr. Hamann: You have just four little dogs and a bigger dog? And a miniature schnauzer and you are caught up in the bureaucratic struggle? Stunning. Maybe we need to look at this ordinance because to me that's just stunning! I know we make these ordinances for public safety, protect things, but this blows my mind, I think we need to look at that, it's not right.

Mr. Catanzarite: In response Mr. Hamann's comment, I was here when we passed the animal control ordinance and it's in response to not people like the Klota's or Mr. Sykes, it was in response to people that were having problems, the Humane Society came to us and demonstrated to us that people were actually doing poorly and injuring animals and that was in response, and at that time we had to regulate animal control. Prior to that, it wasn't regulated. But I am certain we can open it up and look at it.

Mr. Hamann: Sometimes you read about these cases where someone has ten twelve pets and they are just out of control, they are not well cared for, causing a problem in the neighborhood but it seems to me there's got to be some way, some avenue, folks, maybe the threshold is too low.

**BILL NO. 23-14:** AN ORDINANCE TO VACATE A PUBLIC WAY OR PUBLIC PLACE, LOCATED WHOLLY WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY TO WIT; LOT 1267 BIRCHWOOD FARM, LOT 2211 & 2212 LAWN DALE ACRES PETITIONER: MATTHEW BREDEN  
Assigned to the Land Use Planning Committee

Mr. Noland reported that Bill No. 23-14 comes with a favorable recommendation.

Angela Smith, Area Plan Commission, the Area Plan Commission recommends that this street be vacated subject to the correction of a legal description by the County Surveyor.

Matthew Breden, 11083 Beech Train, Osceola, we are just looking to vacate this property, it's turned into public dump for the neighbors, I guess. Stuff is piled up over four feet tall in there, we just want to clean it up and get ride of it.

Motion to pass Bill No. 23-14 was made by Mr. Root and seconded by Mr. McCahill. Bill No. 23-14 was passed to-wit; 9-0.

**BILL NO. 26-14:** AN ORDINANCE TO VACATE A PUBLIC WAY OR PUBLIC PLACED LOCATED WHOLLY WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, TO-WIT; THAT SOUTHERNMOST ONE HUNDRED SIXTY (160) FEET OF THAT FORTY (40) FOOT WIDE NORTH/SOUTH RIGHT-OF-WAY KNOWN AS PALMER STREET, LOCATED BETWEEN LOT 16 AND LOT 19 IN WOODLAND HEIGHTS SUBDIVISION AS PER PLAT THEREOF RECORDED AUGUST 8, 1917 IN PLAT BOOK 10, PAGE 55 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, AND BETWEEN LOT 17 AND LOT 18 (AND THE VACATED ALLEYWAY ADJACENT TO THE SOUTH SIDE OF LOT 18) OF SUCH WOODLAND HEIGHTS SUBDIVISION, ALL OF WHICH IS UNIMPROVED; SUBJECT TO ANY UTILITY EASEMENTS PETITIONER: UNIVERSITY OF NOTRE DAME DU LAC  
Assigned to the Land Use Planning Committee

Mr. Noland reported that Bill No. 26-14 comes with a favorable recommendation.

Angela Smith, Area Plan Commission, staff recommends this street be vacated subject to any further access easements recommended by the County Engineer.

Rich Deal, Barnes & Thornburg, 100 N. Michigan Street, as you will see the southern most one hundred and sixty feet of Palmer Street is a paper street; it's never been developed nor provides access to any lots and is fully surrounded by property owned by the University. The vacation of this area will facilitate the University's ability to connect a new parking lot which is being constructed to the east to the pedestrian walk ways and to campus thoroughfares located on Lahee Drive. This will not impact or affect any access of any other property owner or party since this has always been a paper street and undeveloped.

Motion to pass Bill No. 26-14 was made by Mr. Catanzarite and seconded by Mrs. Hess. Bill No. 26-14 was passed to-wit; 9-0.

### **Unfinished Business:**

### **New Business:**

### **Privilege of the floor:**

Barry Bumbaugh, 12032 Timberline Trace, Granger, I'd like to address a couple of items I have in the past and just add a reminder. The Auditor's office is sitting on what I believe is about one point three million dollars that they have received because of correcting errors on people duplicating homestead credit's that really belongs to tax payers of St. Joseph County. I know the state allows the Auditor to keep it but it really is kind of ridiculous to suddenly boost one budget simply because they are doing their job, that's not a slap at the Auditors office it's simply a statement of fact ant it really belongs to the citizens of St. Joseph County, so I'd like to see you guys either recommend that that money be turned over to the general fund or when budget time comes up do something to correct that issue. Secondly, leaf pickup, I have addressed this before, it was a nightmare this year, I'd like to see you guys do something in the near term before we are back at it again to correct that problem.

Lastly, I'd like to actually give you guys thanks, kudos, whatever, you did not sign on with South Bend with the smoking ordinance, we've already seen enough of our liberties stripped from us, the state of Indian has done it, we've done it here and I think if you want private property rights, you don't need to go any farther on it. So I thank you guys for not going farther on that.

Kelley Havens, 12032 Timberline Trace, Granger, I don't know if you guys have been kind of basking in the accolades that Indiana's getting for being one of the few states in the nation that's actually running in the black, but it's getting kind of fun, you turn on national news, there's a story about Indiana, you attend a convention there's a story about Indiana, our job growth is way up, we went from being like down in the thirty seventy in the nation to like one of the top five, our business is coming in, up, our employment is down, a lot of neat things and I'm thinking, wouldn't it be neat if we could do that to, because what the state did of course is make government leaner and more efficient by, I think they did like an across the board ten percent cut, which mostly has to be in payroll and it's such an awful thing to try and do, if you've ever been a manager, which I was, once. Firing someone was probably the most awful thing I had to do, the guy had just become less efficient, he's still a nice guy, but the good news is because of, I think it's house ..... rule act ten seventy five, the state changed PERF and offered early retirement to county employees so they can go with a more sustainable retirement program, but that means that a whole bunch of people might be looking at removing themselves, by attrition. And of course when that happens, you can start reorganizing and you know combining jobs and moving people around and stuff and becoming more efficient without having to fire a bunch of people. So this a huge opportunity to save as you know you not only save their salary but all PERF, the retirement the, it's starts really, really, really adding up and wouldn't it be an amazing thing if suddenly if you could cut like a million dollars and then you have this million dollars sitting in the Auditor's office and then you could not do leaf pickup next year and save another million dollars and then you have all this extra money that's been laying around in CEDIT and all of the sudden, you might actually be able to drop an option tax, I think you'd be the first county in the whole state to ever drop an option tax, so when they are giving Indiana all these accolades about bringing in new business and stuff, you could be the lead story about dropping taxes and drawing in businesses who want their employees to come here because we are actually lowering taxes and this could be, for once, they can stop talking about Elkhart and all their jobs, we're the county that's attracting people because we are lowing taxes, so I just wanted to throw it out there, I think we are at a unique place here with that retirement thing and the auditor thing, and the leaf pickup and the CEDIT, it's all kind of coming together to maybe make a moment when St. Joseph County could really shine.

Jerry Niezgodski, 2930 Bonds Avenue, South Bend, this is a request, I've said this of the city council now and I'll say it to you because I don't know who has the purse strings for this facility. I'm a little bit hard of hearing at times and when you conduct business here, not all your microphones pick up what's being said. I would love to see microphones that work. Mr. Hamann you had some very interesting comments, couldn't hear very much of what you said. Can we get that fixed.

Mr. Morton: That's a fair request.

**Adjournment:** Mr. Morton stated that the meeting was adjourned at 6:45 p.m.

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Auditor, St. Joseph County

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President, St. Joseph County Council













