

MINUTES OF THE
REGULAR MEETING
OF THE
ST. JOSEPH COUNTY COUNCIL
November 10, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:04 p.m., on November 10, 2015, by the President, Rafael Morton, in the Council Chambers, fourth floor, County-City Building, South Bend, Indiana.

Members in attendance were:

Mr. Robert L. Kruszynski
Mr. Corey Noland
Mr. James O'Brien
Ms. Diana Hess
Mr. Rafael Morton
Mr. Mark P. Telloyan
Mr. Mark A. Catanzarite
Mr. Robert McCahill
Mr. Mark Root

Present from the Auditor's office were Mr. Michael J. Hamann 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. McCahill made the motion to reappoint Dr. Richard Headley and John Matthys to Animal Control Commission and Dale DeVon, John Creed, John Linn and Tim Murray to the Onsite Wastewater Advisory Board and was seconded by Mr. O'Brien. The motion was passed by a voice vote; 9-0.

Ms. Hess made a motion to approve the minutes of the September 8, 2015 public hearing and the September 22, 2015 was seconded by Mr. Catanzarite, the motion was passed by a voice vote; 9-0.

Mr. O'Brien made a motion to table Bill No. 56-15 and move this matter to the November 10, 2015 meeting. It was seconded by Mr. Noland. The motion was passed by a voice vote; 9-0.

No report from the County Auditor
No report from the County Commissioner

Special Committees: Mr. Catanzarite: As your representative for NICTD (North Indiana Commuter Transit District) South Shore Commuter Railway Board, I wanted to update you. I am sure everybody here has seen a lot of this in the media lately but, there is a real threat that South Shore passenger service, actually, passenger service throughout the entire United States and any kind of a hazmat freight shipment could not exist January 1 if PTC (Positive Train Control) legislation isn't rescinded by congress. I would urge everybody here and on the Council and members of the public here tonight to urge their congressman and their senators to extend the deadline for the Positive Train Control deadline which is currently December 31, 2015. We are asking for a December 31, 2018 extension to be more realistic to develop the technology at which currently isn't there and to pay for the unfunded mandate which just for our property alone for the South Shore Railroad is eighty million dollars so if anybody here could contact their delegation in Washington D.C. we would appreciate there.

Mr. Morton: Thank you very much for that update sir.

First Readings:

BILL NO. 81-15: 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 52031 STATE ROAD 933 FROM C COMMERCIAL DISTRICT TO R SINGLE FAMILY DISTRICT PETITIONER: MARK & SANDRA CRACCO
Assigned to the Land Use Planning Committee

BILL NO. 82-15: AN ORDINANCE TO AMEND THE APPENDIX OF THE ST. JOSEPH COUNTY CODE ENTITLED "APPENDIX: SCHEDULE OF FINES AND FEES: (BY CHANGING FEES REFERENCING TITLE XV: LAND USAGE, CHAPTER 150-151) PETITIONER: CHUCK BULOT, BUILDING DEPARTMENT
Assigned to the Land Use Planning Committee

BILL NO. 83-15: AN ORDINANCE INITIATED BY THE AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, INDIANA ON BEHALF OF THE ST. JOSEPH COUNTY COUNCIL OF ST. JOSEPH COUNTY, INDIANA AMENDING TITLE XV: LAND USAGE, CHAPTER 154: PLANNING AND ZONING OF THE ST. JOSEPH COUNTY, INDIANA CODE OF ORDINANCES, BY REPEALING SECTIONS 154.290 THROUGH 154.296 FP: FLOODPLAIN REGULATIONS, AND ADDING NEW SECTIONS 154.290 THROUGH 154.297, IN ORDER TO ADOPT THE MOST RECENT FEDERAL AND STATE REQUIREMENTS
PETITIONER: AREA PLAN COMMISSION
Assigned to the Land Use Planning Committee

Salary Amendments:

BILL NO. 80-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015 (Dept. 0002 - Auditor)

Mr. Root reported that Bill No. 80-15 comes with a favorable a recommendation.

Mike Hamann, St. Joseph County Auditor, this is a correction for one of our property tax clerks. One of our deputy's, she was, as opposed to receiving twenty eight thousand, two hundred forty, she was scheduled to receive twenty seven thousand, four hundred ninety so we just conflated the two.

Mr. O'Brien: The person that was overpaid, is she going to have to write a check back to the county or get no pay check?

Ms. Shuter: No one has been overpaid, it is just to set their pay correctly, the salary's entered in correctly.

Mr. O'Brien: So their checks were right, it's just a matter of....

Ms. Shuter: Correct.

Mr. O'Brien: That's good news.

Motion to pass Bill No. 80-15 was made by Mr. O'Brien and seconded by Ms. Hess. Bill No. 80-15 was passed to-wit; 9-0

BILL NO. 76-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015 (Dept. 0018 - Prosecutor)

Mr. McCahill reported that Bill No. 76-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's office, I am here asking for an amendment to the salary for our STOP grant.

Motion to pass Bill No. 76-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 76-15 was passed to-wit; 9-0

BILL NO. 77-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015 (Dept. 0018 - Prosecutor)

Mr. McCahill reported that Bill No. 77-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's office, this is the salary amendment for the VOCA grant we have received.

Motion to pass Bill No. 77-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 77-15 was passed to-wit; 9-0

BILL NO. 78-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015 (Dept. 0018 - Prosecutor)

Mr. McCahill reported that Bill No. 78-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's office, this is the salary appropriation for an additional VOCA grant.

Motion to pass Bill No. 78-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 78-15 was passed to-wit; 9-0

BILL NO. 79-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015 (Dept. 0028 – Voter Registration)

Mr. Root reported that Bill No. 79-15 comes with a favorable a recommendation.

Mike Hamann, County Auditor, this is a reduction of appropriation. If you remember in 2014 in anticipation of 2015 there was that big reorganization of Voter Registration office. One of the results of that reorganization was they would not be needing that part time money but we put it in there inadvertently so we want to make that correction.

Motion to pass Bill No. 79-15 was made by Mr. O'Brien and seconded by Mr. Noland. Bill No. 79-15 was passed to-wit; 9-0

Public Hearing/Public Comment:

BILL NO. 75-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY GOVERNMENT

TRANSFER

A. Treasurer
General Fund

FROM: 1000-32350-000-0003 Postage	\$1900.00
TO: 1000-21030-000-0003 Office Supply	1900.00
	<u>TOTAL: \$1900.00</u>

B. Treasurer
General Fund

FROM: 1000-11682-000-0003 Cashier Clerk	\$3600.00
TO: 1000-31070-000-0003 Other Contractual Svc.	3600.00
	<u>TOTAL: \$3600.00</u>

C. Auditor
General Fund

FROM: 1000-11664-000-0002	Prop. Tax Clerk	\$ 750.00
TO: 1000-11605-000-0002	Transfer Deputy	750.00
		<u>TOTAL: \$750.00</u>

D. Jail Maint.
General Fund

FROM: 1000-36200-000-0029	Equipment Repairs	\$1,429.00
TO: 1000-44601-000-0029	Special Equipment	1,429.00
		<u>TOTAL: \$1,429.00</u>

E. Highway Admin.
County Highway

FROM: 1176-11407-000-0061	Supervisor	\$45,000.00
TO: 1176-39150-000-0061	Other Expense	45,000.00

FROM: 1176-11423-000-0062	Group 3	\$30,000.00
TO: 1176-23460-000-0062	Other Materials	30,000.00
		<u>TOTAL: \$30,000.00</u>

FROM: 1176-11424-000-0062	Group 2	\$60,000.00
TO: 1176-23460-000-0062	Other Materials	60,000.00
		<u>TOTAL: \$60,000.00</u>

FROM: 1176-11436-000-0064	Group B Mechanic	\$22,000.00
TO: 1176-36110-000-0064	Repairs-Road Equip.	22,000.00
		<u>TOTAL: \$22,000.00</u>

FROM: 1176-11437-000-0064	Group C Mechanic	\$25,000.00
TO: 1176-36110-000-0064	Repairs-Road Equip.	25,000.00
		<u>TOTAL: \$25,000.00</u>

F. Prosecutor
General Fund

FROM: 1000-11070-000-0018	Chief Deputy	\$12,000.00
TO: 1000-39750-000-0018	Data Processing	12,000.00
		<u>TOTAL: \$12,000.00</u>

G. Juvenile & Probate Court
General Fund

FROM: 1000-11385-000-0025	Probation Officer I	\$114,000.00
TO: 1000-32020-000-0025	Travel	6,000.00
1000-32050-000-0025	Instruction/Training	5,000.00
1000-36500-000-0025	Service Contract	8,000.00
1000-39750-000-0025	Data Processing	95,000.00
		<u>TOTAL: \$114,000.00</u>

H. Juvenile Justice Center
General Fund

FROM: 1000-11370-000-0049	Detention Officer	\$50,822.00
TO: 1000-22200-000-0049	Household Supplies	25,000.00
1000-36100-000-0049	Repairs/Auto Truck	5,000.00
1000-44010-000-0049	Equipment	20,822.00
	TOTAL:	<u>\$50,822.00</u>

APPROPRIATION

I. Auditor
CEDIT

7312-31070-000-0034	Other Contract	\$25,000.00
7312-36010-000-0034	Repairs Bldgs	45,000.00
	TOTAL:	<u>\$70,000.00</u>

7312-31070-000-0034	Other Contract	1,000,000.00
7312-43201-000-0034	Road Projects	600,000.00
7312-36010-000-0034	Repairs Bldgs	3,000,000.00
7312-39215-000-0034	Econ Develop	75,000.00
	TOTAL:	<u>\$4,675,000.00</u>

J. Auditor
Ineligible Deduction Fund

1216-31070-000-0002	Other Contractual Svc.	\$100,000.00
1216-36015-000-0002	Contract Svc.	20,000.00
1216-39600-000-0002	Refunds	30,000.00
	TOTAL:	<u>\$150,000.00</u>

K. PSAP
Statewide E911

1222-36051-000-0034	Tech. Lease Equip.	\$304,329.00
	TOTAL:	<u>\$304,329.00</u>

FROM: 1222-65030-000-0034	Inter Fund Transfer	\$349,671.00
TO: 4930-11571-000-0034	Overtime	341,971.00
4930-11414-000-0034	Acting Comms. Sup Pay Off	7,700.00
	TOTAL:	<u>\$349,671.00</u>

L. Engineering
Perpetuation Fund

1202-31070-000-0023	Contractual Svc.	\$25,000.00
	TOTAL:	<u>\$25,000.00</u>

M. Coroner
General Fund

1000-31200-000-0011	Autopsy	\$50,000.00
1000-31212-000-0011	Ambulance	16,000.00
	TOTAL:	<u>\$66,000.00</u>

N. Prosecutor
General Fund

1000-32020-000-0018	Travel	\$1,000.00
		<u>TOTAL: \$1,000.00</u>

O. Prosecutor
STOP Grant

8106-11101-000-0018	Deputy	\$74,624.00
8106-11351-000-0018	Para Legal	36,188.00
8106-11120-000-0018	Commander	6,463.00
8106-11121-000-0018	Victim Advocate	30,984.00
8106-11355-000-0018	Ass. Commander	4,887.00
		<u>TOTAL: \$153,146.00</u>

P. Prosecutor
VOCA Grant

8117-11317-000-0018	Director	\$32,000.00
8117-11121-000-0018	Victim Advocate	26,561.00
8117-11329-000-0018	Coordinator Victim Witness	23,238.00
		<u>TOTAL: \$81,799.00</u>

Motion to pass Bill No. 75-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 75-15 was passed to-wit; 9-0

Miscellaneous Matters:

BILL NO. 56-15: TAXPAYER PROTECTION AND TRANSPARENCY ORDINANCE PETITIONER: JAMES O'BRIEN AND COREY NOLAND

Mr. Root reported that Bill No. 56-15 comes with no recommendation.

Mr. O'Brien made the motion to amend Bill No. 56-15 and was seconded by Mr. Catanzarite. A voice vote was had and was passed 9-0.

Mr. O'Brien: The Taxpayer Protection and Transparency Ordinance seeks to provide additional information for professional services. I worked on this with many of you on the council over the last several months to make sure to get input and to try to narrowly explain the ordinance, the amended version will require, if passed by the council and passed by the commissioners will require providers of professional services, which include, the engineering consultant, legal and accounting services to provide detailed invoices, many of whom already provide detailed invoices. The detail would include the date upon services were provided, the identity of the person of the person providing the services, a brief description of the service, hourly rate and total cost. Additionally, it would require a second invoice or a second copy of the invoice with the description blacked out so that it's not on the second copy to protect in the event that there is any information that is somewhat privileged, attorney/client privilege or work product privilege. Additionally, with regard to the invoices, they would all be stored in one location at the Auditor's office, so there will be a centralized location for invoices in the event that tax payers, voters, non tax payers, non voters, anyone who would like to see the invoices. With regard to professional services provided on a fixed fee, basis rather than hourly basis, the amended version of the ordinance we are voting on requires the same detail except rather than having specific hourly rates, it would have an average hourly rate. There is a de minimis provision that if there's any service provided that provides less than two thousand dollars of services in the course of the year, this does not apply. Finally, in the event that there are unforeseen complications, the ordinance expires December 31, 2016 unless it's reapproved by a resolution of the council here. I feel like I have thought through many different contingencies but there is always a possibility that there could be unattended consequences so there is a sunset provision. I have gotten feedback from many folks, overwhelmingly, favorable. Some concerns were raised, I attempted to address many of the concerns, I am hopeful I was able to address all of the concerns in the amended version. One lingering concern that exists is there is at least one interpretation of a statute that has special legislation provisions for St. Joseph County and Lake County and its been communicated to me that one interpretation of that statute is such that if the commissioners were to veto this ordinance, the council would not have the legal authority to override the veto. That is not actually how I would

interpret that statute but I am not suggesting that the council engage in any type of animosity with the commissioners, I am committing that if the council passes this ordinance and the commissioners veto it, I will not ask to bring it forward for an override vote, thus, hopefully, putting that issue to rest, that is if the commissioners vote to approve it, it's not an issue because they have agreed, if they disagree and they vote against it, while I disagree with the interpretation of the special legislation that only applies to St. Joseph County and Lake County, I am not planning on and I won't challenge that. I'd be happy to address any questions.

Mr. Kruszynski: Back to your point about not asking us to override the veto. Does the petitioner have to make that request Mike or can a council member make that request?

Mr. Trippel: Certainly any council member can make such a motion.

Mr. Kruszynski: So any councilman, if the commissioners veto this...

Mr. Trippel: Could presumably make a motion at the next meeting, sure.

Mr. Morton: Make a motion to?

Mr. Trippel: Override.

Mr. Kruszynski: Jamie, you and I have had quite a few meetings and discussion regarding this and I am here to say I am not totally against it but I feel that, first of all, we may be stepping on the executive branch of the county in regards to the commissioners. Have you met or had conversations with the commissioners in regards to this ordinance?

Mr. O'Brien: I have.

Mr. Kruszynski: And their feelings are, what?

Mr. O'Brien: I would characterize them as equivocal. They are not totally opposed to all of the provisions, they have some reservations. I couldn't tell you right now, as we sit here right now, I can't tell you that I know any one of them are going to vote for or against it. I believe that Mr. Thomas is leaning strongly against it from my limited engagement with him.

Mr. Kruszynski: Have you had conversations with our Auditor, Mr. Mike Hamann?

Mr. O'Brien: I have had some initial verbal communications with him and some recent email communications with him and at the appropriate time, I would like to ask him for his input, I believe he is supportive.

Mr. Kruszynski: Can we get his input now?

Mr. Hamann: I would say the worst thing you could say about this is that the bill is redundant. That's not a bad thing. What is appealing is, it's not always easy to get a hold of the contracts. Sometimes it's not a very smooth process, if this bill would result in having that information at hand, that's a good thing. The other concern I have is, it seemed to me that when you talked about the attorneys that was so easy to delineate who worked on a project and how many hours and what the hourly rate was, I was trying to think of the engineering firms and whatnot, the more I thought about it, for some of those firms that do the work with the state and they go for the eighty twenty projects where eighty percent of the funds are taken care of by the state and we put in twenty percent, they have to make the amazingly detailed descriptions of what their planning on doing before the state will release the money. I was thinking, if they can do that, I don't know that it would be that big of a deal for them to cut and past that info into this for this. Moving forward, we are all kind of heading in this direction in terms of transparency with regard to the technological advances, one of the things we are looking at in the county is the document management. Ultimately, a lot of these things are going to be scanned in and be available electronically. We are heading this way.

Mr. Catanzarite: Mr. Hamann, do you see this having any fiscal impact on the county or overly burdensome for your staff?

Mr. Hamann: I can't see that it would. No.

Mr. Catanzarite: No document storage issues?

Mr. Hamann: No, again, within a few years, it will be a mute point because it will be electronic anyway.

Mr. Kruszynski: Mike did mention that it's redundant. Have you talked to anyone at State Board of Accounts in regards to this?

Mr. O'Brien: I have not.

Mr. Kruszynski: Is there a reason why you didn't?

Mr. O'Brien: Don't think that that's necessary to incorporate State Board of Accounts oversight and a local matter of this nature. State Board of Accounts will and does audit the overall expenditures; this is simply giving more details to the expenditures.

Mr. Kruszynski: Have you read chapter six or sixteen of the County Uniform Compliance Manual of the Auditor's office in regards to this?

Mr. O'Brien: I have not read it, I am familiar with its existence.

Mr. Kruszynski: So what makes this ordinance so different than what's in the Auditor's manual in regards to Mr. Hamann's guidelines?

Mr. O'Brien: So I think that, while there may be some redundancy, the redundancy is not universal set that is, there are, and I have seen plenty of invoices for professional services where this detail does not exist. While it may exist already in many instances, there should be very little additional or marginal effort to comply. If it doesn't exist, for instance, if there is a bill for professional services for fifty thousand dollars and the detail or data didn't already exist, paying the bill, processing the bill may well be fine under the current guidelines, but this is an extra level of information, extra level of transparency for us on the fiscal body, for the Auditor, for the commissioners, the tax payers.

Mr. Kruszynski: A tax payer or.... Because you can get it right now.

Mr. O'Brien: Well, perhaps.

Mr. Kruszynski: What do you mean perhaps?

Mr. O'Brien: Well, if there is a fixed fee invoice or a fix fee bill, right now there is not a requirement that all of this detail or how many hours were worked, who did the work, that's not a requirement to be paid. The ordinance would make that a requirement and while the information that does exist now is available, it's often not easy to get that information. For instance, toward the beginning of the year I sought some information on legal services invoiced for a little over a hundred and seventy thousand dollars and it was about a month from the time I started asking for the information from the time I got it. I am a CPA, an attorney, a councilman and I knew a lot of what I needed to know to ask, where to look and where to get the information, seems that it should be a much easier process, not just for me but for someone who is not a CPA who might want to get that information.

Mr. Kruszynski: But you can get that information to the public request access?

Mr. O'Brien: If it's available. Public record request would be an option, why should someone from the public have to file a public records request to see how we are spending our money? Perhaps there is some redundancy there but why should they have to jump through those hoops.

Mr. Kruszynski: In regards to our Indiana Statute and Indiana Codes, Mike, the state has guidelines in regards to these procedures. If we were to pass this ordinance, does the state guidelines trump what this ordinance would be?

Mr. Trippel: I think the council could act upon it, if it chose to, there is nothing against the law, the issue would be, do the commissioners agree with that? In my opinion, the commissioners would need to consent to this information being available because Indiana Code is clear that their powers and duties shall be exercised or performed, the powers and duties of the executive include the ability to negotiate contracts. That is in the sole preview of the commissioners, so if we are going to change the way that, if this council is going to change the way the commissioners contract their services then they need to consent to it, in my opinion. But that doesn't mean the council couldn't act upon this tonight.

Mr. Kruszynski: There are Indiana Codes that state how claims should be paid or how invoices should be paid and how they should be presented to the Auditor. So that wouldn't trump what we do here?

Mr. Trippel: No, I don't think so.

Mr. Kruszynski: You are sure?

Mr. Trippel: In the end, if they are being presented and paid now, having more detail is not going to make them violative of how they are paid.

Mr. Kruszynski: Because it specifically says in the state statute that they can be itemized or should be itemized.

Mr. Trippel: I think it probably says may but, clearly, there is nothing violative under the current law for a professional to submit a flat fee bill, if that's how the work was contracted with that professional, it's perfectly legal.

Mr. Kruszynski: Jamie, you didn't find another county or city that exercises this type ordinance?

Mr. O'Brien: I did not, but however, since you ask that, I have been asking around and I have found council folks at nearby county that is very interested in going down this road and have also come across city council folks, locally, who are interested in seeing how this unfolds because they have an interest.

Mr. Kruszynski: Does this ordinance have any conflict with public bidding?

Mr. O'Brien: I don't believe that it does.

Mr. Kruszynski: You don't believe?

Mr. O'Brien: I do not believe that. If you do believe that, I am certainly open to hearing why.

Mr. Kruszynski: What if we have firm that the commissioners hire on a fixed fee and they need professional services from somebody out of town that just gives them a flat fee?

Mr. O'Brien: I am not sure I am following your question here.

Mr. Kruszynski: Let's say, it's a professional service up and beyond the scope of work that they are requesting and they just give the commissioners a flat fee and that's it.

Mr. O'Brien: It seems to me that that's up to the commissioners to decide how they negotiate the contract.

Mr. Kruszynski: Wouldn't it make sense for you to sit down with the commissioners and try to work this out prior to providing the ordinance.

Mr. O'Brien: I have done so and.....

Mr. Kruszynski: They don't seem too perceptive, according to you.

Mr. O'Brien: I don't want to speak on behalf of anyone else, I would be presumptuous to conclude that they are supportive, that I would be misstating the facts if I were to tell you I was confident they would vote against it.

Mr. Kruszynski: So what if we do pass this ordinance and you come across an invoice that doesn't really meet your expectations in regards to hourly rate? What happens next?

Mr. O'Brien: Depends on what you mean by expectations, if its because I think the rate is too high, this ordinance has no adverse impact on the ability of the commissioners to agree to pay five hundred dollars an hour for services if they want to. This is simply transparency and disclosure. If the invoice shows that there's work being done and the rates two thousand dollars an hour, this ordinance simply shines the light of day on that.

Mr. Kruszynski: Isn't this why you presented this ordinance because you came across an invoice that you thought the hourly rate for a professional service was too high?

Mr. O'Brien: No. The ordinance is because it was so difficult to find out the information and then looking at the information I asked for more invoices and there were a number of them that didn't have an hourly rates. If you are asking the invoice I looked at, do I think the hourly rates are too high? Not my call. That's up to the commissioners, that's up to the parties providing the services. This is to disclose that information.

Mr. Kruszynski: So basically if the commissioners veto this ordinance, we have spent a lot of time for nothing?

Mr. O'Brien: I don't think we spent a lot of time for nothing. We have brought the issue forward. A lot of people have communicated with me they think it's a good idea. I am committing I will not bring forth for an override vote, I would envision I would revisit the matter six or seven months down the road, perhaps in a different format. Like any ordinance that might fail, if someone seeks to rezone property and they are shot down and they are not successful, they have invested time and resources; I think that's not how I would characterize the process.

Mr. Kruszynski: You said you had a lot of people speak in favor of it and contact you and speak in favor of it?

Mr. O'Brien: I have.

Mr. Kruszynski: Did they show up tonight?

Mr. O'Brien: I don't see anyone out there that specifically contacted me. Nope.

Mr. Kruszynski: My feeling is, there is just too much, too many questions in regards to this ordinance, in regards to the Auditor's guidelines, by the state and state statute that I am requesting an outside legal opinion, an independent legal opinion on this ordinance before we take it for a vote.

Mr. O'Brien: I would like to make a motion that we vote to approve the ordinance.

Mr. Morton: Wait a minute, let's back up a little bit.

Mr. Trippel: You are still in public hearing at this point.

Mr. Morton: Right. We are still in the public hearing process at this point.

Motion to pass Bill No. 56-15, as amended was made by Mr. O'Brien and seconded by Mr. Noland. Bill No. 56-15 was passed to-wit; 9-0

Land Use Planning:

BILL NO. 55-15: 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 15580 STATE ROAD 23 FROM R SINGLE FAMILY DISTRICT, TO O/B OFFICE/BUFFER DISTRICT PETITIONER: ANDREW SMIALOWSKI

Mr. Noland reported that Bill No. 55-15 comes with a favorable recommendation.

Matthew Chappuies, Area Plan Commission, petitioner is requesting a zone change from R Single family district to OB Office Buffer District. Onsite currently is a single family home with a detached garage. Limited site plan shows how it could be converted to a small office type use, something along the lines of a insurance or real estate office. There is no actual development plan for the site, it's more for marketability. This comes to you with a favorable recommendation.

Mr. O'Brien: Did you receive any remonstrance from anyone?

Mr. Chappuies: Not for this site.

Motion to pass Bill No. 55-15 was made by Mr. O'Brien and seconded by Mr. Noland. Bill No. 55-15 was passed to-wit; 9-0

Unfinished Business:

New Business:

Privilege of the floor:

Jim Bogner, 805 W. Washington, South Bend, this is in regards to a request I had for 803 W. Washington Street. I have not heard anything, as of yet regarding my request. I am willing to take a few questions on it. It's mainly to renew my request for review of how Historic Preservation handled this and if it's appropriate and whether steps can be taken to possibly return this back to local control. I'd be happy to take any questions.

Mr. Kruszynski: We have talked several times and I have been out once maybe twice and I have forwarded your information to Anthony Zappia who's handling the Historic...

Mr. Bogner: That is correct and for full disclosure, at the time, he had some family health issues and I deferred to that because that's most important. Also he had told me at the time this had passed, he was not involved, he had just come on within the last few months with them so he was going to have to do additional work and I have not heard back from him.

Mr. Kruszynski: Have you tried to talk to Catherine Hostetler?

Mr. Bogner: That is correct. We have also worked with the city. The request I am asking of you is a little bit different, this is pre any issues of any ownership of the property when the city purchased it and it was transferred to Landmarks of Indiana, during the majority of the time, HPC had control of it. This city has no issue with me being here because this is a question of the majority of HPC is controlled by the county, as you know, about two thirds of it is funded by you and a third of it is funded by the city. The city is working on a separate issue relating to a discussion between the current owners of the property and Indiana Landmarks. I am not asking to get involved in that. This is a question of, what was done when Landmarks owned the property and HPC had the ability to oversee what was going on with it. I am simply renewing a request to President Morton, who I know you have been working behind the scenes and have had your hands full with budget matters.

Mr. Morton: First of all sir, I think the differentiation you just made may help the situation because it seems like there's a pretty serious disconnect on part of Historical Preservation and this Indiana Landmarks.

Mr. Bogner: Yes, I would agree with that.

Mr. Morton: From what you just explained, it sounds to me that maybe the best way to proceed is to get both parties together with, I know Mr. Catanzarite and I have been working on this, we are basically, I have reached out, I know he has reached out to Katherine, I appreciate you saying I have been working on it and so has Mr. Catanzarite. I am what I am saying is, there seems like there's two separate issues here and what I keep hearing from Historical Preservation is, well, that's in the hands of Indiana Landmark. Now you are saying there's two separate issues and you are trying to get a better handle on how Historical Preservation handled it before they turned it over.

Mr. Bogner: And if you look at the letter I submitted to you at the time, I was strictly looking at how HPC had handled the matter, I think it's kind of....

Mr. Morton: That's what I am saying from my perspective, that's where I am saying that's the disconnect seems to be, from the answers I am getting from Historical Preservation.

Mr. Bogner: I think it's the chicken and the egg discussion. There was an act that occurred and we have not been able to get a handle or at least I have not been able to get a handle on first of all whether Historic Preservation had the ability to be able to do that. They may have, I don't know that, I have not heard from the attorneys. Secondly, can it be requested by Historic Preservation to be reversed to be brought back under local control?

Mr. Morton: Ok, there you go. That is exactly what I am saying, so, what I am suggesting is, what you just said, is it legal? Did they have the right to do that and can they reverse it? That's nothing myself or Mr. Kruszynski or Mr. Catanzarite can answer without legal opinion and I....

Mr. Bogner: And that's what I was here to simply renew my request, that's originally what I asked for for council, through their attorney as you had ably spoke about in September to talk with HPC to see whether they will institute a

procedure to return this back to local control or whether they should have even voted for it and moved it forward without an asset being sold.

Mr. Morton: Ok, so is Mr. Zappia the attorney we need to be going through with this?

Mr. Kruszynski: It's my understanding he's the attorney now for HPC, he's the deputy attorney.

Mr. Bogner: I also want on record that you did mention the evening I was here the two attorney's council attorney and the attorney for HPC should connect to see whether this was appropriately done and how it was done and what happened with it, there has not been a lack of effort on this council. It's just simply to renew my request.

Mr. Krszynski: Mr. Bogner, you also had concerns with the chimney?

Mr. Bogner: Yes, there had been action taken by Indiana Landmarks to remove two of the chimneys, it was done in January of 2013. It was never rebuilt. It never had a permit. There are certain guidelines that have to happen with this and none of those guidelines were followed and the property was sold to a private owner. This transfer of this asset occurred one second before the sale of the property occurred to the current owners. It raises the question of, the entire time Indiana Landmarks had the property, other than one second before hand, HPC controlled this and then it suddenly ended and the façade was gone and local control ended. Can assets just be given away without council or commissioners knowing about it? One more thing, thank you all for the work you have done on the budget, I follow this, as an accountant. I share Jamie's concerns. I don't think a lot of people have come up to you folks and thanked you for the work that you do. We are going to have much more difficult times ahead. I also think the public is not really aware of what happens here. Everybody that comes up here and makes a presentation needs the money for something and everybody wants public services yet right below us there are bins of people that are appealing their assessments. The 2017 budget is going to come before you know it and there's going to be very difficult challenges. Thank you for the work you are doing but I also believe that there has to be a public outreach to say you get the government you are willing to pay for. Honestly, there are plenty of people that are here when it's budget time but there are not a lot of people here when it's not and we all know what's coming, you certainly know what's coming and it's going to be very difficult for those of you that are, the next couple of years and I think the public has to be more informed about where we are going and what we are doing. I do appreciate it and I do appreciate the work you do.

Mr. O'Brien: The gentleman raised a good point with regard to assessed value and the appeal process, I know we have a couple of appointments to the PTABOA, I don't know where that stands but I think that over the next couple of months it's worth looking into to see what role the council may play or should play and making sure that the proper assessed values are maintained. I think we need to spend a little bit of time looking at that.

Adjournment: Mr. Morton stated that the meeting was adjourned 7:07 p.m.

Auditor, St. Joseph County

President, St. Joseph County Council

