

MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
September 8, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on September 8, 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. Noland made a motion to approve the minutes of the August 11, 2015 public hearing was seconded by Mr. O'Brien, the motion was passed by a voice vote; 9-0.

Mr. Noland made a motion to return Bill No. 58-15 back to committee per the petitioner; it was seconded by Mr. Catanzarite. The motion was passed by a voice vote; 9-0.

No report from the County Auditor  
No report from the County Commissioner  
No report from Special Committees.

**First Readings:**

**BILL NO. 67-15:** 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 13460 E. MCKINLEY AND 56020 CURRANT ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT PETITIONER: RBS PROPERTIES LLC  
Assigned to the Land Use Planning Committee

**BILL NO. 68-15:** AN ORDINANCE OF ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO 79-13 WHICH ESTABLISHED THE PUBLIC SAFETY COMMUNICATIONS CONSORTIUM OF ST. JOSEPH COUNTY, AND MODIFYING SECTION 6 OF SAID ORDINANCE REGARDING THE OPERATIONS BOARD POWERS AS ESTABLISHED THEREIN Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 69-15:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF THE ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC. 6-1.1-12.1-14 ET SEQ PETITIONER: ST. JOSEPH ENERGY CENTER, LLC  
Assigned to the Land Use Planning Committee

**9. Public Hearing on the Airport Authority, Solid Waste Management, and St. Joseph County 2016 Budget:**

**BILL NO. 62-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) AIRPORT AUTHORITY**

Mike Daigle, Executive Director, St. Joseph County Airport Authority, the Airport Authority is requesting consideration of our 2016 budget. Our budget consists of three different funds, the Aviation Fund, Cumulative Building and Debt Services. The total of these funds are twenty million, five hundred and forty one thousand. In our 2016 budget, we have reflected and amount of cost of living wage increases, additional wage adjustments and also some job upgrades based on changes and responsibilities. The largest increase in these funds is in the Cumulative Building fund primarily for air service development. As you know, we are receiving bids in the next two weeks to build a federal inspection station and a general aviation facility to be able and process international flights, a first for our region.

Motion to pass Bill No. 62-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 62-15 was passed to-wit; 9-0.

**BILL NO. 63-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) SOLID WASTE**

Randy Przybysz, Executive Director, Solid Waste Management, budget proposal for 2016 has been approved by our board which you should have a copy of that resolution. Everything in this budget was kept just about the same as last year, there are no raises being proposed. Our total budget for next year is being proposed as an increase of a hundred fifty two thousand, six hundred and forty three dollars and that comes basically from two line items, our Household Hazardous Waste Program in Mishawaka, last year was just under ten thousand people with seven hundred and sixty nine thousand pounds of hazardous material going through there. We are on track this year to exceed that number. People coming and the amount of material. Another factor is, for the last six years we have been under contract with a company called ERI to take the obsolete electronics. They have taken them for free so we rode that horse now all that we can because we were notified that they were the last ones offering to do it for free, that is not going to happen anymore. Our contract is up the end of this year. We have no idea what the charges are going to be or how much material we are going to take in until it actually happens. The proposal there was to take that budget line item from a hundred thousand to two hundred thousand. The other is a fifty thousand dollars put into a capital improvement fund, we have never had that before. There is some discussion to combine our office and our HHW program in one location, more centrally located to the population in the county and also large enough to handle the kind of numbers we are taking through there now. We are land locked where we are at. That money would only be used, should we find a piece of property to do any plans and only with the approval of the board. We have no choice on the electronics; we have to do something about that program. We are anticipating having to pay we just have no idea how much.

Mr. O'Brien: How much do you estimate will be brought in from fees?

Mr. Przybysz: Our total income is about two point five million per year. This budget is two point nine five.

Mr. O'Brien: Is there enough in reserve to fund this?

Mr. Przybysz: Yes and that was discussed with the board. Some of this, because of the process now having to before the Council, there are certain line items, like for the curb side recycling program where we budget for worst case scenario because we would not know until late in the year if fuel surcharges or something needed to kick in and raise the amount we are paying out for that.

Motion to pass Bill No. 63-15 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 63-15 was passed to-wit; 9-0.

**BILL NO. 64-15: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2016**

Mr. Hamann, St. Joseph County Auditor, the budget is still a work in progress. I can say at this juncture, it is estimated to be about fifty six point two million dollars in terms of expenditures for the general fund. When you

combine all the different funds we are looking at about a total budget of a hundred and thirteen million dollars. It is still a work in progress.

Motion to pass Bill No. 64-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 64-15 was passed to-wit; 9-0.

**BILL NO. 65-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES  
(BUDGET FORM 4) ST. JOSEPH COUNTY, INDIANA**

Mr. Hamann, St. Joseph County Auditor, tax rates again are a work in progress. To give a brief overview, the Assessor's office provides the gross assessment, that then rolls over to the Auditor's office and what our office does then is it comes up with the net assessed value of the property in the county, you take away the exemptions, the abatements and deductions, we then provide that to the state and then the state will take that number, take the number, the various budgets from various tax entities and levy and calculate what those tax rates will be so that will be a few months.

Motion to pass Bill No. 65-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 65-15 was passed to-wit; 9-0.

**SALARY AMENDMENT:**

**BILL NO. 66-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015  
DEPT. 0018 PROSECUTOR**

Mr. McCahill reported that Bill No. 66-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's Office, we are here asking for an amendment to our salary amendment to reflect the changes that we appropriated in our first budget to what the APS Grant finally came in at.

Motion to pass Bill No. 66-15 was made by Mr. McCahill and seconded by Ms. Hess. Bill No. 66-15 was passed to-wit; 9-0.

**BILL NO. 49-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE FISCAL YEAR 2015-2016 DEPT. 0025 JUVENILE & PROBATE COURT**

Mr. McCahill reported that Bill No. 49-15 comes with a favorable a recommendation.

Pete Morgan, Executive Director of the St. Joseph Probate Court and Juvenile Justice Center, we are seeking a salary amendment which would allow us to apply eleven thousand, five hundred dollars in funds which were awarded under a Juvenile Accountability Block grant to the salary known as Education Coordinator in our probation user fees budget in line number 11376, the reason for seeking the amendment is this would be the person charged with carrying out the duties of the grant over and above the reason for the position otherwise.

Motion to pass Bill No. 49-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-15 was passed to-wit; 9-0.

**Public Hearing/Public Comment:**

**BILL NO. 61-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE  
HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY  
GOVERNMENT**

A. Treasurer  
General Fund

FROM: 1000-11682-000-0003	Clerk/Cashier	\$400.00
TO: 1000-32020-000-0003	Travel	400.00
		<u>TOTAL: \$400.00</u>

B. Prosecutor  
Adult Protective Service Grant

FROM: 9108-32020-000-0018	Travel	\$1,000.00
9108-22010-000-0018	Gas, Oil and Lubricants	919.00
TO: 9108-11318-000-0018	Investigator APS	\$1,000.00
9108-11319-000-0018	Director APS	31.00
9108-37100-000-0018	Auto Lease	888.00
		<u>TOTAL: \$1919.00</u>

**APPROPRIATE**

C. Auditor's Office  
Enhanced Access Fund

1154-39750-000-0002	Data Processing	\$100,000.00
1155-39750-000-0002	Data Processing	100,000.00
		<u>TOTAL: \$200,000.00</u>

D. County Engineer  
Major Moves Const. Fund

1172-43155-000-0023	McKinley AM General	\$400,000.00
		<u>TOTAL: \$400,000.00</u>

E. Roads & Highway  
Local Road & Street

1169-39150-000-0060	Other Expenses	\$27,865.00
		<u>TOTAL: \$27,865.00</u>

F. Health Dept.  
Health Ebola Grant

8126-22148-000-0055	Field Supplies	\$8,000.00
8126-39750-000-0055	Data Processing	1,000.00
8126-44010-000-0055	Equipment	13,135.00
8126-44311-000-0055	Emergency Equip.	10,000.00
		<u>TOTAL: \$32,135.00</u>

G. Health Dept.  
Health Bioterrorism Grant

8113-21030-000-0055	Office Supplies	\$2,772.00
8113-22148-000-0055	Field Supplies	3,000.00
8113-32020-000-0055	Travel	3,160.00
8113-32050-000-0055	Instruction & Training	2,840.00
8113-32203-000-0055	Cell Phones	1,800.00
8113-44010-000-0055	Equipment	2,500.00
8113-45510-000-0055	Furniture & Fixtures	10,000.00
	<b><u>TOTAL: \$26,072.00</u></b>	

H. Health Dept.  
Health HUD Grant

9103-21030-000-0055	Office Supplies	\$250.00
9103-22148-000-0055	Field Supplies	3,700.00
9103-22328-000-0055	Equipment Repairs	9,785.00
9103-32020-000-0055	Travel	300.00
9103-36010-000-0055	Repairs Bldgs. & Structure	500.00
	<b><u>TOTAL: \$14,535.00</u></b>	

G. Juvenile & Probate Court  
JABG

8125-11385-000-0025	Probation Officer I	\$11,500.00
	<b><u>TOTAL: \$11,500.00</u></b>	

Motion to pass Bill No. 61-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 61-15 was passed to-wit; 9-0

**Land Use Planning:**

**BILL NO. 45-15:** PETITION TO VACATE PUBLIC WAYS AND PUBLIC PLACES WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA PETITIONER: EDWARD W. HARDIG

Mr. Noland reported that Bill No. 45-15 comes with a favorable a recommendation.

Mr. Danch, Danch, Harner and Associates, as we mentioned to Council, council had asked us last month to see if we could meet with the adjacent property owner and come to an agreement on the use of the property between us and Westwinds, property to the south. We have done that. Mr. Masters is here this evening to speak on behalf of his clients. We have come to agreement which stipulates how the property will be laid out, that we will be providing access for Mr. Master's clients. We provided Council with a site plan that shows the proposed the development that will occur on the property, assuming the Council will approve the vacation of Huron Street. The bill this evening has been revised, the ordinance that is before the Council this evening reflects part of the agreement we have with Mr. Masters clients that if the street gets vacated, they will acquire fifty feet of the sixty feet of right of way which is adjacent to their property that was part of the stipulation. We will also back that up by doing a quick claim deed to Mr. Masters clients to show that the transfer of that property so that property would remain in the county. This process is also on a parallel track, we have already done before the Area Plan Commission for the zoning issue for this property. We did receive a favorable recommendation from the Plan Commission; they also approved variances for the development. What we would say to Council this evening, there will be a public hearing for the residents, everyone that had been notified within three hundred feet for that development, there will be a public hearing where they can address their concerns at a city council meeting, that meeting will be on September 28 that will be a public hearing.

Mr. Kruszynski: Mike, I know there was an issue with the curb height on the north side of the building....

Mr. Danch: Yes, what we have done with that as part of the agreement, when we do our part of the development, there will be a curb at the north property line for Westwinds. There will be a nice clean line.

James A. Masters, Nemeth, Feeney, Masters and Campiti, 350 Columbia, South Bend, I am here tonight on behalf of Maron LLC and its owners. At your last meeting, we presented a remonstrance to the vacation of Huron Street. I am pleased to inform you that with the cooperation of the petitioner and the cooperation of the representatives of Martins, the issues raised by that remonstrance have been resolved. The remonstrance is hereby withdrawn.

Leon Grey, 56420 Butternut Road, South Bend, I am in favor of any improvement this community can have especially on the west side.

Murray Miller, 1201 Priscilla Drive, I am also in favor of this. The west side has been in need of a new grocery store in the area. I think it's well deserved for the people on the west side to get that. I am very much in favor.

Kevin Pajakowski, 58472 Eastwood Drive, South Bend, Martin's has done a wonderful thing, when they moved in, they cleaned up the area. They kept the area clean. Without Martin's, that's the one anchor we have had in this community on our side of town.

Susan Zawadowski, 159 N. Summit Drive, South Bend, I am a current Martin's customer at that store, I am very much in favor of the vacation of Huron Street. I look forward to walking and riding my bike to Martin's. I appreciate what Martin's does for our community.

Rev. Charles Zawadowski, 159 N. Summit Drive, South Bend, I am a pastor of St. Mary's Parish on Sample Street. I echo some of the thoughts we have heard today. We always talk about how we need new things on the west side, here it is. We, as a community, partner with Martin's. We do not partner with Kroger's or Meijers. Many neighborhood organizations, government entities have benefited from Martin's charity. They have an excellent track record. They are good neighbors. I endorse and support the vacation of Huron Street.

Charles Waddell, 5134 Hazelwood Court, South Bend, I am looking forward to shopping. Martin's has a history of hiring local contractors and local workers so I think it's a big boost for our economy. I am looking forward to this.

Diana Kisminski, 56921 Hollywood Blvd., South Bend, I am in opposition of Huron Street. I hope you have had an opportunity to look over the packet of information I provided to your office. As you can see from the diagram, Martin's plans to build a drive through service for customers to purchase coffee. As we all know, traffic from a drive through can quickly back up. As a result, drivers will have to wait on Hollywood Blvd. before accessing Martin's. This will result in cars backing up in both directions. This will cause a traffic jam on Grant as drivers wait to turn into Hollywood Blvd. There is no left turn signal at Mayflower and Sample. As a result, drivers will be detoured from using the Mayflower entrance into Martin's. There are a lot of children that live on Hollywood Blvd. We are your constituents, not Martin's. We need you to represent our interests.

Eric Kisminski, 56921 Hollywood Blvd., South Bend, I am here this evening representing myself and those that signed the petition. So far all we have heard from the representatives of Martin's are stories, lies and total disrespect to the residents regarding their concerns about their project. This proposed Martin's already has three entrances. Two on Mayflower and one on Western. As I looked on the Council list of names I was proved last week and addresses I noticed that none of you live in a heavily traffic road. Put yourself in our position. In America, we live in a democracy. We the people, who will be effected the most, took a vote and we voted to close the entrance to Martin's from Hollywood, you have the petition in your position.

Louann Gondos, 565547 Hollywood Blvd., I am representing my mother in law who lives on Hollywood Blvd. I am a Martin's supporter, I am happy the store is going to be put where it is going to be put. I have to agree, you guys have to cut off access to Hurron and Hollywood Blvd. It's our neighborhood. Just protect our neighborhood streets.

Denise Lentech, 56595 S. Hollywood Blvd., my husband and I have lived here for thirty eight years; we have raised our children and now enjoy our grandchildren visiting us here. We chose this neighborhood to live out our lives in because it is peaceful and friendly. We the neighbors who live on Hollywood, Ford and Elmer beg of you to allow the quality of our lives to remain somewhat, what we envisioned it when we chose this neighborhood to live out our lives. Please vote against the entrance/exit on Hollywood.

Jeffrey Booker, 56577 Hollywood Blvd., I too know that Martin's does a lot of good for our community. I am not against Martin's building a store. The realization of the Martin's project with a rear entrance off of Hollywood Blvd. is not fair. It's not fair to the residents or the county. The city will annex this part for the Martin's project, Martin's will use the road and the county will have to maintain it. That's not fair. It will put a lot of traffic back there. We are just asking for one concession from Martin's. Close that entrance.

Patricia Cichowicz Lynch, 23665 Grant Road, South Bend, Martin's has been a great neighbor. We know they will be moving and building in between Hollywood and Mayflower and we accept that but we object to an egress on Hollywood.

Thomas J. Kowalski, 56680 Hollywood Blvd., South Bend, I am representing my mom who is 92 years old and still resides there. With the entrance to Martin's on Hollywood, we won't be able to get out of our driveway most of the time. My mom is not driving but my mom does not want it there.

Mr. Danch: We are looking at the concerns of the residents that showed up this evening. This project has gone through review both county engineering department and also city engineer for the City of South Bend. We asked them to take a look at the project as well. We do have a main access point that would be onto Mayflower Road, actually we have two on Mayflower Road and there will be one on Western. The one off of Hollywood Blvd. we don't believe will be a main entrance for any access point from that residential area. That is to allow access for residents to come in; they don't have to go out to Mayflower Road, that's one of the reasons for that. It is not a main access point. We created that strictly to allow for residents that are going to use the Martin's to get back to their homes without either going out to Western Ave. or onto Mayflower. I have not heard any concerns from either the city engineering department or the county engineering department about increase amount of traffic that would be going out onto Hollywood Blvd. but we will take a look at that. We have heard concerns though, of the rout that is being taken from Grant up to Western and then over to the church for picking up children but I don't think there's that huge increase and I believe the county engineering department is also going to be taking a look at it from a traffic standpoint as well. What we would ask Council to do is allow us to move ahead and get to the city council portion for the rezoning where these remonstrators can show up and address their concerns with the city council as well.

Mr. Kruszynski: Mike, I think you just answered it, I know three for four of the residents got up and spoke were concerned about that access onto Hollywood. But their concerns should be addressed with the city council, am I correct?

Mr. Danch: That is correct. The city engineering department will have jurisdiction, we are going through that annexation procedure to bring it into the city. The city engineering department also has a close relationship with county engineering as well. So I think between the two they will also be looking at it. We will have to submit a final site plan for approval for those departments before we build.

Mr. Catanzarite: Just for the record, Mr. Kisminski mentioned none of live near commercial. I live about a hundred feet away from a Walgreens store near Ironwood and Edison so I do know what it is like to live next to commercial property and I have a dentist and an insurance office next door to me. Having gone through that process and worked with those groups when they moved into our neighborhood after I moved there and not known they were going to be there when I moved initially, the zoning screening requirements that are in place today are a lot more stringent than they were many years ago so for me personally, it's been a positive experience living next to a commercial property and some offices and the screen that has gone up has shielded my family from what I consider to be to very highly, intensive used properties so to our satisfaction, I just want to say I do live next to commercial property and by it and it has not been a bad experience. Mr. Danch, looking at our concerns, I think you have written commitments, you would not use Hollywood for any truck delivery access, right?

Mr. Danch: It was actually designed that way. Truck traffic will not go out onto Hollywood Blvd. We did work closely with the city engineering department on that as well as Jessica (Clark) and the way it's designed, the whole site is designed for truck traffic to come off of either Western Avenue come south through our access point which is east of John Becker's shopping center or come in off of Mayflower Road. The whole design for truck turning radius is dictated by that access routing. A truck could not come down Hollywood Blvd. and make the turn into the site and one of the things we have mentioned to the residents is, Martin's has complete control over any of the vendors that delivery goods/produce to their stores so that we can prevent that from happening.

Mr. Catanzarite: Hearing the concerns from most of the Hollywood residents who would be most impacted by this, is there a design possibility of an entrance or an exit off of Hollywood that could be achieved that would make it less intensive?

Mr. Danch: We can take a look at that but it's almost going to be up to the engineering department to see if there is a way to limit how that traffic would access Hollywood Blvd. There are certain ways to do an entrance way to deliver traffic one way or another.

Mr. Catanzarite: You negotiated with Westwinds. Westwinds contends that many of their patrons currently and have for a long time always used Hollywood Blvd. to avoid Mayflower Road, is that correct? Was that conveyed to you?

Mr. Danch: I have heard that, the patrons that came out of Westwinds would like to go over toward Hollywood because it's easier that way. I also heard where there is a situation where Huron Street was a straight through, there were actually people cutting through Mayflower over to Hollywood Blvd. and racing down that so by our design, we will be able to stop that.

Mr. Catanzarite: By offsetting that.

Mr. Danch: By offsetting that and making it more difficult, we are also going to include signage, stop signs within our site.

Mr. Morton: You are saying that you are talking to the city engineer?

Mr. Danch: We have done that, yes. What I am saying is, before we can get our approval to start the project, they will have to review everything and make sure that we are in compliance as well.

Mr. Morton: Is the city engineer; is he aware of all the concerns of the residents?

Mr. Danch: They will be, I think with them showing up, they were at the Area Plan Commission meeting so I think some of those concerns were conveyed at the Area Plan Commission meeting that we had approximately two weeks ago. It will also be at the city council meeting as well.

Mr. Morton: I think it would make sense if the city engineer was made aware of these concerns before the night of the public hearing. That just makes sense.

Mr. Danch: I would be glad to inform them, I have no trouble doing that.

Mr. Catanzarite: I hope Martin's is very sensitive to that issue; it sounds like you are trying to address it or willing to look at it and possibly address it. I think the people have made some very thoughtful and true statements about how the impact will be on their neighborhood.

Mr. Morton: Mr. Danch, the site plan you presented tonight is amended, correct?

Mr. Danch: Correct.

Mr. Kruszynski: I have just a few comments. Some of the concerns that were addressed, I know Mr. Booker, you brought up about the traffic count or study, I have emailed our county engineer, Jessica Clark last week after I heard your concern in regards to that. She is working with MACOG to get that done before winter, we would like to see what that count is before Martin's is built, if this passes. The lady that brought up about a couple of intersections in regards to Grant and Mayflower, again, that is a city issue, the county does not have any jurisdiction over that intersection. Same thing with Western and Mayflower, if we recall at the neighborhood meeting that a few of us attended, Councilman Oliver Davis indicated that he would be looking at those traffic signals, he was going to talk to the city engineer to address that issue along with some left turning lanes, which Mike, isn't there some left turning lanes purposed on Huron?

Mr. Danch: Yes, the main entrance way we have on to Mayflower Road at the request of city engineer they asked that we provide a left turn lane onto Mayflower Road. That also has a dedicated right turn lane as well. That was part of their design when they took a look at our site plan.

Mr. Kruszynski: Also, I have spoken to Jessica in regards to the way that Hollywood is constructed and she is going to take a look at that Mr. Booker and once we get traffic counts and again, if this is passed and get traffic counts later then that issue will be addressed. I also had a meeting with Area Plan and discussed some options that could be done to Hollywood along with Jessica that if that traffic turns to get real bad, there are things we can do, we as a county can do to Hollywood, not to the access point onto Hollywood but there are things we can do down the road if starts to be a real nuisance.

Audience member: Is Martin's going to post a bond (inaudible) on that nice new road you put in? I think someone should consider that.

Mr. Kruszynski: Jeff, in dealing with the Martin's representatives for the last two months, either on the phone or in person, not with just myself but with other colleagues on the Council here, I will hold Mr. Bartles accountable for whatever goes around in that area in Martin's commitment to this store, if it's passed and the commitment they made to the other stores, I am pretty pleased at what I see. Like Councilman Cantazarite has said, he does live in a pretty heavily commercial area, I just so happen to live right off of Quince Road, we have a school there, you have fire trucks there, you have all kinds of traffic going up and down Quince so we get it on Quince also. I am also concerned of the constituents in that area that's why I will hold Mr. Bartle's accountable, I will be the first one banging on his door. I think he knows that.

Motion to pass the amendment for Bill No. 45-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Amended Bill No. 45-15 was passed by a voice vote to-wit; 9-0.

Mr. O'Brien: I wanted to acknowledge that Martin's investment is coming without any request to the county for incentives. I'm impressed with that among many other aspects of the project, the number of jobs that will be retained and additional jobs to be created as well. It's not often that investments in real estate of this nature do not come to us with a request for an incentive and I am very pleased with that and I will be supporting passage when we ultimately vote.

Ms. Hess: I also think that Martin's brings a lot to the community and am pleased with the developments I have seen and past and look forward to this one however, I will echo what Mark Catanzarite said as well, I think they should take the neighbor's concerns into consideration when they are making this development because they have lived there for a long time and to have their life disrupted or as they perceive as being disrupted needs to be given careful consideration. I know that Bobby K., that's his district, he will be as he said, knocking on Mr. Bartle's door if there is a problem and my district butts right up against that so again, I work with neighborhoods in the City of South Bend that's my day job, so I am very concerned about what neighbors think when there is development or new things are happening in their neighborhood.

Mr. Morton: Mr. Danch, I'd be interested in hearing from you as you progress with your conversation with the city engineer, hopefully there again, before the public hearing and if you would be so kind as to give me a call and let me know how that's progressing.

Mr. Danch: I will.

Motion to pass Bill No. 45-15 was made by Mr. Kruszynski and seconded by Mr. O'Brien. Bill No. 45-15 was passed to-wit; 9-0

**BILL NO. 53-15:** A RESOLUTION OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, ESTABLISHING REASONABLE ACCOMMODATION POLICIES AND PROCEDURES IN ZONING AND LAND USE DECISIONS WITHIN THE COUNTY OF ST. JOSEPH, INDIANA  
PETITIONER: MARK P. TELLOYAN

Mr. Noland reported that Bill No. 53-15 comes with a favorable a recommendation.

Mr. Telloyan: This proposed ordinance brings the county in mind with the ADA, the American Disabilities Act and Fair Housing Act. It also echo's a resolution passed earlier by our colleagues on the City of South Bend. Mark Lyons from the Building Department is here if there are any detailed questions, I was asked by Jamie Woods to present it to the Council, I would ask for its passage.

Motion to pass Bill No. 53-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Bill No. 53-15 was passed to-wit; 9-0

**BILL NO. 57-15: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION PETITIONER: AREA PLAN COMMISSION**

Mr. Noland reported that Bill No. 57-15 comes with a favorable a recommendation.

Larry Magliozzi, Executive Director of the Area Plan Commission, this is establishing new fees for the next two years, 2016-2017. It replaces a multiyear schedule that was approved back in 2009.

Motion to pass Bill No. 57-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 57-15 was passed to-wit; 9-0

**BILL NO. 60-15: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY AMERICAN STRUCTUREPOINT ON BEHALF OF NAVISTAR FOR THE PROPERTY LOCATED AT 32104 STATE ROAD 2, NEW CARLISLE THE SAME BEING PETITION NO. 08-05-15-14 FILED WITH THE AREA BOARD OF ZONING APPEALS**

Mr. Noland reported that Bill No. 60-15 comes with a favorable a recommendation.

Mark Lyons, Building Department, this was given public hearing at the August 5<sup>th</sup> at the Area Board of Zoning appeals, this is a special exception to allow an auto testing grounds. This comes to you with a unanimous favorable recommendation.

Mr. Catanzarite: Unrelated to the bill but I would just like to extend my congratulations to Mr. Lyons and thank him for his ten years of service to our county and wish you the best of luck moving forward. You brought a lot to the county in terms of helping us out in a lot of issues that have come before us.

Mr. Lyons: Thank you, I appreciate it.

Mr. Kruszynski: I'd like to echo that Mark, the little time I have had time to work with you, you have been very good but you have one last request, what about 56131 Butternut? I left you a message about a week ago.

Mr. Lyons: It's on the demo list, so it should be getting it taken care of. It will probably be the 2016 list. Chuck is just starting to get the 2016 list put together, probably end of November early December when he will be bringing those forward to get the process started.

Mr. Kruszynski: Thank you, good luck to you.

Mr. Hamann: Mr. Lyons, I didn't realize you were leaving us. I do wish you the best of luck and you were outstanding when I was a councilman and any concerns you were "Johnny on the spot" whenever I called, you would check on within twenty four hours of a property to see if it was in compliance with building code so I really appreciated your hard work so good luck.

Mr. Lyons: Thank you.

Mr. McCahill: Congratulations on going home go Packers.

Motion to pass Bill No. 60-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 60-15 was passed to-wit; 9-0

**Unfinished Business:**

**New Business:**

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

Mr. O'Brien: I just wanted to report to the council, I did have office hours or an open house last week to invite people to come in and speak about the Taxpayer Protection and Transparency Ordinance that I proposed. Only one person showed up, I spoke with that person to explain the ordinance, I had no other face to face questions about it. I have had nine or ten calls and messages in support of it. I will talk more about it at the committee meetings in a couple of weeks.

Jim Bogner, 807 W. Washington Street, South Bend, I come this evening regarding property in the City of South Bend, 803 W. Washington, I believe it resides in President Morton's district. This is also known as the Kiser Mansion. I am in front of Council this evening is because of an issue related to the Historic Preservation Commission. As you may or may not know, the Historic Preservation Commission for the last fifteen years has had a façade easement on this property. During this period of time they had care, custody and control of the façade of this building. A very unusual situation, an asset to our county. On February 23, 2015, the Historic Preservation Commission, under a deed of easement, transferred or essentially gave up the façade easement on this property, care, custody and control. There were questions at the city council last meeting that they had over the issue of whether this was a valid transfer. I realize in fairness of Historic Preservation Commission they are not here this evening, but it was a transfer of an asset. The other issue I am deeply concerned about, living directly next door to this property is that once the property was allowed to be transferred from the City of South Bend to Indiana Landmarks, two of the chimney's were dismantled. That had to of been through an agreement with HPC because they had care, custody and control of the façade, again an asset to this county. Those chimney's continued to be down today. They have not been restored, Councilman Catanzarite knew the people at the time that lived there, can validate the fact that they are there. There are serious questions that relate to how the Historic Preservation Commission handled this property over the 15 years they had it. My letter is directed to President Morton but it is for all of you, it basically asks, what has happened between December 11, 2011 which was the transfer of the property from the City of South Bend to the Historic Landmarks Foundation of Indiana, also called Indiana Landmarks until this deed of easement? I don't know that it ever came in front of council, I don't know if council was ever aware of it. I don't know whether the Historic Preservation Commission ever could do it without talking with council but there were clearly were two things that happened here. An important asset in this community, a façade easement, and there are also three others, were transferred. Secondly, during the period of time that Indiana Landmarks owned the property, there was work done on the property and it was not followed through on and does not till this day. The reason why I am here is to ask council to take a look at this through their legal folks and all of you to take a look at the history of this and what Historic Preservation does. Now having lived in the neighborhood, I can tell you, if I came down to any work on my property and I went the building department to get a permit, they would look at where I lived at, they would know it was an historic property and they would ask to review this. I know of no place else we could go almost four years without some kind of plan that came trough Historic Preservation. I think my concern to this is, they may have answers to this, but I don't understand why demolition to these chimney's which needed to be done and not rebuilt and I don't understand why an asset was given away without coming to the elected officials. There may be a question you may have is well, if this happened February why am I now coming before you now. It's because many of us just realized that this occurred through other issues that are unrelated to this council and because of the nature of Historic Preservation I think they owe everyone some answers, first of all, you folks and then ultimately, me. I think it's a question in government about fairness, about are we all going to be treated equally or is there a wink a nod that we are going to somehow take of this because this is going to a higher level and then the higher level turns and sells it. This is an important property in the city, the individuals that were working on this property are having issues with Indiana Landmarks which does not relate to this, the city is conducting their own investigation but I do believe that the Council does have issues relating to this to understand how it would have been sold and how it would have been passed over without anybody knowing anything. I'd be glad to take any questions anyone may have but the documentation, which I don't expect you to look at now, will clearly show you, what we call the Freedline Easement from 83, what governed it up unto the transfer of the easement.

Mr. Morton: What is the time table of the city's investigation?

Mr. Bogner: That's a very good question, Mr. President. The city isn't conducting a thorough investigation into issues that are related to Indiana Landmarks and the current property owners that have nothing to do directly with the Historic Preservation Commission so that is why I am here asking for your help. Basically to find out what you folks know about this and what will come of this. I don't know that the city has a time table but as you know, Historic Preservation Commission is a hybrid, it's part city and part county but most of the time county comes in. I also want to say too, it's very important to be fair. They are obviously not here to discuss this. I am not accusing them of doing anything wrong other than to say, no one would be allowed to do a dismantling as they did without some sort of plan and I believe my letter says what happened during this period of time. So no, I know that the city has a time table. I

do know that Community Investment and Scott Ford has assigned someone to do a thorough investigation and go back to the city council. I was not a part of that during that particular time, asking for an investigation. This is more related to Historic Preservation and what they did with the easement.

Mr. Kruszynski: Mr. Bogner, obviously you have presented this to the Historic Preservation....

Mr. Bogner: We have through the years presented much information to the Historic Preservation Commission. We have never received answers from them from during the period of time.

Mr. Kruszynski: When's the last time you addressed them?

Mr. Bogner: The last time we addressed the Historic Preservation Commission was at the time of the sale of the property from the City of South Bend to Indiana Landmarks and we were assured at that time that Historic Preservation and Landmarks would be working in cooperation to be able to assist in stabilizing and that was one of the reasons why the chimney's were removed and as I noted in my letter here, they were done in January and February of 2012. From that point on, it basically was this is an Indiana Landmarks problem and not our problem but the façade easement was not transferred until February of 2015 which means it was an asset of the county's. I come here this evening based on the information that I want to know number one, was it a legal transfer, could they do that without going through any of the bodies and secondly, basically what had happened during the period of time when Landmarks owned the property and HPC had a façade easement on it.

Mr. Kruszynski: Have you addressed this issue with their attorney?

Mr. Bogner: That portion was addressed through the city council and I believe that the city council was also looking at this portion that relates to whether the transfer of the façade easement was legal, so yes, that portion was done, I did not do it, it was done at the last council meeting. I did not personally do it.

Mr. Kruszynski: Mr. Zappia represents the Historic Preservation. Has he gotten back to you?

Mr. Bogner: He has not gotten back to me, but it was directly related to me, I come before the council to bring this to council's attention. I also, I might add, to show that there are three other properties that façade easements continue to be on, which is at a higher level of what would normally occur under HPC rules and guidelines and that's what that information provides you with.

Mr. O'Brien: Mr. Bogner, what is your ultimate goal here, you want to see someone repair and rebuild chimneys?

Mr. Bogner: Well, I think two things. Number one, my concern is, that an asset was passed along and there was a loss of local community involvement. The easement is very clear. Secondly, I think there should be some clarification as to how something can be taken down and be left down for four years without some kind of a plan and HPC is usually very good jumping on issues that have problems. I have seen them in several areas, including houses that are up for demolition that have historic nature to it. This is a very strange situation.

Mr. O'Brien: So you don't care if the chimneys are rebuilt or not?

Mr. Bogner: Obviously we want to have the chimneys rebuilt and I would like to see the property saved; there is a third chimney that was not dismantled that is in disrepair at this time. I am wanting to know what HPC knew and when they knew it and whether they transferred any of that information to anyone of the governing bodies before they gave up the easement.

**Adjournment:** Mr. Morton stated that the meeting was adjourned 7:25 p.m.















MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
September 8, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on September 8, 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. Noland made a motion to approve the minutes of the August 11, 2015 public hearing was seconded by Mr. O'Brien, the motion was passed by a voice vote; 9-0.

Mr. Noland made a motion to return Bill No. 58-15 back to committee per the petitioner; it was seconded by Mr. Catanzarite. The motion was passed by a voice vote; 9-0.

No report from the County Auditor  
No report from the County Commissioner  
No report from Special Committees.

**First Readings:**

**BILL NO. 67-15:** 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 13460 E. MCKINLEY AND 56020 CURRANT ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT PETITIONER: RBS PROPERTIES LLC  
Assigned to the Land Use Planning Committee

**BILL NO. 68-15:** AN ORDINANCE OF ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO 79-13 WHICH ESTABLISHED THE PUBLIC SAFETY COMMUNICATIONS CONSORTIUM OF ST. JOSEPH COUNTY, AND MODIFYING SECTION 6 OF SAID ORDINANCE REGARDING THE OPERATIONS BOARD POWERS AS ESTABLISHED THEREIN Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 69-15:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF THE ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC. 6-1.1-12.1-14 ET SEQ PETITIONER: ST. JOSEPH ENERGY CENTER, LLC  
Assigned to the Land Use Planning Committee

**9. Public Hearing on the Airport Authority, Solid Waste Management, and St. Joseph County 2016 Budget:**

**BILL NO. 62-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) AIRPORT AUTHORITY**

Mike Daigle, Executive Director, St. Joseph County Airport Authority, the Airport Authority is requesting consideration of our 2016 budget. Our budget consists of three different funds, the Aviation Fund, Cumulative Building and Debt Services. The total of these funds are twenty million, five hundred and forty one thousand. In our 2016 budget, we have reflected and amount of cost of living wage increases, additional wage adjustments and also some job upgrades based on changes and responsibilities. The largest increase in these funds is in the Cumulative Building fund primarily for air service development. As you know, we are receiving bids in the next two weeks to build a federal inspection station and a general aviation facility to be able and process international flights, a first for our region.

Motion to pass Bill No. 62-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 62-15 was passed to-wit; 9-0.

**BILL NO. 63-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) SOLID WASTE**

Randy Przybysz, Executive Director, Solid Waste Management, budget proposal for 2016 has been approved by our board which you should have a copy of that resolution. Everything in this budget was kept just about the same as last year, there are no raises being proposed. Our total budget for next year is being proposed as an increase of a hundred fifty two thousand, six hundred and forty three dollars and that comes basically from two line items, our Household Hazardous Waste Program in Mishawaka, last year was just under ten thousand people with seven hundred and sixty nine thousand pounds of hazardous material going through there. We are on track this year to exceed that number. People coming and the amount of material. Another factor is, for the last six years we have been under contract with a company called ERI to take the obsolete electronics. They have taken them for free so we rode that horse now all that we can because we were notified that they were the last ones offering to do it for free, that is not going to happen anymore. Our contract is up the end of this year. We have no idea what the charges are going to be or how much material we are going to take in until it actually happens. The proposal there was to take that budget line item from a hundred thousand to two hundred thousand. The other is a fifty thousand dollars put into a capital improvement fund, we have never had that before. There is some discussion to combine our office and our HHW program in one location, more centrally located to the population in the county and also large enough to handle the kind of numbers we are taking through there now. We are land locked where we are at. That money would only be used, should we find a piece of property to do any plans and only with the approval of the board. We have no choice on the electronics; we have to do something about that program. We are anticipating having to pay we just have no idea how much.

Mr. O'Brien: How much do you estimate will be brought in from fees?

Mr. Przybysz: Our total income is about two point five million per year. This budget is two point nine five.

Mr. O'Brien: Is there enough in reserve to fund this?

Mr. Przybysz: Yes and that was discussed with the board. Some of this, because of the process now having to before the Council, there are certain line items, like for the curb side recycling program where we budget for worst case scenario because we would not know until late in the year if fuel surcharges or something needed to kick in and raise the amount we are paying out for that.

Motion to pass Bill No. 63-15 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 63-15 was passed to-wit; 9-0.

**BILL NO. 64-15: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2016**

Mr. Hamann, St. Joseph County Auditor, the budget is still a work in progress. I can say at this juncture, it is estimated to be about fifty six point two million dollars in terms of expenditures for the general fund. When you

combine all the different funds we are looking at about a total budget of a hundred and thirteen million dollars. It is still a work in progress.

Motion to pass Bill No. 64-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 64-15 was passed to-wit; 9-0.

**BILL NO. 65-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES  
(BUDGET FORM 4) ST. JOSEPH COUNTY, INDIANA**

Mr. Hamann, St. Joseph County Auditor, tax rates again are a work in progress. To give a brief overview, the Assessor's office provides the gross assessment, that then rolls over to the Auditor's office and what our office does then is it comes up with the net assessed value of the property in the county, you take away the exemptions, the abatements and deductions, we then provide that to the state and then the state will take that number, take the number, the various budgets from various tax entities and levy and calculate what those tax rates will be so that will be a few months.

Motion to pass Bill No. 65-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 65-15 was passed to-wit; 9-0.

**SALARY AMENDMENT:**

**BILL NO. 66-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015  
DEPT. 0018 PROSECUTOR**

Mr. McCahill reported that Bill No. 66-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's Office, we are here asking for an amendment to our salary amendment to reflect the changes that we appropriated in our first budget to what the APS Grant finally came in at.

Motion to pass Bill No. 66-15 was made by Mr. McCahill and seconded by Ms. Hess. Bill No. 66-15 was passed to-wit; 9-0.

**BILL NO. 49-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE FISCAL YEAR 2015-2016 DEPT. 0025 JUVENILE & PROBATE COURT**

Mr. McCahill reported that Bill No. 49-15 comes with a favorable a recommendation.

Pete Morgan, Executive Director of the St. Joseph Probate Court and Juvenile Justice Center, we are seeking a salary amendment which would allow us to apply eleven thousand, five hundred dollars in funds which were awarded under a Juvenile Accountability Block grant to the salary known as Education Coordinator in our probation user fees budget in line number 11376, the reason for seeking the amendment is this would be the person charged with carrying out the duties of the grant over and above the reason for the position otherwise.

Motion to pass Bill No. 49-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-15 was passed to-wit; 9-0.

**Public Hearing/Public Comment:**

**BILL NO. 61-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE  
HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY  
GOVERNMENT**

A. Treasurer  
General Fund

FROM: 1000-11682-000-0003	Clerk/Cashier	\$400.00
TO: 1000-32020-000-0003	Travel	400.00
		<u>TOTAL: \$400.00</u>

B. Prosecutor  
Adult Protective Service Grant

FROM: 9108-32020-000-0018	Travel	\$1,000.00
9108-22010-000-0018	Gas, Oil and Lubricants	919.00
TO: 9108-11318-000-0018	Investigator APS	\$1,000.00
9108-11319-000-0018	Director APS	31.00
9108-37100-000-0018	Auto Lease	888.00
		<u>TOTAL: \$1919.00</u>

**APPROPRIATE**

C. Auditor's Office  
Enhanced Access Fund

1154-39750-000-0002	Data Processing	\$100,000.00
1155-39750-000-0002	Data Processing	100,000.00
		<u>TOTAL: \$200,000.00</u>

D. County Engineer  
Major Moves Const. Fund

1172-43155-000-0023	McKinley AM General	\$400,000.00
		<u>TOTAL: \$400,000.00</u>

E. Roads & Highway  
Local Road & Street

1169-39150-000-0060	Other Expenses	\$27,865.00
		<u>TOTAL: \$27,865.00</u>

F. Health Dept.  
Health Ebola Grant

8126-22148-000-0055	Field Supplies	\$8,000.00
8126-39750-000-0055	Data Processing	1,000.00
8126-44010-000-0055	Equipment	13,135.00
8126-44311-000-0055	Emergency Equip.	10,000.00
		<u>TOTAL: \$32,135.00</u>

G. Health Dept.  
Health Bioterrorism Grant

8113-21030-000-0055	Office Supplies	\$2,772.00
8113-22148-000-0055	Field Supplies	3,000.00
8113-32020-000-0055	Travel	3,160.00
8113-32050-000-0055	Instruction & Training	2,840.00
8113-32203-000-0055	Cell Phones	1,800.00
8113-44010-000-0055	Equipment	2,500.00
8113-45510-000-0055	Furniture & Fixtures	10,000.00
	<b><u>TOTAL: \$26,072.00</u></b>	

H. Health Dept.  
Health HUD Grant

9103-21030-000-0055	Office Supplies	\$250.00
9103-22148-000-0055	Field Supplies	3,700.00
9103-22328-000-0055	Equipment Repairs	9,785.00
9103-32020-000-0055	Travel	300.00
9103-36010-000-0055	Repairs Bldgs. & Structure	500.00
	<b><u>TOTAL: \$14,535.00</u></b>	

G. Juvenile & Probate Court  
JABG

8125-11385-000-0025	Probation Officer I	\$11,500.00
	<b><u>TOTAL: \$11,500.00</u></b>	

Motion to pass Bill No. 61-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 61-15 was passed to-wit; 9-0

**Land Use Planning:**

**BILL NO. 45-15:** PETITION TO VACATE PUBLIC WAYS AND PUBLIC PLACES WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA PETITIONER: EDWARD W. HARDIG

Mr. Noland reported that Bill No. 45-15 comes with a favorable a recommendation.

Mr. Danch, Danch, Harner and Associates, as we mentioned to Council, council had asked us last month to see if we could meet with the adjacent property owner and come to an agreement on the use of the property between us and Westwinds, property to the south. We have done that. Mr. Masters is here this evening to speak on behalf of his clients. We have come to agreement which stipulates how the property will be laid out, that we will be providing access for Mr. Master's clients. We provided Council with a site plan that shows the proposed the development that will occur on the property, assuming the Council will approve the vacation of Huron Street. The bill this evening has been revised, the ordinance that is before the Council this evening reflects part of the agreement we have with Mr. Masters clients that if the street gets vacated, they will acquire fifty feet of the sixty feet of right of way which is adjacent to their property that was part of the stipulation. We will also back that up by doing a quick claim deed to Mr. Masters clients to show that the transfer of that property so that property would remain in the county. This process is also on a parallel track, we have already done before the Area Plan Commission for the zoning issue for this property. We did receive a favorable recommendation from the Plan Commission; they also approved variances for the development. What we would say to Council this evening, there will be a public hearing for the residents, everyone that had been notified within three hundred feet for that development, there will be a public hearing where they can address their concerns at a city council meeting, that meeting will be on September 28 that will be a public hearing.

Mr. Kruszynski: Mike, I know there was an issue with the curb height on the north side of the building....

Mr. Danch: Yes, what we have done with that as part of the agreement, when we do our part of the development, there will be a curb at the north property line for Westwinds. There will be a nice clean line.

James A. Masters, Nemeth, Feeney, Masters and Campiti, 350 Columbia, South Bend, I am here tonight on behalf of Maron LLC and its owners. At your last meeting, we presented a remonstrance to the vacation of Huron Street. I am pleased to inform you that with the cooperation of the petitioner and the cooperation of the representatives of Martins, the issues raised by that remonstrance have been resolved. The remonstrance is hereby withdrawn.

Leon Grey, 56420 Butternut Road, South Bend, I am in favor of any improvement this community can have especially on the west side.

Murray Miller, 1201 Priscilla Drive, I am also in favor of this. The west side has been in need of a new grocery store in the area. I think it's well deserved for the people on the west side to get that. I am very much in favor.

Kevin Pajakowski, 58472 Eastwood Drive, South Bend, Martin's has done a wonderful thing, when they moved in, they cleaned up the area. They kept the area clean. Without Martin's, that's the one anchor we have had in this community on our side of town.

Susan Zawadowski, 159 N. Summit Drive, South Bend, I am a current Martin's customer at that store, I am very much in favor of the vacation of Huron Street. I look forward to walking and riding my bike to Martin's. I appreciate what Martin's does for our community.

Rev. Charles Zawadowski, 159 N. Summit Drive, South Bend, I am a pastor of St. Mary's Parish on Sample Street. I echo some of the thoughts we have heard today. We always talk about how we need new things on the west side, here it is. We, as a community, partner with Martin's. We do not partner with Kroger's or Meijers. Many neighborhood organizations, government entities have benefited from Martin's charity. They have an excellent track record. They are good neighbors. I endorse and support the vacation of Huron Street.

Charles Waddell, 5134 Hazelwood Court, South Bend, I am looking forward to shopping. Martin's has a history of hiring local contractors and local workers so I think it's a big boost for our economy. I am looking forward to this.

Diana Kisminski, 56921 Hollywood Blvd., South Bend, I am in opposition of Huron Street. I hope you have had an opportunity to look over the packet of information I provided to your office. As you can see from the diagram, Martin's plans to build a drive through service for customers to purchase coffee. As we all know, traffic from a drive through can quickly back up. As a result, drivers will have to wait on Hollywood Blvd. before accessing Martin's. This will result in cars backing up in both directions. This will cause a traffic jam on Grant as drivers wait to turn into Hollywood Blvd. There is no left turn signal at Mayflower and Sample. As a result, drivers will be detoured from using the Mayflower entrance into Martin's. There are a lot of children that live on Hollywood Blvd. We are your constituents, not Martin's. We need you to represent our interests.

Eric Kisminski, 56921 Hollywood Blvd., South Bend, I am here this evening representing myself and those that signed the petition. So far all we have heard from the representatives of Martin's are stories, lies and total disrespect to the residents regarding their concerns about their project. This proposed Martin's already has three entrances. Two on Mayflower and one on Western. As I looked on the Council list of names I was proved last week and addresses I noticed that none of you live in a heavily traffic road. Put yourself in our position. In America, we live in a democracy. We the people, who will be effected the most, took a vote and we voted to close the entrance to Martin's from Hollywood, you have the petition in your position.

Louann Gondos, 565547 Hollywood Blvd., I am representing my mother in law who lives on Hollywood Blvd. I am a Martin's supporter, I am happy the store is going to be put where it is going to be put. I have to agree, you guys have to cut off access to Hurron and Hollywood Blvd. It's our neighborhood. Just protect our neighborhood streets.

Denise Lentech, 56595 S. Hollywood Blvd., my husband and I have lived here for thirty eight years; we have raised our children and now enjoy our grandchildren visiting us here. We chose this neighborhood to live out our lives in because it is peaceful and friendly. We the neighbors who live on Hollywood, Ford and Elmer beg of you to allow the quality of our lives to remain somewhat, what we envisioned it when we chose this neighborhood to live out our lives. Please vote against the entrance/exit on Hollywood.

Jeffrey Booker, 56577 Hollywood Blvd., I too know that Martin's does a lot of good for our community. I am not against Martin's building a store. The realization of the Martin's project with a rear entrance off of Hollywood Blvd. is not fair. It's not fair to the residents or the county. The city will annex this part for the Martin's project, Martin's will use the road and the county will have to maintain it. That's not fair. It will put a lot of traffic back there. We are just asking for one concession from Martin's. Close that entrance.

Patricia Cichowicz Lynch, 23665 Grant Road, South Bend, Martin's has been a great neighbor. We know they will be moving and building in between Hollywood and Mayflower and we accept that but we object to an egress on Hollywood.

Thomas J. Kowalski, 56680 Hollywood Blvd., South Bend, I am representing my mom who is 92 years old and still resides there. With the entrance to Martin's on Hollywood, we won't be able to get out of our driveway most of the time. My mom is not driving but my mom does not want it there.

Mr. Danch: We are looking at the concerns of the residents that showed up this evening. This project has gone through review both county engineering department and also city engineer for the City of South Bend. We asked them to take a look at the project as well. We do have a main access point that would be onto Mayflower Road, actually we have two on Mayflower Road and there will be one on Western. The one off of Hollywood Blvd. we don't believe will be a main entrance for any access point from that residential area. That is to allow access for residents to come in; they don't have to go out to Mayflower Road, that's one of the reasons for that. It is not a main access point. We created that strictly to allow for residents that are going to use the Martin's to get back to their homes without either going out to Western Ave. or onto Mayflower. I have not heard any concerns from either the city engineering department or the county engineering department about increase amount of traffic that would be going out onto Hollywood Blvd. but we will take a look at that. We have heard concerns though, of the rout that is being taken from Grant up to Western and then over to the church for picking up children but I don't think there's that huge increase and I believe the county engineering department is also going to be taking a look at it from a traffic standpoint as well. What we would ask Council to do is allow us to move ahead and get to the city council portion for the rezoning where these remonstrators can show up and address their concerns with the city council as well.

Mr. Kruszynski: Mike, I think you just answered it, I know three for four of the residents got up and spoke were concerned about that access onto Hollywood. But their concerns should be addressed with the city council, am I correct?

Mr. Danch: That is correct. The city engineering department will have jurisdiction, we are going through that annexation procedure to bring it into the city. The city engineering department also has a close relationship with county engineering as well. So I think between the two they will also be looking at it. We will have to submit a final site plan for approval for those departments before we build.

Mr. Catanzarite: Just for the record, Mr. Kisminski mentioned none of live near commercial. I live about a hundred feet away from a Walgreens store near Ironwood and Edison so I do know what it is like to live next to commercial property and I have a dentist and an insurance office next door to me. Having gone through that process and worked with those groups when they moved into our neighborhood after I moved there and not known they were going to be there when I moved initially, the zoning screening requirements that are in place today are a lot more stringent than they were many years ago so for me personally, it's been a positive experience living next to a commercial property and some offices and the screen that has gone up has shielded my family from what I consider to be to very highly, intensive used properties so to our satisfaction, I just want to say I do live next to commercial property and by it and it has not been a bad experience. Mr. Danch, looking at our concerns, I think you have written commitments, you would not use Hollywood for any truck delivery access, right?

Mr. Danch: It was actually designed that way. Truck traffic will not go out onto Hollywood Blvd. We did work closely with the city engineering department on that as well as Jessica (Clark) and the way it's designed, the whole site is designed for truck traffic to come off of either Western Avenue come south through our access point which is east of John Becker's shopping center or come in off of Mayflower Road. The whole design for truck turning radius is dictated by that access routing. A truck could not come down Hollywood Blvd. and make the turn into the site and one of the things we have mentioned to the residents is, Martin's has complete control over any of the vendors that delivery goods/produce to their stores so that we can prevent that from happening.

Mr. Catanzarite: Hearing the concerns from most of the Hollywood residents who would be most impacted by this, is there a design possibility of an entrance or an exit off of Hollywood that could be achieved that would make it less intensive?

Mr. Danch: We can take a look at that but it's almost going to be up to the engineering department to see if there is a way to limit how that traffic would access Hollywood Blvd. There are certain ways to do an entrance way to deliver traffic one way or another.

Mr. Catanzarite: You negotiated with Westwinds. Westwinds contends that many of their patrons currently and have for a long time always used Hollywood Blvd. to avoid Mayflower Road, is that correct? Was that conveyed to you?

Mr. Danch: I have heard that, the patrons that came out of Westwinds would like to go over toward Hollywood because it's easier that way. I also heard where there is a situation where Huron Street was a straight through, there were actually people cutting through Mayflower over to Hollywood Blvd. and racing down that so by our design, we will be able to stop that.

Mr. Catanzarite: By offsetting that.

Mr. Danch: By offsetting that and making it more difficult, we are also going to include signage, stop signs within our site.

Mr. Morton: You are saying that you are talking to the city engineer?

Mr. Danch: We have done that, yes. What I am saying is, before we can get our approval to start the project, they will have to review everything and make sure that we are in compliance as well.

Mr. Morton: Is the city engineer; is he aware of all the concerns of the residents?

Mr. Danch: They will be, I think with them showing up, they were at the Area Plan Commission meeting so I think some of those concerns were conveyed at the Area Plan Commission meeting that we had approximately two weeks ago. It will also be at the city council meeting as well.

Mr. Morton: I think it would make sense if the city engineer was made aware of these concerns before the night of the public hearing. That just makes sense.

Mr. Danch: I would be glad to inform them, I have no trouble doing that.

Mr. Catanzarite: I hope Martin's is very sensitive to that issue; it sounds like you are trying to address it or willing to look at it and possibly address it. I think the people have made some very thoughtful and true statements about how the impact will be on their neighborhood.

Mr. Morton: Mr. Danch, the site plan you presented tonight is amended, correct?

Mr. Danch: Correct.

Mr. Kruszynski: I have just a few comments. Some of the concerns that were addressed, I know Mr. Booker, you brought up about the traffic count or study, I have emailed our county engineer, Jessica Clark last week after I heard your concern in regards to that. She is working with MACOG to get that done before winter, we would like to see what that count is before Martin's is built, if this passes. The lady that brought up about a couple of intersections in regards to Grant and Mayflower, again, that is a city issue, the county does not have any jurisdiction over that intersection. Same thing with Western and Mayflower, if we recall at the neighborhood meeting that a few of us attended, Councilman Oliver Davis indicated that he would be looking at those traffic signals, he was going to talk to the city engineer to address that issue along with some left turning lanes, which Mike, isn't there some left turning lanes purposed on Huron?

Mr. Danch: Yes, the main entrance way we have on to Mayflower Road at the request of city engineer they asked that we provide a left turn lane onto Mayflower Road. That also has a dedicated right turn lane as well. That was part of their design when they took a look at our site plan.

Mr. Kruszynski: Also, I have spoken to Jessica in regards to the way that Hollywood is constructed and she is going to take a look at that Mr. Booker and once we get traffic counts and again, if this is passed and get traffic counts later then that issue will be addressed. I also had a meeting with Area Plan and discussed some options that could be done to Hollywood along with Jessica that if that traffic turns to get real bad, there are things we can do, we as a county can do to Hollywood, not to the access point onto Hollywood but there are things we can do down the road if starts to be a real nuisance.

Audience member: Is Martin's going to post a bond (inaudible) on that nice new road you put in? I think someone should consider that.

Mr. Kruszynski: Jeff, in dealing with the Martin's representatives for the last two months, either on the phone or in person, not with just myself but with other colleagues on the Council here, I will hold Mr. Bartles accountable for whatever goes around in that area in Martin's commitment to this store, if it's passed and the commitment they made to the other stores, I am pretty pleased at what I see. Like Councilman Cantazarite has said, he does live in a pretty heavily commercial area, I just so happen to live right off of Quince Road, we have a school there, you have fire trucks there, you have all kinds of traffic going up and down Quince so we get it on Quince also. I am also concerned of the constituents in that area that's why I will hold Mr. Bartle's accountable, I will be the first one banging on his door. I think he knows that.

Motion to pass the amendment for Bill No. 45-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Amended Bill No. 45-15 was passed by a voice vote to-wit; 9-0.

Mr. O'Brien: I wanted to acknowledge that Martin's investment is coming without any request to the county for incentives. I'm impressed with that among many other aspects of the project, the number of jobs that will be retained and additional jobs to be created as well. It's not often that investments in real estate of this nature do not come to us with a request for an incentive and I am very pleased with that and I will be supporting passage when we ultimately vote.

Ms. Hess: I also think that Martin's brings a lot to the community and am pleased with the developments I have seen and past and look forward to this one however, I will echo what Mark Catanzarite said as well, I think they should take the neighbor's concerns into consideration when they are making this development because they have lived there for a long time and to have their life disrupted or as they perceive as being disrupted needs to be given careful consideration. I know that Bobby K., that's his district, he will be as he said, knocking on Mr. Bartle's door if there is a problem and my district butts right up against that so again, I work with neighborhoods in the City of South Bend that's my day job, so I am very concerned about what neighbors think when there is development or new things are happening in their neighborhood.

Mr. Morton: Mr. Danch, I'd be interested in hearing from you as you progress with your conversation with the city engineer, hopefully there again, before the public hearing and if you would be so kind as to give me a call and let me know how that's progressing.

Mr. Danch: I will.

Motion to pass Bill No. 45-15 was made by Mr. Kruszynski and seconded by Mr. O'Brien. Bill No. 45-15 was passed to-wit; 9-0

**BILL NO. 53-15:** A RESOLUTION OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, ESTABLISHING REASONABLE ACCOMMODATION POLICIES AND PROCEDURES IN ZONING AND LAND USE DECISIONS WITHIN THE COUNTY OF ST. JOSEPH, INDIANA  
PETITIONER: MARK P. TELLOYAN

Mr. Noland reported that Bill No. 53-15 comes with a favorable a recommendation.

Mr. Telloyan: This proposed ordinance brings the county in mind with the ADA, the American Disabilities Act and Fair Housing Act. It also echo's a resolution passed earlier by our colleagues on the City of South Bend. Mark Lyons from the Building Department is here if there are any detailed questions, I was asked by Jamie Woods to present it to the Council, I would ask for its passage.

Motion to pass Bill No. 53-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Bill No. 53-15 was passed to-wit; 9-0

**BILL NO. 57-15: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION PETITIONER: AREA PLAN COMMISSION**

Mr. Noland reported that Bill No. 57-15 comes with a favorable a recommendation.

Larry Magliozzi, Executive Director of the Area Plan Commission, this is establishing new fees for the next two years, 2016-2017. It replaces a multiyear schedule that was approved back in 2009.

Motion to pass Bill No. 57-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 57-15 was passed to-wit; 9-0

**BILL NO. 60-15: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY AMERICAN STRUCTUREPOINT ON BEHALF OF NAVISTAR FOR THE PROPERTY LOCATED AT 32104 STATE ROAD 2, NEW CARLISLE THE SAME BEING PETITION NO. 08-05-15-14 FILED WITH THE AREA BOARD OF ZONING APPEALS**

Mr. Noland reported that Bill No. 60-15 comes with a favorable a recommendation.

Mark Lyons, Building Department, this was given public hearing at the August 5<sup>th</sup> at the Area Board of Zoning appeals, this is a special exception to allow an auto testing grounds. This comes to you with a unanimous favorable recommendation.

Mr. Catanzarite: Unrelated to the bill but I would just like to extend my congratulations to Mr. Lyons and thank him for his ten years of service to our county and wish you the best of luck moving forward. You brought a lot to the county in terms of helping us out in a lot of issues that have come before us.

Mr. Lyons: Thank you, I appreciate it.

Mr. Kruszynski: I'd like to echo that Mark, the little time I have had time to work with you, you have been very good but you have one last request, what about 56131 Butternut? I left you a message about a week ago.

Mr. Lyons: It's on the demo list, so it should be getting it taken care of. It will probably be the 2016 list. Chuck is just starting to get the 2016 list put together, probably end of November early December when he will be bringing those forward to get the process started.

Mr. Kruszynski: Thank you, good luck to you.

Mr. Hamann: Mr. Lyons, I didn't realize you were leaving us. I do wish you the best of luck and you were outstanding when I was a councilman and any concerns you were "Johnny on the spot" whenever I called, you would check on within twenty four hours of a property to see if it was in compliance with building code so I really appreciated your hard work so good luck.

Mr. Lyons: Thank you.

Mr. McCahill: Congratulations on going home go Packers.

Motion to pass Bill No. 60-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 60-15 was passed to-wit; 9-0

**Unfinished Business:**

**New Business:**

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

Mr. O'Brien: I just wanted to report to the council, I did have office hours or an open house last week to invite people to come in and speak about the Taxpayer Protection and Transparency Ordinance that I proposed. Only one person showed up, I spoke with that person to explain the ordinance, I had no other face to face questions about it. I have had nine or ten calls and messages in support of it. I will talk more about it at the committee meetings in a couple of weeks.

Jim Bogner, 807 W. Washington Street, South Bend, I come this evening regarding property in the City of South Bend, 803 W. Washington, I believe it resides in President Morton's district. This is also known as the Kiser Mansion. I am in front of Council this evening is because of an issue related to the Historic Preservation Commission. As you may or may not know, the Historic Preservation Commission for the last fifteen years has had a façade easement on this property. During this period of time they had care, custody and control of the façade of this building. A very unusual situation, an asset to our county. On February 23, 2015, the Historic Preservation Commission, under a deed of easement, transferred or essentially gave up the façade easement on this property, care, custody and control. There were questions at the city council last meeting that they had over the issue of whether this was a valid transfer. I realize in fairness of Historic Preservation Commission they are not here this evening, but it was a transfer of an asset. The other issue I am deeply concerned about, living directly next door to this property is that once the property was allowed to be transferred from the City of South Bend to Indiana Landmarks, two of the chimney's were dismantled. That had to of been through an agreement with HPC because they had care, custody and control of the façade, again an asset to this county. Those chimney's continued to be down today. They have not been restored, Councilman Catanzarite knew the people at the time that lived there, can validate the fact that they are there. There are serious questions that relate to how the Historic Preservation Commission handled this property over the 15 years they had it. My letter is directed to President Morton but it is for all of you, it basically asks, what has happened between December 11, 2011 which was the transfer of the property from the City of South Bend to the Historic Landmarks Foundation of Indiana, also called Indiana Landmarks until this deed of easement? I don't know that it ever came in front of council, I don't know if council was ever aware of it. I don't know whether the Historic Preservation Commission ever could do it without talking with council but there were clearly were two things that happened here. An important asset in this community, a façade easement, and there are also three others, were transferred. Secondly, during the period of time that Indiana Landmarks owned the property, there was work done on the property and it was not followed through on and does not till this day. The reason why I am here is to ask council to take a look at this through their legal folks and all of you to take a look at the history of this and what Historic Preservation does. Now having lived in the neighborhood, I can tell you, if I came down to any work on my property and I went the building department to get a permit, they would look at where I lived at, they would know it was an historic property and they would ask to review this. I know of no place else we could go almost four years without some kind of plan that came trough Historic Preservation. I think my concern to this is, they may have answers to this, but I don't understand why demolition to these chimney's which needed to be done and not rebuilt and I don't understand why an asset was given away without coming to the elected officials. There may be a question you may have is well, if this happened February why am I now coming before you now. It's because many of us just realized that this occurred through other issues that are unrelated to this council and because of the nature of Historic Preservation I think they owe everyone some answers, first of all, you folks and then ultimately, me. I think it's a question in government about fairness, about are we all going to be treated equally or is there a wink a nod that we are going to somehow take of this because this is going to a higher level and then the higher level turns and sells it. This is an important property in the city, the individuals that were working on this property are having issues with Indiana Landmarks which does not relate to this, the city is conducting their own investigation but I do believe that the Council does have issues relating to this to understand how it would have been sold and how it would have been passed over without anybody knowing anything. I'd be glad to take any questions anyone may have but the documentation, which I don't expect you to look at now, will clearly show you, what we call the Freedline Easement from 83, what governed it up unto the transfer of the easement.

Mr. Morton: What is the time table of the city's investigation?

Mr. Bogner: That's a very good question, Mr. President. The city isn't conducting a thorough investigation into issues that are related to Indiana Landmarks and the current property owners that have nothing to do directly with the Historic Preservation Commission so that is why I am here asking for your help. Basically to find out what you folks know about this and what will come of this. I don't know that the city has a time table but as you know, Historic Preservation Commission is a hybrid, it's part city and part county but most of the time county comes in. I also want to say too, it's very important to be fair. They are obviously not here to discuss this. I am not accusing them of doing anything wrong other than to say, no one would be allowed to do a dismantling as they did without some sort of plan and I believe my letter says what happened during this period of time. So no, I know that the city has a time table. I

do know that Community Investment and Scott Ford has assigned someone to do a thorough investigation and go back to the city council. I was not a part of that during that particular time, asking for an investigation. This is more related to Historic Preservation and what they did with the easement.

Mr. Kruszynski: Mr. Bogner, obviously you have presented this to the Historic Preservation....

Mr. Bogner: We have through the years presented much information to the Historic Preservation Commission. We have never received answers from them from during the period of time.

Mr. Kruszynski: When's the last time you addressed them?

Mr. Bogner: The last time we addressed the Historic Preservation Commission was at the time of the sale of the property from the City of South Bend to Indiana Landmarks and we were assured at that time that Historic Preservation and Landmarks would be working in cooperation to be able to assist in stabilizing and that was one of the reasons why the chimney's were removed and as I noted in my letter here, they were done in January and February of 2012. From that point on, it basically was this is an Indiana Landmarks problem and not our problem but the façade easement was not transferred until February of 2015 which means it was an asset of the county's. I come here this evening based on the information that I want to know number one, was it a legal transfer, could they do that without going through any of the bodies and secondly, basically what had happened during the period of time when Landmarks owned the property and HPC had a façade easement on it.

Mr. Kruszynski: Have you addressed this issue with their attorney?

Mr. Bogner: That portion was addressed through the city council and I believe that the city council was also looking at this portion that relates to whether the transfer of the façade easement was legal, so yes, that portion was done, I did not do it, it was done at the last council meeting. I did not personally do it.

Mr. Kruszynski: Mr. Zappia represents the Historic Preservation. Has he gotten back to you?

Mr. Bogner: He has not gotten back to me, but it was directly related to me, I come before the council to bring this to council's attention. I also, I might add, to show that there are three other properties that façade easements continue to be on, which is at a higher level of what would normally occur under HPC rules and guidelines and that's what that information provides you with.

Mr. O'Brien: Mr. Bogner, what is your ultimate goal here, you want to see someone repair and rebuild chimneys?

Mr. Bogner: Well, I think two things. Number one, my concern is, that an asset was passed along and there was a loss of local community involvement. The easement is very clear. Secondly, I think there should be some clarification as to how something can be taken down and be left down for four years without some kind of a plan and HPC is usually very good jumping on issues that have problems. I have seen them in several areas, including houses that are up for demolition that have historic nature to it. This is a very strange situation.

Mr. O'Brien: So you don't care if the chimneys are rebuilt or not?

Mr. Bogner: Obviously we want to have the chimneys rebuilt and I would like to see the property saved; there is a third chimney that was not dismantled that is in disrepair at this time. I am wanting to know what HPC knew and when they knew it and whether they transferred any of that information to anyone of the governing bodies before they gave up the easement.

**Adjournment:** Mr. Morton stated that the meeting was adjourned 7:25 p.m.















MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
September 8, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on September 8, 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. Noland made a motion to approve the minutes of the August 11, 2015 public hearing was seconded by Mr. O'Brien, the motion was passed by a voice vote; 9-0.

Mr. Noland made a motion to return Bill No. 58-15 back to committee per the petitioner; it was seconded by Mr. Catanzarite. The motion was passed by a voice vote; 9-0.

No report from the County Auditor  
No report from the County Commissioner  
No report from Special Committees.

**First Readings:**

**BILL NO. 67-15:** 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 13460 E. MCKINLEY AND 56020 CURRANT ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT PETITIONER: RBS PROPERTIES LLC  
Assigned to the Land Use Planning Committee

**BILL NO. 68-15:** AN ORDINANCE OF ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO 79-13 WHICH ESTABLISHED THE PUBLIC SAFETY COMMUNICATIONS CONSORTIUM OF ST. JOSEPH COUNTY, AND MODIFYING SECTION 6 OF SAID ORDINANCE REGARDING THE OPERATIONS BOARD POWERS AS ESTABLISHED THEREIN Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 69-15:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF THE ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC. 6-1.1-12.1-14 ET SEQ PETITIONER: ST. JOSEPH ENERGY CENTER, LLC  
Assigned to the Land Use Planning Committee

**9. Public Hearing on the Airport Authority, Solid Waste Management, and St. Joseph County 2016 Budget:**

**BILL NO. 62-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) AIRPORT AUTHORITY**

Mike Daigle, Executive Director, St. Joseph County Airport Authority, the Airport Authority is requesting consideration of our 2016 budget. Our budget consists of three different funds, the Aviation Fund, Cumulative Building and Debt Services. The total of these funds are twenty million, five hundred and forty one thousand. In our 2016 budget, we have reflected and amount of cost of living wage increases, additional wage adjustments and also some job upgrades based on changes and responsibilities. The largest increase in these funds is in the Cumulative Building fund primarily for air service development. As you know, we are receiving bids in the next two weeks to build a federal inspection station and a general aviation facility to be able and process international flights, a first for our region.

Motion to pass Bill No. 62-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 62-15 was passed to-wit; 9-0.

**BILL NO. 63-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) SOLID WASTE**

Randy Przybysz, Executive Director, Solid Waste Management, budget proposal for 2016 has been approved by our board which you should have a copy of that resolution. Everything in this budget was kept just about the same as last year, there are no raises being proposed. Our total budget for next year is being proposed as an increase of a hundred fifty two thousand, six hundred and forty three dollars and that comes basically from two line items, our Household Hazardous Waste Program in Mishawaka, last year was just under ten thousand people with seven hundred and sixty nine thousand pounds of hazardous material going through there. We are on track this year to exceed that number. People coming and the amount of material. Another factor is, for the last six years we have been under contract with a company called ERI to take the obsolete electronics. They have taken them for free so we rode that horse now all that we can because we were notified that they were the last ones offering to do it for free, that is not going to happen anymore. Our contract is up the end of this year. We have no idea what the charges are going to be or how much material we are going to take in until it actually happens. The proposal there was to take that budget line item from a hundred thousand to two hundred thousand. The other is a fifty thousand dollars put into a capital improvement fund, we have never had that before. There is some discussion to combine our office and our HHW program in one location, more centrally located to the population in the county and also large enough to handle the kind of numbers we are taking through there now. We are land locked where we are at. That money would only be used, should we find a piece of property to do any plans and only with the approval of the board. We have no choice on the electronics; we have to do something about that program. We are anticipating having to pay we just have no idea how much.

Mr. O'Brien: How much do you estimate will be brought in from fees?

Mr. Przybysz: Our total income is about two point five million per year. This budget is two point nine five.

Mr. O'Brien: Is there enough in reserve to fund this?

Mr. Przybysz: Yes and that was discussed with the board. Some of this, because of the process now having to before the Council, there are certain line items, like for the curb side recycling program where we budget for worst case scenario because we would not know until late in the year if fuel surcharges or something needed to kick in and raise the amount we are paying out for that.

Motion to pass Bill No. 63-15 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 63-15 was passed to-wit; 9-0.

**BILL NO. 64-15: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2016**

Mr. Hamann, St. Joseph County Auditor, the budget is still a work in progress. I can say at this juncture, it is estimated to be about fifty six point two million dollars in terms of expenditures for the general fund. When you

combine all the different funds we are looking at about a total budget of a hundred and thirteen million dollars. It is still a work in progress.

Motion to pass Bill No. 64-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 64-15 was passed to-wit; 9-0.

**BILL NO. 65-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES  
(BUDGET FORM 4) ST. JOSEPH COUNTY, INDIANA**

Mr. Hamann, St. Joseph County Auditor, tax rates again are a work in progress. To give a brief overview, the Assessor's office provides the gross assessment, that then rolls over to the Auditor's office and what our office does then is it comes up with the net assessed value of the property in the county, you take away the exemptions, the abatements and deductions, we then provide that to the state and then the state will take that number, take the number, the various budgets from various tax entities and levy and calculate what those tax rates will be so that will be a few months.

Motion to pass Bill No. 65-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 65-15 was passed to-wit; 9-0.

**SALARY AMENDMENT:**

**BILL NO. 66-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015  
DEPT. 0018 PROSECUTOR**

Mr. McCahill reported that Bill No. 66-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's Office, we are here asking for an amendment to our salary amendment to reflect the changes that we appropriated in our first budget to what the APS Grant finally came in at.

Motion to pass Bill No. 66-15 was made by Mr. McCahill and seconded by Ms. Hess. Bill No. 66-15 was passed to-wit; 9-0.

**BILL NO. 49-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE FISCAL YEAR 2015-2016 DEPT. 0025 JUVENILE & PROBATE COURT**

Mr. McCahill reported that Bill No. 49-15 comes with a favorable a recommendation.

Pete Morgan, Executive Director of the St. Joseph Probate Court and Juvenile Justice Center, we are seeking a salary amendment which would allow us to apply eleven thousand, five hundred dollars in funds which were awarded under a Juvenile Accountability Block grant to the salary known as Education Coordinator in our probation user fees budget in line number 11376, the reason for seeking the amendment is this would be the person charged with carrying out the duties of the grant over and above the reason for the position otherwise.

Motion to pass Bill No. 49-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-15 was passed to-wit; 9-0.

**Public Hearing/Public Comment:**

**BILL NO. 61-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE  
HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY  
GOVERNMENT**

A. Treasurer  
General Fund

FROM: 1000-11682-000-0003	Clerk/Cashier	\$400.00
TO: 1000-32020-000-0003	Travel	400.00
		<u>TOTAL: \$400.00</u>

B. Prosecutor  
Adult Protective Service Grant

FROM: 9108-32020-000-0018	Travel	\$1,000.00
9108-22010-000-0018	Gas, Oil and Lubricants	919.00
TO: 9108-11318-000-0018	Investigator APS	\$1,000.00
9108-11319-000-0018	Director APS	31.00
9108-37100-000-0018	Auto Lease	888.00
		<u>TOTAL: \$1919.00</u>

**APPROPRIATE**

C. Auditor's Office  
Enhanced Access Fund

1154-39750-000-0002	Data Processing	\$100,000.00
1155-39750-000-0002	Data Processing	100,000.00
		<u>TOTAL: \$200,000.00</u>

D. County Engineer  
Major Moves Const. Fund

1172-43155-000-0023	McKinley AM General	\$400,000.00
		<u>TOTAL: \$400,000.00</u>

E. Roads & Highway  
Local Road & Street

1169-39150-000-0060	Other Expenses	\$27,865.00
		<u>TOTAL: \$27,865.00</u>

F. Health Dept.  
Health Ebola Grant

8126-22148-000-0055	Field Supplies	\$8,000.00
8126-39750-000-0055	Data Processing	1,000.00
8126-44010-000-0055	Equipment	13,135.00
8126-44311-000-0055	Emergency Equip.	10,000.00
		<u>TOTAL: \$32,135.00</u>

G. Health Dept.  
Health Bioterrorism Grant

8113-21030-000-0055	Office Supplies	\$2,772.00
8113-22148-000-0055	Field Supplies	3,000.00
8113-32020-000-0055	Travel	3,160.00
8113-32050-000-0055	Instruction & Training	2,840.00
8113-32203-000-0055	Cell Phones	1,800.00
8113-44010-000-0055	Equipment	2,500.00
8113-45510-000-0055	Furniture & Fixtures	10,000.00
	<b><u>TOTAL: \$26,072.00</u></b>	

H. Health Dept.  
Health HUD Grant

9103-21030-000-0055	Office Supplies	\$250.00
9103-22148-000-0055	Field Supplies	3,700.00
9103-22328-000-0055	Equipment Repairs	9,785.00
9103-32020-000-0055	Travel	300.00
9103-36010-000-0055	Repairs Bldgs. & Structure	500.00
	<b><u>TOTAL: \$14,535.00</u></b>	

G. Juvenile & Probate Court  
JABG

8125-11385-000-0025	Probation Officer I	\$11,500.00
	<b><u>TOTAL: \$11,500.00</u></b>	

Motion to pass Bill No. 61-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 61-15 was passed to-wit; 9-0

**Land Use Planning:**

**BILL NO. 45-15:** PETITION TO VACATE PUBLIC WAYS AND PUBLIC PLACES WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA PETITIONER: EDWARD W. HARDIG

Mr. Noland reported that Bill No. 45-15 comes with a favorable a recommendation.

Mr. Danch, Danch, Harner and Associates, as we mentioned to Council, council had asked us last month to see if we could meet with the adjacent property owner and come to an agreement on the use of the property between us and Westwinds, property to the south. We have done that. Mr. Masters is here this evening to speak on behalf of his clients. We have come to agreement which stipulates how the property will be laid out, that we will be providing access for Mr. Master's clients. We provided Council with a site plan that shows the proposed the development that will occur on the property, assuming the Council will approve the vacation of Huron Street. The bill this evening has been revised, the ordinance that is before the Council this evening reflects part of the agreement we have with Mr. Masters clients that if the street gets vacated, they will acquire fifty feet of the sixty feet of right of way which is adjacent to their property that was part of the stipulation. We will also back that up by doing a quick claim deed to Mr. Masters clients to show that the transfer of that property so that property would remain in the county. This process is also on a parallel track, we have already done before the Area Plan Commission for the zoning issue for this property. We did receive a favorable recommendation from the Plan Commission; they also approved variances for the development. What we would say to Council this evening, there will be a public hearing for the residents, everyone that had been notified within three hundred feet for that development, there will be a public hearing where they can address their concerns at a city council meeting, that meeting will be on September 28 that will be a public hearing.

Mr. Kruszynski: Mike, I know there was an issue with the curb height on the north side of the building....

Mr. Danch: Yes, what we have done with that as part of the agreement, when we do our part of the development, there will be a curb at the north property line for Westwinds. There will be a nice clean line.

James A. Masters, Nemeth, Feeney, Masters and Campiti, 350 Columbia, South Bend, I am here tonight on behalf of Maron LLC and its owners. At your last meeting, we presented a remonstrance to the vacation of Huron Street. I am pleased to inform you that with the cooperation of the petitioner and the cooperation of the representatives of Martins, the issues raised by that remonstrance have been resolved. The remonstrance is hereby withdrawn.

Leon Grey, 56420 Butternut Road, South Bend, I am in favor of any improvement this community can have especially on the west side.

Murray Miller, 1201 Priscilla Drive, I am also in favor of this. The west side has been in need of a new grocery store in the area. I think it's well deserved for the people on the west side to get that. I am very much in favor.

Kevin Pajakowski, 58472 Eastwood Drive, South Bend, Martin's has done a wonderful thing, when they moved in, they cleaned up the area. They kept the area clean. Without Martin's, that's the one anchor we have had in this community on our side of town.

Susan Zawadowski, 159 N. Summit Drive, South Bend, I am a current Martin's customer at that store, I am very much in favor of the vacation of Huron Street. I look forward to walking and riding my bike to Martin's. I appreciate what Martin's does for our community.

Rev. Charles Zawadowski, 159 N. Summit Drive, South Bend, I am a pastor of St. Mary's Parish on Sample Street. I echo some of the thoughts we have heard today. We always talk about how we need new things on the west side, here it is. We, as a community, partner with Martin's. We do not partner with Kroger's or Meijers. Many neighborhood organizations, government entities have benefited from Martin's charity. They have an excellent track record. They are good neighbors. I endorse and support the vacation of Huron Street.

Charles Waddell, 5134 Hazelwood Court, South Bend, I am looking forward to shopping. Martin's has a history of hiring local contractors and local workers so I think it's a big boost for our economy. I am looking forward to this.

Diana Kisminski, 56921 Hollywood Blvd., South Bend, I am in opposition of Huron Street. I hope you have had an opportunity to look over the packet of information I provided to your office. As you can see from the diagram, Martin's plans to build a drive through service for customers to purchase coffee. As we all know, traffic from a drive through can quickly back up. As a result, drivers will have to wait on Hollywood Blvd. before accessing Martin's. This will result in cars backing up in both directions. This will cause a traffic jam on Grant as drivers wait to turn into Hollywood Blvd. There is no left turn signal at Mayflower and Sample. As a result, drivers will be detoured from using the Mayflower entrance into Martin's. There are a lot of children that live on Hollywood Blvd. We are your constituents, not Martin's. We need you to represent our interests.

Eric Kisminski, 56921 Hollywood Blvd., South Bend, I am here this evening representing myself and those that signed the petition. So far all we have heard from the representatives of Martin's are stories, lies and total disrespect to the residents regarding their concerns about their project. This proposed Martin's already has three entrances. Two on Mayflower and one on Western. As I looked on the Council list of names I was proved last week and addresses I noticed that none of you live in a heavily traffic road. Put yourself in our position. In America, we live in a democracy. We the people, who will be effected the most, took a vote and we voted to close the entrance to Martin's from Hollywood, you have the petition in your position.

Louann Gondos, 565547 Hollywood Blvd., I am representing my mother in law who lives on Hollywood Blvd. I am a Martin's supporter, I am happy the store is going to be put where it is going to be put. I have to agree, you guys have to cut off access to Hurron and Hollywood Blvd. It's our neighborhood. Just protect our neighborhood streets.

Denise Lentech, 56595 S. Hollywood Blvd., my husband and I have lived here for thirty eight years; we have raised our children and now enjoy our grandchildren visiting us here. We chose this neighborhood to live out our lives in because it is peaceful and friendly. We the neighbors who live on Hollywood, Ford and Elmer beg of you to allow the quality of our lives to remain somewhat, what we envisioned it when we chose this neighborhood to live out our lives. Please vote against the entrance/exit on Hollywood.

Jeffrey Booker, 56577 Hollywood Blvd., I too know that Martin's does a lot of good for our community. I am not against Martin's building a store. The realization of the Martin's project with a rear entrance off of Hollywood Blvd. is not fair. It's not fair to the residents or the county. The city will annex this part for the Martin's project, Martin's will use the road and the county will have to maintain it. That's not fair. It will put a lot of traffic back there. We are just asking for one concession from Martin's. Close that entrance.

Patricia Cichowicz Lynch, 23665 Grant Road, South Bend, Martin's has been a great neighbor. We know they will be moving and building in between Hollywood and Mayflower and we accept that but we object to an egress on Hollywood.

Thomas J. Kowalski, 56680 Hollywood Blvd., South Bend, I am representing my mom who is 92 years old and still resides there. With the entrance to Martin's on Hollywood, we won't be able to get out of our driveway most of the time. My mom is not driving but my mom does not want it there.

Mr. Danch: We are looking at the concerns of the residents that showed up this evening. This project has gone through review both county engineering department and also city engineer for the City of South Bend. We asked them to take a look at the project as well. We do have a main access point that would be onto Mayflower Road, actually we have two on Mayflower Road and there will be one on Western. The one off of Hollywood Blvd. we don't believe will be a main entrance for any access point from that residential area. That is to allow access for residents to come in; they don't have to go out to Mayflower Road, that's one of the reasons for that. It is not a main access point. We created that strictly to allow for residents that are going to use the Martin's to get back to their homes without either going out to Western Ave. or onto Mayflower. I have not heard any concerns from either the city engineering department or the county engineering department about increase amount of traffic that would be going out onto Hollywood Blvd. but we will take a look at that. We have heard concerns though, of the rout that is being taken from Grant up to Western and then over to the church for picking up children but I don't think there's that huge increase and I believe the county engineering department is also going to be taking a look at it from a traffic standpoint as well. What we would ask Council to do is allow us to move ahead and get to the city council portion for the rezoning where these remonstrators can show up and address their concerns with the city council as well.

Mr. Kruszynski: Mike, I think you just answered it, I know three for four of the residents got up and spoke were concerned about that access onto Hollywood. But their concerns should be addressed with the city council, am I correct?

Mr. Danch: That is correct. The city engineering department will have jurisdiction, we are going through that annexation procedure to bring it into the city. The city engineering department also has a close relationship with county engineering as well. So I think between the two they will also be looking at it. We will have to submit a final site plan for approval for those departments before we build.

Mr. Catanzarite: Just for the record, Mr. Kisminski mentioned none of live near commercial. I live about a hundred feet away from a Walgreens store near Ironwood and Edison so I do know what it is like to live next to commercial property and I have a dentist and an insurance office next door to me. Having gone through that process and worked with those groups when they moved into our neighborhood after I moved there and not known they were going to be there when I moved initially, the zoning screening requirements that are in place today are a lot more stringent than they were many years ago so for me personally, it's been a positive experience living next to a commercial property and some offices and the screen that has gone up has shielded my family from what I consider to be to very highly, intensive used properties so to our satisfaction, I just want to say I do live next to commercial property and by it and it has not been a bad experience. Mr. Danch, looking at our concerns, I think you have written commitments, you would not use Hollywood for any truck delivery access, right?

Mr. Danch: It was actually designed that way. Truck traffic will not go out onto Hollywood Blvd. We did work closely with the city engineering department on that as well as Jessica (Clark) and the way it's designed, the whole site is designed for truck traffic to come off of either Western Avenue come south through our access point which is east of John Becker's shopping center or come in off of Mayflower Road. The whole design for truck turning radius is dictated by that access routing. A truck could not come down Hollywood Blvd. and make the turn into the site and one of the things we have mentioned to the residents is, Martin's has complete control over any of the vendors that delivery goods/produce to their stores so that we can prevent that from happening.

Mr. Catanzarite: Hearing the concerns from most of the Hollywood residents who would be most impacted by this, is there a design possibility of an entrance or an exit off of Hollywood that could be achieved that would make it less intensive?

Mr. Danch: We can take a look at that but it's almost going to be up to the engineering department to see if there is a way to limit how that traffic would access Hollywood Blvd. There are certain ways to do an entrance way to deliver traffic one way or another.

Mr. Catanzarite: You negotiated with Westwinds. Westwinds contends that many of their patrons currently and have for a long time always used Hollywood Blvd. to avoid Mayflower Road, is that correct? Was that conveyed to you?

Mr. Danch: I have heard that, the patrons that came out of Westwinds would like to go over toward Hollywood because it's easier that way. I also heard where there is a situation where Huron Street was a straight through, there were actually people cutting through Mayflower over to Hollywood Blvd. and racing down that so by our design, we will be able to stop that.

Mr. Catanzarite: By offsetting that.

Mr. Danch: By offsetting that and making it more difficult, we are also going to include signage, stop signs within our site.

Mr. Morton: You are saying that you are talking to the city engineer?

Mr. Danch: We have done that, yes. What I am saying is, before we can get our approval to start the project, they will have to review everything and make sure that we are in compliance as well.

Mr. Morton: Is the city engineer; is he aware of all the concerns of the residents?

Mr. Danch: They will be, I think with them showing up, they were at the Area Plan Commission meeting so I think some of those concerns were conveyed at the Area Plan Commission meeting that we had approximately two weeks ago. It will also be at the city council meeting as well.

Mr. Morton: I think it would make sense if the city engineer was made aware of these concerns before the night of the public hearing. That just makes sense.

Mr. Danch: I would be glad to inform them, I have no trouble doing that.

Mr. Catanzarite: I hope Martin's is very sensitive to that issue; it sounds like you are trying to address it or willing to look at it and possibly address it. I think the people have made some very thoughtful and true statements about how the impact will be on their neighborhood.

Mr. Morton: Mr. Danch, the site plan you presented tonight is amended, correct?

Mr. Danch: Correct.

Mr. Kruszynski: I have just a few comments. Some of the concerns that were addressed, I know Mr. Booker, you brought up about the traffic count or study, I have emailed our county engineer, Jessica Clark last week after I heard your concern in regards to that. She is working with MACOG to get that done before winter, we would like to see what that count is before Martin's is built, if this passes. The lady that brought up about a couple of intersections in regards to Grant and Mayflower, again, that is a city issue, the county does not have any jurisdiction over that intersection. Same thing with Western and Mayflower, if we recall at the neighborhood meeting that a few of us attended, Councilman Oliver Davis indicated that he would be looking at those traffic signals, he was going to talk to the city engineer to address that issue along with some left turning lanes, which Mike, isn't there some left turning lanes purposed on Huron?

Mr. Danch: Yes, the main entrance way we have on to Mayflower Road at the request of city engineer they asked that we provide a left turn lane onto Mayflower Road. That also has a dedicated right turn lane as well. That was part of their design when they took a look at our site plan.

Mr. Kruszynski: Also, I have spoken to Jessica in regards to the way that Hollywood is constructed and she is going to take a look at that Mr. Booker and once we get traffic counts and again, if this is passed and get traffic counts later then that issue will be addressed. I also had a meeting with Area Plan and discussed some options that could be done to Hollywood along with Jessica that if that traffic turns to get real bad, there are things we can do, we as a county can do to Hollywood, not to the access point onto Hollywood but there are things we can do down the road if starts to be a real nuisance.

Audience member: Is Martin's going to post a bond (inaudible) on that nice new road you put in? I think someone should consider that.

Mr. Kruszynski: Jeff, in dealing with the Martin's representatives for the last two months, either on the phone or in person, not with just myself but with other colleagues on the Council here, I will hold Mr. Bartles accountable for whatever goes around in that area in Martin's commitment to this store, if it's passed and the commitment they made to the other stores, I am pretty pleased at what I see. Like Councilman Cantazarite has said, he does live in a pretty heavily commercial area, I just so happen to live right off of Quince Road, we have a school there, you have fire trucks there, you have all kinds of traffic going up and down Quince so we get it on Quince also. I am also concerned of the constituents in that area that's why I will hold Mr. Bartle's accountable, I will be the first one banging on his door. I think he knows that.

Motion to pass the amendment for Bill No. 45-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Amended Bill No. 45-15 was passed by a voice vote to-wit; 9-0.

Mr. O'Brien: I wanted to acknowledge that Martin's investment is coming without any request to the county for incentives. I'm impressed with that among many other aspects of the project, the number of jobs that will be retained and additional jobs to be created as well. It's not often that investments in real estate of this nature do not come to us with a request for an incentive and I am very pleased with that and I will be supporting passage when we ultimately vote.

Ms. Hess: I also think that Martin's brings a lot to the community and am pleased with the developments I have seen and past and look forward to this one however, I will echo what Mark Catanzarite said as well, I think they should take the neighbor's concerns into consideration when they are making this development because they have lived there for a long time and to have their life disrupted or as they perceive as being disrupted needs to be given careful consideration. I know that Bobby K., that's his district, he will be as he said, knocking on Mr. Bartle's door if there is a problem and my district butts right up against that so again, I work with neighborhoods in the City of South Bend that's my day job, so I am very concerned about what neighbors think when there is development or new things are happening in their neighborhood.

Mr. Morton: Mr. Danch, I'd be interested in hearing from you as you progress with your conversation with the city engineer, hopefully there again, before the public hearing and if you would be so kind as to give me a call and let me know how that's progressing.

Mr. Danch: I will.

Motion to pass Bill No. 45-15 was made by Mr. Kruszynski and seconded by Mr. O'Brien. Bill No. 45-15 was passed to-wit; 9-0

**BILL NO. 53-15:** A RESOLUTION OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, ESTABLISHING REASONABLE ACCOMMODATION POLICIES AND PROCEDURES IN ZONING AND LAND USE DECISIONS WITHIN THE COUNTY OF ST. JOSEPH, INDIANA  
PETITIONER: MARK P. TELLOYAN

Mr. Noland reported that Bill No. 53-15 comes with a favorable a recommendation.

Mr. Telloyan: This proposed ordinance brings the county in mind with the ADA, the American Disabilities Act and Fair Housing Act. It also echo's a resolution passed earlier by our colleagues on the City of South Bend. Mark Lyons from the Building Department is here if there are any detailed questions, I was asked by Jamie Woods to present it to the Council, I would ask for its passage.

Motion to pass Bill No. 53-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Bill No. 53-15 was passed to-wit; 9-0

**BILL NO. 57-15: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION PETITIONER: AREA PLAN COMMISSION**

Mr. Noland reported that Bill No. 57-15 comes with a favorable a recommendation.

Larry Magliozzi, Executive Director of the Area Plan Commission, this is establishing new fees for the next two years, 2016-2017. It replaces a multiyear schedule that was approved back in 2009.

Motion to pass Bill No. 57-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 57-15 was passed to-wit; 9-0

**BILL NO. 60-15: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY AMERICAN STRUCTUREPOINT ON BEHALF OF NAVISTAR FOR THE PROPERTY LOCATED AT 32104 STATE ROAD 2, NEW CARLISLE THE SAME BEING PETITION NO. 08-05-15-14 FILED WITH THE AREA BOARD OF ZONING APPEALS**

Mr. Noland reported that Bill No. 60-15 comes with a favorable a recommendation.

Mark Lyons, Building Department, this was given public hearing at the August 5<sup>th</sup> at the Area Board of Zoning appeals, this is a special exception to allow an auto testing grounds. This comes to you with a unanimous favorable recommendation.

Mr. Catanzarite: Unrelated to the bill but I would just like to extend my congratulations to Mr. Lyons and thank him for his ten years of service to our county and wish you the best of luck moving forward. You brought a lot to the county in terms of helping us out in a lot of issues that have come before us.

Mr. Lyons: Thank you, I appreciate it.

Mr. Kruszynski: I'd like to echo that Mark, the little time I have had time to work with you, you have been very good but you have one last request, what about 56131 Butternut? I left you a message about a week ago.

Mr. Lyons: It's on the demo list, so it should be getting it taken care of. It will probably be the 2016 list. Chuck is just starting to get the 2016 list put together, probably end of November early December when he will be bringing those forward to get the process started.

Mr. Kruszynski: Thank you, good luck to you.

Mr. Hamann: Mr. Lyons, I didn't realize you were leaving us. I do wish you the best of luck and you were outstanding when I was a councilman and any concerns you were "Johnny on the spot" whenever I called, you would check on within twenty four hours of a property to see if it was in compliance with building code so I really appreciated your hard work so good luck.

Mr. Lyons: Thank you.

Mr. McCahill: Congratulations on going home go Packers.

Motion to pass Bill No. 60-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 60-15 was passed to-wit; 9-0

**Unfinished Business:**

**New Business:**

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

Mr. O'Brien: I just wanted to report to the council, I did have office hours or an open house last week to invite people to come in and speak about the Taxpayer Protection and Transparency Ordinance that I proposed. Only one person showed up, I spoke with that person to explain the ordinance, I had no other face to face questions about it. I have had nine or ten calls and messages in support of it. I will talk more about it at the committee meetings in a couple of weeks.

Jim Bogner, 807 W. Washington Street, South Bend, I come this evening regarding property in the City of South Bend, 803 W. Washington, I believe it resides in President Morton's district. This is also known as the Kiser Mansion. I am in front of Council this evening is because of an issue related to the Historic Preservation Commission. As you may or may not know, the Historic Preservation Commission for the last fifteen years has had a façade easement on this property. During this period of time they had care, custody and control of the façade of this building. A very unusual situation, an asset to our county. On February 23, 2015, the Historic Preservation Commission, under a deed of easement, transferred or essentially gave up the façade easement on this property, care, custody and control. There were questions at the city council last meeting that they had over the issue of whether this was a valid transfer. I realize in fairness of Historic Preservation Commission they are not here this evening, but it was a transfer of an asset. The other issue I am deeply concerned about, living directly next door to this property is that once the property was allowed to be transferred from the City of South Bend to Indiana Landmarks, two of the chimney's were dismantled. That had to of been through an agreement with HPC because they had care, custody and control of the façade, again an asset to this county. Those chimney's continued to be down today. They have not been restored, Councilman Catanzarite knew the people at the time that lived there, can validate the fact that they are there. There are serious questions that relate to how the Historic Preservation Commission handled this property over the 15 years they had it. My letter is directed to President Morton but it is for all of you, it basically asks, what has happened between December 11, 2011 which was the transfer of the property from the City of South Bend to the Historic Landmarks Foundation of Indiana, also called Indiana Landmarks until this deed of easement? I don't know that it ever came in front of council, I don't know if council was ever aware of it. I don't know whether the Historic Preservation Commission ever could do it without talking with council but there were clearly were two things that happened here. An important asset in this community, a façade easement, and there are also three others, were transferred. Secondly, during the period of time that Indiana Landmarks owned the property, there was work done on the property and it was not followed through on and does not till this day. The reason why I am here is to ask council to take a look at this through their legal folks and all of you to take a look at the history of this and what Historic Preservation does. Now having lived in the neighborhood, I can tell you, if I came down to any work on my property and I went the building department to get a permit, they would look at where I lived at, they would know it was an historic property and they would ask to review this. I know of no place else we could go almost four years without some kind of plan that came trough Historic Preservation. I think my concern to this is, they may have answers to this, but I don't understand why demolition to these chimney's which needed to be done and not rebuilt and I don't understand why an asset was given away without coming to the elected officials. There may be a question you may have is well, if this happened February why am I now coming before you now. It's because many of us just realized that this occurred through other issues that are unrelated to this council and because of the nature of Historic Preservation I think they owe everyone some answers, first of all, you folks and then ultimately, me. I think it's a question in government about fairness, about are we all going to be treated equally or is there a wink a nod that we are going to somehow take of this because this is going to a higher level and then the higher level turns and sells it. This is an important property in the city, the individuals that were working on this property are having issues with Indiana Landmarks which does not relate to this, the city is conducting their own investigation but I do believe that the Council does have issues relating to this to understand how it would have been sold and how it would have been passed over without anybody knowing anything. I'd be glad to take any questions anyone may have but the documentation, which I don't expect you to look at now, will clearly show you, what we call the Freedline Easement from 83, what governed it up unto the transfer of the easement.

Mr. Morton: What is the time table of the city's investigation?

Mr. Bogner: That's a very good question, Mr. President. The city isn't conducting a thorough investigation into issues that are related to Indiana Landmarks and the current property owners that have nothing to do directly with the Historic Preservation Commission so that is why I am here asking for your help. Basically to find out what you folks know about this and what will come of this. I don't know that the city has a time table but as you know, Historic Preservation Commission is a hybrid, it's part city and part county but most of the time county comes in. I also want to say too, it's very important to be fair. They are obviously not here to discuss this. I am not accusing them of doing anything wrong other than to say, no one would be allowed to do a dismantling as they did without some sort of plan and I believe my letter says what happened during this period of time. So no, I know that the city has a time table. I

do know that Community Investment and Scott Ford has assigned someone to do a thorough investigation and go back to the city council. I was not a part of that during that particular time, asking for an investigation. This is more related to Historic Preservation and what they did with the easement.

Mr. Kruszynski: Mr. Bogner, obviously you have presented this to the Historic Preservation....

Mr. Bogner: We have through the years presented much information to the Historic Preservation Commission. We have never received answers from them from during the period of time.

Mr. Kruszynski: When's the last time you addressed them?

Mr. Bogner: The last time we addressed the Historic Preservation Commission was at the time of the sale of the property from the City of South Bend to Indiana Landmarks and we were assured at that time that Historic Preservation and Landmarks would be working in cooperation to be able to assist in stabilizing and that was one of the reasons why the chimney's were removed and as I noted in my letter here, they were done in January and February of 2012. From that point on, it basically was this is an Indiana Landmarks problem and not our problem but the façade easement was not transferred until February of 2015 which means it was an asset of the county's. I come here this evening based on the information that I want to know number one, was it a legal transfer, could they do that without going through any of the bodies and secondly, basically what had happened during the period of time when Landmarks owned the property and HPC had a façade easement on it.

Mr. Kruszynski: Have you addressed this issue with their attorney?

Mr. Bogner: That portion was addressed through the city council and I believe that the city council was also looking at this portion that relates to whether the transfer of the façade easement was legal, so yes, that portion was done, I did not do it, it was done at the last council meeting. I did not personally do it.

Mr. Kruszynski: Mr. Zappia represents the Historic Preservation. Has he gotten back to you?

Mr. Bogner: He has not gotten back to me, but it was directly related to me, I come before the council to bring this to council's attention. I also, I might add, to show that there are three other properties that façade easements continue to be on, which is at a higher level of what would normally occur under HPC rules and guidelines and that's what that information provides you with.

Mr. O'Brien: Mr. Bogner, what is your ultimate goal here, you want to see someone repair and rebuild chimneys?

Mr. Bogner: Well, I think two things. Number one, my concern is, that an asset was passed along and there was a loss of local community involvement. The easement is very clear. Secondly, I think there should be some clarification as to how something can be taken down and be left down for four years without some kind of a plan and HPC is usually very good jumping on issues that have problems. I have seen them in several areas, including houses that are up for demolition that have historic nature to it. This is a very strange situation.

Mr. O'Brien: So you don't care if the chimneys are rebuilt or not?

Mr. Bogner: Obviously we want to have the chimneys rebuilt and I would like to see the property saved; there is a third chimney that was not dismantled that is in disrepair at this time. I am wanting to know what HPC knew and when they knew it and whether they transferred any of that information to anyone of the governing bodies before they gave up the easement.

**Adjournment:** Mr. Morton stated that the meeting was adjourned 7:25 p.m.















MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
September 8, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on September 8, 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. Noland made a motion to approve the minutes of the August 11, 2015 public hearing was seconded by Mr. O'Brien, the motion was passed by a voice vote; 9-0.

Mr. Noland made a motion to return Bill No. 58-15 back to committee per the petitioner; it was seconded by Mr. Catanzarite. The motion was passed by a voice vote; 9-0.

No report from the County Auditor  
No report from the County Commissioner  
No report from Special Committees.

**First Readings:**

**BILL NO. 67-15:** 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 13460 E. MCKINLEY AND 56020 CURRANT ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT PETITIONER: RBS PROPERTIES LLC  
Assigned to the Land Use Planning Committee

**BILL NO. 68-15:** AN ORDINANCE OF ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO 79-13 WHICH ESTABLISHED THE PUBLIC SAFETY COMMUNICATIONS CONSORTIUM OF ST. JOSEPH COUNTY, AND MODIFYING SECTION 6 OF SAID ORDINANCE REGARDING THE OPERATIONS BOARD POWERS AS ESTABLISHED THEREIN Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 69-15:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF THE ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC. 6-1.1-12.1-14 ET SEQ PETITIONER: ST. JOSEPH ENERGY CENTER, LLC  
Assigned to the Land Use Planning Committee

**9. Public Hearing on the Airport Authority, Solid Waste Management, and St. Joseph County 2016 Budget:**

**BILL NO. 62-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) AIRPORT AUTHORITY**

Mike Daigle, Executive Director, St. Joseph County Airport Authority, the Airport Authority is requesting consideration of our 2016 budget. Our budget consists of three different funds, the Aviation Fund, Cumulative Building and Debt Services. The total of these funds are twenty million, five hundred and forty one thousand. In our 2016 budget, we have reflected and amount of cost of living wage increases, additional wage adjustments and also some job upgrades based on changes and responsibilities. The largest increase in these funds is in the Cumulative Building fund primarily for air service development. As you know, we are receiving bids in the next two weeks to build a federal inspection station and a general aviation facility to be able and process international flights, a first for our region.

Motion to pass Bill No. 62-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 62-15 was passed to-wit; 9-0.

**BILL NO. 63-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) SOLID WASTE**

Randy Przybysz, Executive Director, Solid Waste Management, budget proposal for 2016 has been approved by our board which you should have a copy of that resolution. Everything in this budget was kept just about the same as last year, there are no raises being proposed. Our total budget for next year is being proposed as an increase of a hundred fifty two thousand, six hundred and forty three dollars and that comes basically from two line items, our Household Hazardous Waste Program in Mishawaka, last year was just under ten thousand people with seven hundred and sixty nine thousand pounds of hazardous material going through there. We are on track this year to exceed that number. People coming and the amount of material. Another factor is, for the last six years we have been under contract with a company called ERI to take the obsolete electronics. They have taken them for free so we rode that horse now all that we can because we were notified that they were the last ones offering to do it for free, that is not going to happen anymore. Our contract is up the end of this year. We have no idea what the charges are going to be or how much material we are going to take in until it actually happens. The proposal there was to take that budget line item from a hundred thousand to two hundred thousand. The other is a fifty thousand dollars put into a capital improvement fund, we have never had that before. There is some discussion to combine our office and our HHW program in one location, more centrally located to the population in the county and also large enough to handle the kind of numbers we are taking through there now. We are land locked where we are at. That money would only be used, should we find a piece of property to do any plans and only with the approval of the board. We have no choice on the electronics; we have to do something about that program. We are anticipating having to pay we just have no idea how much.

Mr. O'Brien: How much do you estimate will be brought in from fees?

Mr. Przybysz: Our total income is about two point five million per year. This budget is two point nine five.

Mr. O'Brien: Is there enough in reserve to fund this?

Mr. Przybysz: Yes and that was discussed with the board. Some of this, because of the process now having to before the Council, there are certain line items, like for the curb side recycling program where we budget for worst case scenario because we would not know until late in the year if fuel surcharges or something needed to kick in and raise the amount we are paying out for that.

Motion to pass Bill No. 63-15 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 63-15 was passed to-wit; 9-0.

**BILL NO. 64-15: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2016**

Mr. Hamann, St. Joseph County Auditor, the budget is still a work in progress. I can say at this juncture, it is estimated to be about fifty six point two million dollars in terms of expenditures for the general fund. When you

combine all the different funds we are looking at about a total budget of a hundred and thirteen million dollars. It is still a work in progress.

Motion to pass Bill No. 64-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 64-15 was passed to-wit; 9-0.

**BILL NO. 65-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES  
(BUDGET FORM 4) ST. JOSEPH COUNTY, INDIANA**

Mr. Hamann, St. Joseph County Auditor, tax rates again are a work in progress. To give a brief overview, the Assessor's office provides the gross assessment, that then rolls over to the Auditor's office and what our office does then is it comes up with the net assessed value of the property in the county, you take away the exemptions, the abatements and deductions, we then provide that to the state and then the state will take that number, take the number, the various budgets from various tax entities and levy and calculate what those tax rates will be so that will be a few months.

Motion to pass Bill No. 65-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 65-15 was passed to-wit; 9-0.

**SALARY AMENDMENT:**

**BILL NO. 66-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015  
DEPT. 0018 PROSECUTOR**

Mr. McCahill reported that Bill No. 66-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's Office, we are here asking for an amendment to our salary amendment to reflect the changes that we appropriated in our first budget to what the APS Grant finally came in at.

Motion to pass Bill No. 66-15 was made by Mr. McCahill and seconded by Ms. Hess. Bill No. 66-15 was passed to-wit; 9-0.

**BILL NO. 49-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE FISCAL YEAR 2015-2016 DEPT. 0025 JUVENILE & PROBATE COURT**

Mr. McCahill reported that Bill No. 49-15 comes with a favorable a recommendation.

Pete Morgan, Executive Director of the St. Joseph Probate Court and Juvenile Justice Center, we are seeking a salary amendment which would allow us to apply eleven thousand, five hundred dollars in funds which were awarded under a Juvenile Accountability Block grant to the salary known as Education Coordinator in our probation user fees budget in line number 11376, the reason for seeking the amendment is this would be the person charged with carrying out the duties of the grant over and above the reason for the position otherwise.

Motion to pass Bill No. 49-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-15 was passed to-wit; 9-0.

**Public Hearing/Public Comment:**

**BILL NO. 61-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE  
HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY  
GOVERNMENT**

A. Treasurer  
General Fund

FROM: 1000-11682-000-0003	Clerk/Cashier	\$400.00
TO: 1000-32020-000-0003	Travel	400.00
		<u>TOTAL: \$400.00</u>

B. Prosecutor  
Adult Protective Service Grant

FROM: 9108-32020-000-0018	Travel	\$1,000.00
9108-22010-000-0018	Gas, Oil and Lubricants	919.00
TO: 9108-11318-000-0018	Investigator APS	\$1,000.00
9108-11319-000-0018	Director APS	31.00
9108-37100-000-0018	Auto Lease	888.00
		<u>TOTAL: \$1919.00</u>

**APPROPRIATE**

C. Auditor's Office  
Enhanced Access Fund

1154-39750-000-0002	Data Processing	\$100,000.00
1155-39750-000-0002	Data Processing	100,000.00
		<u>TOTAL: \$200,000.00</u>

D. County Engineer  
Major Moves Const. Fund

1172-43155-000-0023	McKinley AM General	\$400,000.00
		<u>TOTAL: \$400,000.00</u>

E. Roads & Highway  
Local Road & Street

1169-39150-000-0060	Other Expenses	\$27,865.00
		<u>TOTAL: \$27,865.00</u>

F. Health Dept.  
Health Ebola Grant

8126-22148-000-0055	Field Supplies	\$8,000.00
8126-39750-000-0055	Data Processing	1,000.00
8126-44010-000-0055	Equipment	13,135.00
8126-44311-000-0055	Emergency Equip.	10,000.00
		<u>TOTAL: \$32,135.00</u>

G. Health Dept.  
Health Bioterrorism Grant

8113-21030-000-0055	Office Supplies	\$2,772.00
8113-22148-000-0055	Field Supplies	3,000.00
8113-32020-000-0055	Travel	3,160.00
8113-32050-000-0055	Instruction & Training	2,840.00
8113-32203-000-0055	Cell Phones	1,800.00
8113-44010-000-0055	Equipment	2,500.00
8113-45510-000-0055	Furniture & Fixtures	10,000.00
	<b><u>TOTAL: \$26,072.00</u></b>	

H. Health Dept.  
Health HUD Grant

9103-21030-000-0055	Office Supplies	\$250.00
9103-22148-000-0055	Field Supplies	3,700.00
9103-22328-000-0055	Equipment Repairs	9,785.00
9103-32020-000-0055	Travel	300.00
9103-36010-000-0055	Repairs Bldgs. & Structure	500.00
	<b><u>TOTAL: \$14,535.00</u></b>	

G. Juvenile & Probate Court  
JABG

8125-11385-000-0025	Probation Officer I	\$11,500.00
	<b><u>TOTAL: \$11,500.00</u></b>	

Motion to pass Bill No. 61-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 61-15 was passed to-wit; 9-0

**Land Use Planning:**

**BILL NO. 45-15:** PETITION TO VACATE PUBLIC WAYS AND PUBLIC PLACES WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA PETITIONER: EDWARD W. HARDIG

Mr. Noland reported that Bill No. 45-15 comes with a favorable a recommendation.

Mr. Danch, Danch, Harner and Associates, as we mentioned to Council, council had asked us last month to see if we could meet with the adjacent property owner and come to an agreement on the use of the property between us and Westwinds, property to the south. We have done that. Mr. Masters is here this evening to speak on behalf of his clients. We have come to agreement which stipulates how the property will be laid out, that we will be providing access for Mr. Master's clients. We provided Council with a site plan that shows the proposed the development that will occur on the property, assuming the Council will approve the vacation of Huron Street. The bill this evening has been revised, the ordinance that is before the Council this evening reflects part of the agreement we have with Mr. Masters clients that if the street gets vacated, they will acquire fifty feet of the sixty feet of right of way which is adjacent to their property that was part of the stipulation. We will also back that up by doing a quick claim deed to Mr. Masters clients to show that the transfer of that property so that property would remain in the county. This process is also on a parallel track, we have already done before the Area Plan Commission for the zoning issue for this property. We did receive a favorable recommendation from the Plan Commission; they also approved variances for the development. What we would say to Council this evening, there will be a public hearing for the residents, everyone that had been notified within three hundred feet for that development, there will be a public hearing where they can address their concerns at a city council meeting, that meeting will be on September 28 that will be a public hearing.

Mr. Kruszynski: Mike, I know there was an issue with the curb height on the north side of the building....

Mr. Danch: Yes, what we have done with that as part of the agreement, when we do our part of the development, there will be a curb at the north property line for Westwinds. There will be a nice clean line.

James A. Masters, Nemeth, Feeney, Masters and Campiti, 350 Columbia, South Bend, I am here tonight on behalf of Maron LLC and its owners. At your last meeting, we presented a remonstrance to the vacation of Huron Street. I am pleased to inform you that with the cooperation of the petitioner and the cooperation of the representatives of Martins, the issues raised by that remonstrance have been resolved. The remonstrance is hereby withdrawn.

Leon Grey, 56420 Butternut Road, South Bend, I am in favor of any improvement this community can have especially on the west side.

Murray Miller, 1201 Priscilla Drive, I am also in favor of this. The west side has been in need of a new grocery store in the area. I think it's well deserved for the people on the west side to get that. I am very much in favor.

Kevin Pajakowski, 58472 Eastwood Drive, South Bend, Martin's has done a wonderful thing, when they moved in, they cleaned up the area. They kept the area clean. Without Martin's, that's the one anchor we have had in this community on our side of town.

Susan Zawadowski, 159 N. Summit Drive, South Bend, I am a current Martin's customer at that store, I am very much in favor of the vacation of Huron Street. I look forward to walking and riding my bike to Martin's. I appreciate what Martin's does for our community.

Rev. Charles Zawadowski, 159 N. Summit Drive, South Bend, I am a pastor of St. Mary's Parish on Sample Street. I echo some of the thoughts we have heard today. We always talk about how we need new things on the west side, here it is. We, as a community, partner with Martin's. We do not partner with Kroger's or Meijers. Many neighborhood organizations, government entities have benefited from Martin's charity. They have an excellent track record. They are good neighbors. I endorse and support the vacation of Huron Street.

Charles Waddell, 5134 Hazelwood Court, South Bend, I am looking forward to shopping. Martin's has a history of hiring local contractors and local workers so I think it's a big boost for our economy. I am looking forward to this.

Diana Kisminski, 56921 Hollywood Blvd., South Bend, I am in opposition of Huron Street. I hope you have had an opportunity to look over the packet of information I provided to your office. As you can see from the diagram, Martin's plans to build a drive through service for customers to purchase coffee. As we all know, traffic from a drive through can quickly back up. As a result, drivers will have to wait on Hollywood Blvd. before accessing Martin's. This will result in cars backing up in both directions. This will cause a traffic jam on Grant as drivers wait to turn into Hollywood Blvd. There is no left turn signal at Mayflower and Sample. As a result, drivers will be detoured from using the Mayflower entrance into Martin's. There are a lot of children that live on Hollywood Blvd. We are your constituents, not Martin's. We need you to represent our interests.

Eric Kisminski, 56921 Hollywood Blvd., South Bend, I am here this evening representing myself and those that signed the petition. So far all we have heard from the representatives of Martin's are stories, lies and total disrespect to the residents regarding their concerns about their project. This proposed Martin's already has three entrances. Two on Mayflower and one on Western. As I looked on the Council list of names I was proved last week and addresses I noticed that none of you live in a heavily traffic road. Put yourself in our position. In America, we live in a democracy. We the people, who will be effected the most, took a vote and we voted to close the entrance to Martin's from Hollywood, you have the petition in your position.

Louann Gondos, 565547 Hollywood Blvd., I am representing my mother in law who lives on Hollywood Blvd. I am a Martin's supporter, I am happy the store is going to be put where it is going to be put. I have to agree, you guys have to cut off access to Hurron and Hollywood Blvd. It's our neighborhood. Just protect our neighborhood streets.

Denise Lentech, 56595 S. Hollywood Blvd., my husband and I have lived here for thirty eight years; we have raised our children and now enjoy our grandchildren visiting us here. We chose this neighborhood to live out our lives in because it is peaceful and friendly. We the neighbors who live on Hollywood, Ford and Elmer beg of you to allow the quality of our lives to remain somewhat, what we envisioned it when we chose this neighborhood to live out our lives. Please vote against the entrance/exit on Hollywood.

Jeffrey Booker, 56577 Hollywood Blvd., I too know that Martin's does a lot of good for our community. I am not against Martin's building a store. The realization of the Martin's project with a rear entrance off of Hollywood Blvd. is not fair. It's not fair to the residents or the county. The city will annex this part for the Martin's project, Martin's will use the road and the county will have to maintain it. That's not fair. It will put a lot of traffic back there. We are just asking for one concession from Martin's. Close that entrance.

Patricia Cichowicz Lynch, 23665 Grant Road, South Bend, Martin's has been a great neighbor. We know they will be moving and building in between Hollywood and Mayflower and we accept that but we object to an egress on Hollywood.

Thomas J. Kowalski, 56680 Hollywood Blvd., South Bend, I am representing my mom who is 92 years old and still resides there. With the entrance to Martin's on Hollywood, we won't be able to get out of our driveway most of the time. My mom is not driving but my mom does not want it there.

Mr. Danch: We are looking at the concerns of the residents that showed up this evening. This project has gone through review both county engineering department and also city engineer for the City of South Bend. We asked them to take a look at the project as well. We do have a main access point that would be onto Mayflower Road, actually we have two on Mayflower Road and there will be one on Western. The one off of Hollywood Blvd. we don't believe will be a main entrance for any access point from that residential area. That is to allow access for residents to come in; they don't have to go out to Mayflower Road, that's one of the reasons for that. It is not a main access point. We created that strictly to allow for residents that are going to use the Martin's to get back to their homes without either going out to Western Ave. or onto Mayflower. I have not heard any concerns from either the city engineering department or the county engineering department about increase amount of traffic that would be going out onto Hollywood Blvd. but we will take a look at that. We have heard concerns though, of the rout that is being taken from Grant up to Western and then over to the church for picking up children but I don't think there's that huge increase and I believe the county engineering department is also going to be taking a look at it from a traffic standpoint as well. What we would ask Council to do is allow us to move ahead and get to the city council portion for the rezoning where these remonstrators can show up and address their concerns with the city council as well.

Mr. Kruszynski: Mike, I think you just answered it, I know three for four of the residents got up and spoke were concerned about that access onto Hollywood. But their concerns should be addressed with the city council, am I correct?

Mr. Danch: That is correct. The city engineering department will have jurisdiction, we are going through that annexation procedure to bring it into the city. The city engineering department also has a close relationship with county engineering as well. So I think between the two they will also be looking at it. We will have to submit a final site plan for approval for those departments before we build.

Mr. Catanzarite: Just for the record, Mr. Kisminski mentioned none of live near commercial. I live about a hundred feet away from a Walgreens store near Ironwood and Edison so I do know what it is like to live next to commercial property and I have a dentist and an insurance office next door to me. Having gone through that process and worked with those groups when they moved into our neighborhood after I moved there and not known they were going to be there when I moved initially, the zoning screening requirements that are in place today are a lot more stringent than they were many years ago so for me personally, it's been a positive experience living next to a commercial property and some offices and the screen that has gone up has shielded my family from what I consider to be to very highly, intensive used properties so to our satisfaction, I just want to say I do live next to commercial property and by it and it has not been a bad experience. Mr. Danch, looking at our concerns, I think you have written commitments, you would not use Hollywood for any truck delivery access, right?

Mr. Danch: It was actually designed that way. Truck traffic will not go out onto Hollywood Blvd. We did work closely with the city engineering department on that as well as Jessica (Clark) and the way it's designed, the whole site is designed for truck traffic to come off of either Western Avenue come south through our access point which is east of John Becker's shopping center or come in off of Mayflower Road. The whole design for truck turning radius is dictated by that access routing. A truck could not come down Hollywood Blvd. and make the turn into the site and one of the things we have mentioned to the residents is, Martin's has complete control over any of the vendors that delivery goods/produce to their stores so that we can prevent that from happening.

Mr. Catanzarite: Hearing the concerns from most of the Hollywood residents who would be most impacted by this, is there a design possibility of an entrance or an exit off of Hollywood that could be achieved that would make it less intensive?

Mr. Danch: We can take a look at that but it's almost going to be up to the engineering department to see if there is a way to limit how that traffic would access Hollywood Blvd. There are certain ways to do an entrance way to deliver traffic one way or another.

Mr. Catanzarite: You negotiated with Westwinds. Westwinds contends that many of their patrons currently and have for a long time always used Hollywood Blvd. to avoid Mayflower Road, is that correct? Was that conveyed to you?

Mr. Danch: I have heard that, the patrons that came out of Westwinds would like to go over toward Hollywood because it's easier that way. I also heard where there is a situation where Huron Street was a straight through, there were actually people cutting through Mayflower over to Hollywood Blvd. and racing down that so by our design, we will be able to stop that.

Mr. Catanzarite: By offsetting that.

Mr. Danch: By offsetting that and making it more difficult, we are also going to include signage, stop signs within our site.

Mr. Morton: You are saying that you are talking to the city engineer?

Mr. Danch: We have done that, yes. What I am saying is, before we can get our approval to start the project, they will have to review everything and make sure that we are in compliance as well.

Mr. Morton: Is the city engineer; is he aware of all the concerns of the residents?

Mr. Danch: They will be, I think with them showing up, they were at the Area Plan Commission meeting so I think some of those concerns were conveyed at the Area Plan Commission meeting that we had approximately two weeks ago. It will also be at the city council meeting as well.

Mr. Morton: I think it would make sense if the city engineer was made aware of these concerns before the night of the public hearing. That just makes sense.

Mr. Danch: I would be glad to inform them, I have no trouble doing that.

Mr. Catanzarite: I hope Martin's is very sensitive to that issue; it sounds like you are trying to address it or willing to look at it and possibly address it. I think the people have made some very thoughtful and true statements about how the impact will be on their neighborhood.

Mr. Morton: Mr. Danch, the site plan you presented tonight is amended, correct?

Mr. Danch: Correct.

Mr. Kruszynski: I have just a few comments. Some of the concerns that were addressed, I know Mr. Booker, you brought up about the traffic count or study, I have emailed our county engineer, Jessica Clark last week after I heard your concern in regards to that. She is working with MACOG to get that done before winter, we would like to see what that count is before Martin's is built, if this passes. The lady that brought up about a couple of intersections in regards to Grant and Mayflower, again, that is a city issue, the county does not have any jurisdiction over that intersection. Same thing with Western and Mayflower, if we recall at the neighborhood meeting that a few of us attended, Councilman Oliver Davis indicated that he would be looking at those traffic signals, he was going to talk to the city engineer to address that issue along with some left turning lanes, which Mike, isn't there some left turning lanes purposed on Huron?

Mr. Danch: Yes, the main entrance way we have on to Mayflower Road at the request of city engineer they asked that we provide a left turn lane onto Mayflower Road. That also has a dedicated right turn lane as well. That was part of their design when they took a look at our site plan.

Mr. Kruszynski: Also, I have spoken to Jessica in regards to the way that Hollywood is constructed and she is going to take a look at that Mr. Booker and once we get traffic counts and again, if this is passed and get traffic counts later then that issue will be addressed. I also had a meeting with Area Plan and discussed some options that could be done to Hollywood along with Jessica that if that traffic turns to get real bad, there are things we can do, we as a county can do to Hollywood, not to the access point onto Hollywood but there are things we can do down the road if starts to be a real nuisance.

Audience member: Is Martin's going to post a bond (inaudible) on that nice new road you put in? I think someone should consider that.

Mr. Kruszynski: Jeff, in dealing with the Martin's representatives for the last two months, either on the phone or in person, not with just myself but with other colleagues on the Council here, I will hold Mr. Bartles accountable for whatever goes around in that area in Martin's commitment to this store, if it's passed and the commitment they made to the other stores, I am pretty pleased at what I see. Like Councilman Cantazarite has said, he does live in a pretty heavily commercial area, I just so happen to live right off of Quince Road, we have a school there, you have fire trucks there, you have all kinds of traffic going up and down Quince so we get it on Quince also. I am also concerned of the constituents in that area that's why I will hold Mr. Bartle's accountable, I will be the first one banging on his door. I think he knows that.

Motion to pass the amendment for Bill No. 45-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Amended Bill No. 45-15 was passed by a voice vote to-wit; 9-0.

Mr. O'Brien: I wanted to acknowledge that Martin's investment is coming without any request to the county for incentives. I'm impressed with that among many other aspects of the project, the number of jobs that will be retained and additional jobs to be created as well. It's not often that investments in real estate of this nature do not come to us with a request for an incentive and I am very pleased with that and I will be supporting passage when we ultimately vote.

Ms. Hess: I also think that Martin's brings a lot to the community and am pleased with the developments I have seen and past and look forward to this one however, I will echo what Mark Catanzarite said as well, I think they should take the neighbor's concerns into consideration when they are making this development because they have lived there for a long time and to have their life disrupted or as they perceive as being disrupted needs to be given careful consideration. I know that Bobby K., that's his district, he will be as he said, knocking on Mr. Bartle's door if there is a problem and my district butts right up against that so again, I work with neighborhoods in the City of South Bend that's my day job, so I am very concerned about what neighbors think when there is development or new things are happening in their neighborhood.

Mr. Morton: Mr. Danch, I'd be interested in hearing from you as you progress with your conversation with the city engineer, hopefully there again, before the public hearing and if you would be so kind as to give me a call and let me know how that's progressing.

Mr. Danch: I will.

Motion to pass Bill No. 45-15 was made by Mr. Kruszynski and seconded by Mr. O'Brien. Bill No. 45-15 was passed to-wit; 9-0

**BILL NO. 53-15:** A RESOLUTION OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, ESTABLISHING REASONABLE ACCOMMODATION POLICIES AND PROCEDURES IN ZONING AND LAND USE DECISIONS WITHIN THE COUNTY OF ST. JOSEPH, INDIANA  
PETITIONER: MARK P. TELLOYAN

Mr. Noland reported that Bill No. 53-15 comes with a favorable a recommendation.

Mr. Telloyan: This proposed ordinance brings the county in mind with the ADA, the American Disabilities Act and Fair Housing Act. It also echo's a resolution passed earlier by our colleagues on the City of South Bend. Mark Lyons from the Building Department is here if there are any detailed questions, I was asked by Jamie Woods to present it to the Council, I would ask for its passage.

Motion to pass Bill No. 53-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Bill No. 53-15 was passed to-wit; 9-0

**BILL NO. 57-15: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION PETITIONER: AREA PLAN COMMISSION**

Mr. Noland reported that Bill No. 57-15 comes with a favorable a recommendation.

Larry Magliozzi, Executive Director of the Area Plan Commission, this is establishing new fees for the next two years, 2016-2017. It replaces a multiyear schedule that was approved back in 2009.

Motion to pass Bill No. 57-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 57-15 was passed to-wit; 9-0

**BILL NO. 60-15: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY AMERICAN STRUCTUREPOINT ON BEHALF OF NAVISTAR FOR THE PROPERTY LOCATED AT 32104 STATE ROAD 2, NEW CARLISLE THE SAME BEING PETITION NO. 08-05-15-14 FILED WITH THE AREA BOARD OF ZONING APPEALS**

Mr. Noland reported that Bill No. 60-15 comes with a favorable a recommendation.

Mark Lyons, Building Department, this was given public hearing at the August 5<sup>th</sup> at the Area Board of Zoning appeals, this is a special exception to allow an auto testing grounds. This comes to you with a unanimous favorable recommendation.

Mr. Catanzarite: Unrelated to the bill but I would just like to extend my congratulations to Mr. Lyons and thank him for his ten years of service to our county and wish you the best of luck moving forward. You brought a lot to the county in terms of helping us out in a lot of issues that have come before us.

Mr. Lyons: Thank you, I appreciate it.

Mr. Kruszynski: I'd like to echo that Mark, the little time I have had time to work with you, you have been very good but you have one last request, what about 56131 Butternut? I left you a message about a week ago.

Mr. Lyons: It's on the demo list, so it should be getting it taken care of. It will probably be the 2016 list. Chuck is just starting to get the 2016 list put together, probably end of November early December when he will be bringing those forward to get the process started.

Mr. Kruszynski: Thank you, good luck to you.

Mr. Hamann: Mr. Lyons, I didn't realize you were leaving us. I do wish you the best of luck and you were outstanding when I was a councilman and any concerns you were "Johnny on the spot" whenever I called, you would check on within twenty four hours of a property to see if it was in compliance with building code so I really appreciated your hard work so good luck.

Mr. Lyons: Thank you.

Mr. McCahill: Congratulations on going home go Packers.

Motion to pass Bill No. 60-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 60-15 was passed to-wit; 9-0

**Unfinished Business:**

**New Business:**

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

Mr. O'Brien: I just wanted to report to the council, I did have office hours or an open house last week to invite people to come in and speak about the Taxpayer Protection and Transparency Ordinance that I proposed. Only one person showed up, I spoke with that person to explain the ordinance, I had no other face to face questions about it. I have had nine or ten calls and messages in support of it. I will talk more about it at the committee meetings in a couple of weeks.

Jim Bogner, 807 W. Washington Street, South Bend, I come this evening regarding property in the City of South Bend, 803 W. Washington, I believe it resides in President Morton's district. This is also known as the Kiser Mansion. I am in front of Council this evening is because of an issue related to the Historic Preservation Commission. As you may or may not know, the Historic Preservation Commission for the last fifteen years has had a façade easement on this property. During this period of time they had care, custody and control of the façade of this building. A very unusual situation, an asset to our county. On February 23, 2015, the Historic Preservation Commission, under a deed of easement, transferred or essentially gave up the façade easement on this property, care, custody and control. There were questions at the city council last meeting that they had over the issue of whether this was a valid transfer. I realize in fairness of Historic Preservation Commission they are not here this evening, but it was a transfer of an asset. The other issue I am deeply concerned about, living directly next door to this property is that once the property was allowed to be transferred from the City of South Bend to Indiana Landmarks, two of the chimney's were dismantled. That had to of been through an agreement with HPC because they had care, custody and control of the façade, again an asset to this county. Those chimney's continued to be down today. They have not been restored, Councilman Catanzarite knew the people at the time that lived there, can validate the fact that they are there. There are serious questions that relate to how the Historic Preservation Commission handled this property over the 15 years they had it. My letter is directed to President Morton but it is for all of you, it basically asks, what has happened between December 11, 2011 which was the transfer of the property from the City of South Bend to the Historic Landmarks Foundation of Indiana, also called Indiana Landmarks until this deed of easement? I don't know that it ever came in front of council, I don't know if council was ever aware of it. I don't know whether the Historic Preservation Commission ever could do it without talking with council but there were clearly were two things that happened here. An important asset in this community, a façade easement, and there are also three others, were transferred. Secondly, during the period of time that Indiana Landmarks owned the property, there was work done on the property and it was not followed through on and does not till this day. The reason why I am here is to ask council to take a look at this through their legal folks and all of you to take a look at the history of this and what Historic Preservation does. Now having lived in the neighborhood, I can tell you, if I came down to any work on my property and I went the building department to get a permit, they would look at where I lived at, they would know it was an historic property and they would ask to review this. I know of no place else we could go almost four years without some kind of plan that came trough Historic Preservation. I think my concern to this is, they may have answers to this, but I don't understand why demolition to these chimney's which needed to be done and not rebuilt and I don't understand why an asset was given away without coming to the elected officials. There may be a question you may have is well, if this happened February why am I now coming before you now. It's because many of us just realized that this occurred through other issues that are unrelated to this council and because of the nature of Historic Preservation I think they owe everyone some answers, first of all, you folks and then ultimately, me. I think it's a question in government about fairness, about are we all going to be treated equally or is there a wink a nod that we are going to somehow take of this because this is going to a higher level and then the higher level turns and sells it. This is an important property in the city, the individuals that were working on this property are having issues with Indiana Landmarks which does not relate to this, the city is conducting their own investigation but I do believe that the Council does have issues relating to this to understand how it would have been sold and how it would have been passed over without anybody knowing anything. I'd be glad to take any questions anyone may have but the documentation, which I don't expect you to look at now, will clearly show you, what we call the Freedline Easement from 83, what governed it up unto the transfer of the easement.

Mr. Morton: What is the time table of the city's investigation?

Mr. Bogner: That's a very good question, Mr. President. The city isn't conducting a thorough investigation into issues that are related to Indiana Landmarks and the current property owners that have nothing to do directly with the Historic Preservation Commission so that is why I am here asking for your help. Basically to find out what you folks know about this and what will come of this. I don't know that the city has a time table but as you know, Historic Preservation Commission is a hybrid, it's part city and part county but most of the time county comes in. I also want to say too, it's very important to be fair. They are obviously not here to discuss this. I am not accusing them of doing anything wrong other than to say, no one would be allowed to do a dismantling as they did without some sort of plan and I believe my letter says what happened during this period of time. So no, I know that the city has a time table. I

do know that Community Investment and Scott Ford has assigned someone to do a thorough investigation and go back to the city council. I was not a part of that during that particular time, asking for an investigation. This is more related to Historic Preservation and what they did with the easement.

Mr. Kruszynski: Mr. Bogner, obviously you have presented this to the Historic Preservation....

Mr. Bogner: We have through the years presented much information to the Historic Preservation Commission. We have never received answers from them from during the period of time.

Mr. Kruszynski: When's the last time you addressed them?

Mr. Bogner: The last time we addressed the Historic Preservation Commission was at the time of the sale of the property from the City of South Bend to Indiana Landmarks and we were assured at that time that Historic Preservation and Landmarks would be working in cooperation to be able to assist in stabilizing and that was one of the reasons why the chimney's were removed and as I noted in my letter here, they were done in January and February of 2012. From that point on, it basically was this is an Indiana Landmarks problem and not our problem but the façade easement was not transferred until February of 2015 which means it was an asset of the county's. I come here this evening based on the information that I want to know number one, was it a legal transfer, could they do that without going through any of the bodies and secondly, basically what had happened during the period of time when Landmarks owned the property and HPC had a façade easement on it.

Mr. Kruszynski: Have you addressed this issue with their attorney?

Mr. Bogner: That portion was addressed through the city council and I believe that the city council was also looking at this portion that relates to whether the transfer of the façade easement was legal, so yes, that portion was done, I did not do it, it was done at the last council meeting. I did not personally do it.

Mr. Kruszynski: Mr. Zappia represents the Historic Preservation. Has he gotten back to you?

Mr. Bogner: He has not gotten back to me, but it was directly related to me, I come before the council to bring this to council's attention. I also, I might add, to show that there are three other properties that façade easements continue to be on, which is at a higher level of what would normally occur under HPC rules and guidelines and that's what that information provides you with.

Mr. O'Brien: Mr. Bogner, what is your ultimate goal here, you want to see someone repair and rebuild chimneys?

Mr. Bogner: Well, I think two things. Number one, my concern is, that an asset was passed along and there was a loss of local community involvement. The easement is very clear. Secondly, I think there should be some clarification as to how something can be taken down and be left down for four years without some kind of a plan and HPC is usually very good jumping on issues that have problems. I have seen them in several areas, including houses that are up for demolition that have historic nature to it. This is a very strange situation.

Mr. O'Brien: So you don't care if the chimneys are rebuilt or not?

Mr. Bogner: Obviously we want to have the chimneys rebuilt and I would like to see the property saved; there is a third chimney that was not dismantled that is in disrepair at this time. I am wanting to know what HPC knew and when they knew it and whether they transferred any of that information to anyone of the governing bodies before they gave up the easement.

**Adjournment:** Mr. Morton stated that the meeting was adjourned 7:25 p.m.















MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
September 8, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on September 8, 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. Noland made a motion to approve the minutes of the August 11, 2015 public hearing was seconded by Mr. O'Brien, the motion was passed by a voice vote; 9-0.

Mr. Noland made a motion to return Bill No. 58-15 back to committee per the petitioner; it was seconded by Mr. Catanzarite. The motion was passed by a voice vote; 9-0.

No report from the County Auditor  
No report from the County Commissioner  
No report from Special Committees.

**First Readings:**

**BILL NO. 67-15:** 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 13460 E. MCKINLEY AND 56020 CURRANT ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT PETITIONER: RBS PROPERTIES LLC  
Assigned to the Land Use Planning Committee

**BILL NO. 68-15:** AN ORDINANCE OF ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO 79-13 WHICH ESTABLISHED THE PUBLIC SAFETY COMMUNICATIONS CONSORTIUM OF ST. JOSEPH COUNTY, AND MODIFYING SECTION 6 OF SAID ORDINANCE REGARDING THE OPERATIONS BOARD POWERS AS ESTABLISHED THEREIN Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 69-15:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF THE ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC. 6-1.1-12.1-14 ET SEQ PETITIONER: ST. JOSEPH ENERGY CENTER, LLC  
Assigned to the Land Use Planning Committee

**9. Public Hearing on the Airport Authority, Solid Waste Management, and St. Joseph County 2016 Budget:**

**BILL NO. 62-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) AIRPORT AUTHORITY**

Mike Daigle, Executive Director, St. Joseph County Airport Authority, the Airport Authority is requesting consideration of our 2016 budget. Our budget consists of three different funds, the Aviation Fund, Cumulative Building and Debt Services. The total of these funds are twenty million, five hundred and forty one thousand. In our 2016 budget, we have reflected and amount of cost of living wage increases, additional wage adjustments and also some job upgrades based on changes and responsibilities. The largest increase in these funds is in the Cumulative Building fund primarily for air service development. As you know, we are receiving bids in the next two weeks to build a federal inspection station and a general aviation facility to be able and process international flights, a first for our region.

Motion to pass Bill No. 62-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 62-15 was passed to-wit; 9-0.

**BILL NO. 63-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) SOLID WASTE**

Randy Przybysz, Executive Director, Solid Waste Management, budget proposal for 2016 has been approved by our board which you should have a copy of that resolution. Everything in this budget was kept just about the same as last year, there are no raises being proposed. Our total budget for next year is being proposed as an increase of a hundred fifty two thousand, six hundred and forty three dollars and that comes basically from two line items, our Household Hazardous Waste Program in Mishawaka, last year was just under ten thousand people with seven hundred and sixty nine thousand pounds of hazardous material going through there. We are on track this year to exceed that number. People coming and the amount of material. Another factor is, for the last six years we have been under contract with a company called ERI to take the obsolete electronics. They have taken them for free so we rode that horse now all that we can because we were notified that they were the last ones offering to do it for free, that is not going to happen anymore. Our contract is up the end of this year. We have no idea what the charges are going to be or how much material we are going to take in until it actually happens. The proposal there was to take that budget line item from a hundred thousand to two hundred thousand. The other is a fifty thousand dollars put into a capital improvement fund, we have never had that before. There is some discussion to combine our office and our HHW program in one location, more centrally located to the population in the county and also large enough to handle the kind of numbers we are taking through there now. We are land locked where we are at. That money would only be used, should we find a piece of property to do any plans and only with the approval of the board. We have no choice on the electronics; we have to do something about that program. We are anticipating having to pay we just have no idea how much.

Mr. O'Brien: How much do you estimate will be brought in from fees?

Mr. Przybysz: Our total income is about two point five million per year. This budget is two point nine five.

Mr. O'Brien: Is there enough in reserve to fund this?

Mr. Przybysz: Yes and that was discussed with the board. Some of this, because of the process now having to before the Council, there are certain line items, like for the curb side recycling program where we budget for worst case scenario because we would not know until late in the year if fuel surcharges or something needed to kick in and raise the amount we are paying out for that.

Motion to pass Bill No. 63-15 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 63-15 was passed to-wit; 9-0.

**BILL NO. 64-15: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2016**

Mr. Hamann, St. Joseph County Auditor, the budget is still a work in progress. I can say at this juncture, it is estimated to be about fifty six point two million dollars in terms of expenditures for the general fund. When you

combine all the different funds we are looking at about a total budget of a hundred and thirteen million dollars. It is still a work in progress.

Motion to pass Bill No. 64-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 64-15 was passed to-wit; 9-0.

**BILL NO. 65-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES  
(BUDGET FORM 4) ST. JOSEPH COUNTY, INDIANA**

Mr. Hamann, St. Joseph County Auditor, tax rates again are a work in progress. To give a brief overview, the Assessor's office provides the gross assessment, that then rolls over to the Auditor's office and what our office does then is it comes up with the net assessed value of the property in the county, you take away the exemptions, the abatements and deductions, we then provide that to the state and then the state will take that number, take the number, the various budgets from various tax entities and levy and calculate what those tax rates will be so that will be a few months.

Motion to pass Bill No. 65-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 65-15 was passed to-wit; 9-0.

**SALARY AMENDMENT:**

**BILL NO. 66-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015  
DEPT. 0018 PROSECUTOR**

Mr. McCahill reported that Bill No. 66-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's Office, we are here asking for an amendment to our salary amendment to reflect the changes that we appropriated in our first budget to what the APS Grant finally came in at.

Motion to pass Bill No. 66-15 was made by Mr. McCahill and seconded by Ms. Hess. Bill No. 66-15 was passed to-wit; 9-0.

**BILL NO. 49-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE FISCAL YEAR 2015-2016 DEPT. 0025 JUVENILE & PROBATE COURT**

Mr. McCahill reported that Bill No. 49-15 comes with a favorable a recommendation.

Pete Morgan, Executive Director of the St. Joseph Probate Court and Juvenile Justice Center, we are seeking a salary amendment which would allow us to apply eleven thousand, five hundred dollars in funds which were awarded under a Juvenile Accountability Block grant to the salary known as Education Coordinator in our probation user fees budget in line number 11376, the reason for seeking the amendment is this would be the person charged with carrying out the duties of the grant over and above the reason for the position otherwise.

Motion to pass Bill No. 49-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-15 was passed to-wit; 9-0.

**Public Hearing/Public Comment:**

**BILL NO. 61-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE  
HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY  
GOVERNMENT**

A. Treasurer  
General Fund

FROM: 1000-11682-000-0003	Clerk/Cashier	\$400.00
TO: 1000-32020-000-0003	Travel	400.00
		<u>TOTAL: \$400.00</u>

B. Prosecutor  
Adult Protective Service Grant

FROM: 9108-32020-000-0018	Travel	\$1,000.00
9108-22010-000-0018	Gas, Oil and Lubricants	919.00
TO: 9108-11318-000-0018	Investigator APS	\$1,000.00
9108-11319-000-0018	Director APS	31.00
9108-37100-000-0018	Auto Lease	888.00
		<u>TOTAL: \$1919.00</u>

**APPROPRIATE**

C. Auditor's Office  
Enhanced Access Fund

1154-39750-000-0002	Data Processing	\$100,000.00
1155-39750-000-0002	Data Processing	100,000.00
		<u>TOTAL: \$200,000.00</u>

D. County Engineer  
Major Moves Const. Fund

1172-43155-000-0023	McKinley AM General	\$400,000.00
		<u>TOTAL: \$400,000.00</u>

E. Roads & Highway  
Local Road & Street

1169-39150-000-0060	Other Expenses	\$27,865.00
		<u>TOTAL: \$27,865.00</u>

F. Health Dept.  
Health Ebola Grant

8126-22148-000-0055	Field Supplies	\$8,000.00
8126-39750-000-0055	Data Processing	1,000.00
8126-44010-000-0055	Equipment	13,135.00
8126-44311-000-0055	Emergency Equip.	10,000.00
		<u>TOTAL: \$32,135.00</u>

G. Health Dept.  
Health Bioterrorism Grant

8113-21030-000-0055	Office Supplies	\$2,772.00
8113-22148-000-0055	Field Supplies	3,000.00
8113-32020-000-0055	Travel	3,160.00
8113-32050-000-0055	Instruction & Training	2,840.00
8113-32203-000-0055	Cell Phones	1,800.00
8113-44010-000-0055	Equipment	2,500.00
8113-45510-000-0055	Furniture & Fixtures	10,000.00
	<b><u>TOTAL: \$26,072.00</u></b>	

H. Health Dept.  
Health HUD Grant

9103-21030-000-0055	Office Supplies	\$250.00
9103-22148-000-0055	Field Supplies	3,700.00
9103-22328-000-0055	Equipment Repairs	9,785.00
9103-32020-000-0055	Travel	300.00
9103-36010-000-0055	Repairs Bldgs. & Structure	500.00
	<b><u>TOTAL: \$14,535.00</u></b>	

G. Juvenile & Probate Court  
JABG

8125-11385-000-0025	Probation Officer I	\$11,500.00
	<b><u>TOTAL: \$11,500.00</u></b>	

Motion to pass Bill No. 61-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 61-15 was passed to-wit; 9-0

**Land Use Planning:**

**BILL NO. 45-15:** PETITION TO VACATE PUBLIC WAYS AND PUBLIC PLACES WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA PETITIONER: EDWARD W. HARDIG

Mr. Noland reported that Bill No. 45-15 comes with a favorable a recommendation.

Mr. Danch, Danch, Harner and Associates, as we mentioned to Council, council had asked us last month to see if we could meet with the adjacent property owner and come to an agreement on the use of the property between us and Westwinds, property to the south. We have done that. Mr. Masters is here this evening to speak on behalf of his clients. We have come to agreement which stipulates how the property will be laid out, that we will be providing access for Mr. Master's clients. We provided Council with a site plan that shows the proposed the development that will occur on the property, assuming the Council will approve the vacation of Huron Street. The bill this evening has been revised, the ordinance that is before the Council this evening reflects part of the agreement we have with Mr. Masters clients that if the street gets vacated, they will acquire fifty feet of the sixty feet of right of way which is adjacent to their property that was part of the stipulation. We will also back that up by doing a quick claim deed to Mr. Masters clients to show that the transfer of that property so that property would remain in the county. This process is also on a parallel track, we have already done before the Area Plan Commission for the zoning issue for this property. We did receive a favorable recommendation from the Plan Commission; they also approved variances for the development. What we would say to Council this evening, there will be a public hearing for the residents, everyone that had been notified within three hundred feet for that development, there will be a public hearing where they can address their concerns at a city council meeting, that meeting will be on September 28 that will be a public hearing.

Mr. Kruszynski: Mike, I know there was an issue with the curb height on the north side of the building....

Mr. Danch: Yes, what we have done with that as part of the agreement, when we do our part of the development, there will be a curb at the north property line for Westwinds. There will be a nice clean line.

James A. Masters, Nemeth, Feeney, Masters and Campiti, 350 Columbia, South Bend, I am here tonight on behalf of Maron LLC and its owners. At your last meeting, we presented a remonstrance to the vacation of Huron Street. I am pleased to inform you that with the cooperation of the petitioner and the cooperation of the representatives of Martins, the issues raised by that remonstrance have been resolved. The remonstrance is hereby withdrawn.

Leon Grey, 56420 Butternut Road, South Bend, I am in favor of any improvement this community can have especially on the west side.

Murray Miller, 1201 Priscilla Drive, I am also in favor of this. The west side has been in need of a new grocery store in the area. I think it's well deserved for the people on the west side to get that. I am very much in favor.

Kevin Pajakowski, 58472 Eastwood Drive, South Bend, Martin's has done a wonderful thing, when they moved in, they cleaned up the area. They kept the area clean. Without Martin's, that's the one anchor we have had in this community on our side of town.

Susan Zawadowski, 159 N. Summit Drive, South Bend, I am a current Martin's customer at that store, I am very much in favor of the vacation of Huron Street. I look forward to walking and riding my bike to Martin's. I appreciate what Martin's does for our community.

Rev. Charles Zawadowski, 159 N. Summit Drive, South Bend, I am a pastor of St. Mary's Parish on Sample Street. I echo some of the thoughts we have heard today. We always talk about how we need new things on the west side, here it is. We, as a community, partner with Martin's. We do not partner with Kroger's or Meijers. Many neighborhood organizations, government entities have benefited from Martin's charity. They have an excellent track record. They are good neighbors. I endorse and support the vacation of Huron Street.

Charles Waddell, 5134 Hazelwood Court, South Bend, I am looking forward to shopping. Martin's has a history of hiring local contractors and local workers so I think it's a big boost for our economy. I am looking forward to this.

Diana Kisminski, 56921 Hollywood Blvd., South Bend, I am in opposition of Huron Street. I hope you have had an opportunity to look over the packet of information I provided to your office. As you can see from the diagram, Martin's plans to build a drive through service for customers to purchase coffee. As we all know, traffic from a drive through can quickly back up. As a result, drivers will have to wait on Hollywood Blvd. before accessing Martin's. This will result in cars backing up in both directions. This will cause a traffic jam on Grant as drivers wait to turn into Hollywood Blvd. There is no left turn signal at Mayflower and Sample. As a result, drivers will be detoured from using the Mayflower entrance into Martin's. There are a lot of children that live on Hollywood Blvd. We are your constituents, not Martin's. We need you to represent our interests.

Eric Kisminski, 56921 Hollywood Blvd., South Bend, I am here this evening representing myself and those that signed the petition. So far all we have heard from the representatives of Martin's are stories, lies and total disrespect to the residents regarding their concerns about their project. This proposed Martin's already has three entrances. Two on Mayflower and one on Western. As I looked on the Council list of names I was proved last week and addresses I noticed that none of you live in a heavily traffic road. Put yourself in our position. In America, we live in a democracy. We the people, who will be effected the most, took a vote and we voted to close the entrance to Martin's from Hollywood, you have the petition in your position.

Louann Gondos, 565547 Hollywood Blvd., I am representing my mother in law who lives on Hollywood Blvd. I am a Martin's supporter, I am happy the store is going to be put where it is going to be put. I have to agree, you guys have to cut off access to Hurron and Hollywood Blvd. It's our neighborhood. Just protect our neighborhood streets.

Denise Lentech, 56595 S. Hollywood Blvd., my husband and I have lived here for thirty eight years; we have raised our children and now enjoy our grandchildren visiting us here. We chose this neighborhood to live out our lives in because it is peaceful and friendly. We the neighbors who live on Hollywood, Ford and Elmer beg of you to allow the quality of our lives to remain somewhat, what we envisioned it when we chose this neighborhood to live out our lives. Please vote against the entrance/exit on Hollywood.

Jeffrey Booker, 56577 Hollywood Blvd., I too know that Martin's does a lot of good for our community. I am not against Martin's building a store. The realization of the Martin's project with a rear entrance off of Hollywood Blvd. is not fair. It's not fair to the residents or the county. The city will annex this part for the Martin's project, Martin's will use the road and the county will have to maintain it. That's not fair. It will put a lot of traffic back there. We are just asking for one concession from Martin's. Close that entrance.

Patricia Cichowicz Lynch, 23665 Grant Road, South Bend, Martin's has been a great neighbor. We know they will be moving and building in between Hollywood and Mayflower and we accept that but we object to an egress on Hollywood.

Thomas J. Kowalski, 56680 Hollywood Blvd., South Bend, I am representing my mom who is 92 years old and still resides there. With the entrance to Martin's on Hollywood, we won't be able to get out of our driveway most of the time. My mom is not driving but my mom does not want it there.

Mr. Danch: We are looking at the concerns of the residents that showed up this evening. This project has gone through review both county engineering department and also city engineer for the City of South Bend. We asked them to take a look at the project as well. We do have a main access point that would be onto Mayflower Road, actually we have two on Mayflower Road and there will be one on Western. The one off of Hollywood Blvd. we don't believe will be a main entrance for any access point from that residential area. That is to allow access for residents to come in; they don't have to go out to Mayflower Road, that's one of the reasons for that. It is not a main access point. We created that strictly to allow for residents that are going to use the Martin's to get back to their homes without either going out to Western Ave. or onto Mayflower. I have not heard any concerns from either the city engineering department or the county engineering department about increase amount of traffic that would be going out onto Hollywood Blvd. but we will take a look at that. We have heard concerns though, of the rout that is being taken from Grant up to Western and then over to the church for picking up children but I don't think there's that huge increase and I believe the county engineering department is also going to be taking a look at it from a traffic standpoint as well. What we would ask Council to do is allow us to move ahead and get to the city council portion for the rezoning where these remonstrators can show up and address their concerns with the city council as well.

Mr. Kruszynski: Mike, I think you just answered it, I know three for four of the residents got up and spoke were concerned about that access onto Hollywood. But their concerns should be addressed with the city council, am I correct?

Mr. Danch: That is correct. The city engineering department will have jurisdiction, we are going through that annexation procedure to bring it into the city. The city engineering department also has a close relationship with county engineering as well. So I think between the two they will also be looking at it. We will have to submit a final site plan for approval for those departments before we build.

Mr. Catanzarite: Just for the record, Mr. Kisminski mentioned none of live near commercial. I live about a hundred feet away from a Walgreens store near Ironwood and Edison so I do know what it is like to live next to commercial property and I have a dentist and an insurance office next door to me. Having gone through that process and worked with those groups when they moved into our neighborhood after I moved there and not known they were going to be there when I moved initially, the zoning screening requirements that are in place today are a lot more stringent than they were many years ago so for me personally, it's been a positive experience living next to a commercial property and some offices and the screen that has gone up has shielded my family from what I consider to be to very highly, intensive used properties so to our satisfaction, I just want to say I do live next to commercial property and by it and it has not been a bad experience. Mr. Danch, looking at our concerns, I think you have written commitments, you would not use Hollywood for any truck delivery access, right?

Mr. Danch: It was actually designed that way. Truck traffic will not go out onto Hollywood Blvd. We did work closely with the city engineering department on that as well as Jessica (Clark) and the way it's designed, the whole site is designed for truck traffic to come off of either Western Avenue come south through our access point which is east of John Becker's shopping center or come in off of Mayflower Road. The whole design for truck turning radius is dictated by that access routing. A truck could not come down Hollywood Blvd. and make the turn into the site and one of the things we have mentioned to the residents is, Martin's has complete control over any of the vendors that delivery goods/produce to their stores so that we can prevent that from happening.

Mr. Catanzarite: Hearing the concerns from most of the Hollywood residents who would be most impacted by this, is there a design possibility of an entrance or an exit off of Hollywood that could be achieved that would make it less intensive?

Mr. Danch: We can take a look at that but it's almost going to be up to the engineering department to see if there is a way to limit how that traffic would access Hollywood Blvd. There are certain ways to do an entrance way to deliver traffic one way or another.

Mr. Catanzarite: You negotiated with Westwinds. Westwinds contends that many of their patrons currently and have for a long time always used Hollywood Blvd. to avoid Mayflower Road, is that correct? Was that conveyed to you?

Mr. Danch: I have heard that, the patrons that came out of Westwinds would like to go over toward Hollywood because it's easier that way. I also heard where there is a situation where Huron Street was a straight through, there were actually people cutting through Mayflower over to Hollywood Blvd. and racing down that so by our design, we will be able to stop that.

Mr. Catanzarite: By offsetting that.

Mr. Danch: By offsetting that and making it more difficult, we are also going to include signage, stop signs within our site.

Mr. Morton: You are saying that you are talking to the city engineer?

Mr. Danch: We have done that, yes. What I am saying is, before we can get our approval to start the project, they will have to review everything and make sure that we are in compliance as well.

Mr. Morton: Is the city engineer; is he aware of all the concerns of the residents?

Mr. Danch: They will be, I think with them showing up, they were at the Area Plan Commission meeting so I think some of those concerns were conveyed at the Area Plan Commission meeting that we had approximately two weeks ago. It will also be at the city council meeting as well.

Mr. Morton: I think it would make sense if the city engineer was made aware of these concerns before the night of the public hearing. That just makes sense.

Mr. Danch: I would be glad to inform them, I have no trouble doing that.

Mr. Catanzarite: I hope Martin's is very sensitive to that issue; it sounds like you are trying to address it or willing to look at it and possibly address it. I think the people have made some very thoughtful and true statements about how the impact will be on their neighborhood.

Mr. Morton: Mr. Danch, the site plan you presented tonight is amended, correct?

Mr. Danch: Correct.

Mr. Kruszynski: I have just a few comments. Some of the concerns that were addressed, I know Mr. Booker, you brought up about the traffic count or study, I have emailed our county engineer, Jessica Clark last week after I heard your concern in regards to that. She is working with MACOG to get that done before winter, we would like to see what that count is before Martin's is built, if this passes. The lady that brought up about a couple of intersections in regards to Grant and Mayflower, again, that is a city issue, the county does not have any jurisdiction over that intersection. Same thing with Western and Mayflower, if we recall at the neighborhood meeting that a few of us attended, Councilman Oliver Davis indicated that he would be looking at those traffic signals, he was going to talk to the city engineer to address that issue along with some left turning lanes, which Mike, isn't there some left turning lanes purposed on Huron?

Mr. Danch: Yes, the main entrance way we have on to Mayflower Road at the request of city engineer they asked that we provide a left turn lane onto Mayflower Road. That also has a dedicated right turn lane as well. That was part of their design when they took a look at our site plan.

Mr. Kruszynski: Also, I have spoken to Jessica in regards to the way that Hollywood is constructed and she is going to take a look at that Mr. Booker and once we get traffic counts and again, if this is passed and get traffic counts later then that issue will be addressed. I also had a meeting with Area Plan and discussed some options that could be done to Hollywood along with Jessica that if that traffic turns to get real bad, there are things we can do, we as a county can do to Hollywood, not to the access point onto Hollywood but there are things we can do down the road if starts to be a real nuisance.

Audience member: Is Martin's going to post a bond (inaudible) on that nice new road you put in? I think someone should consider that.

Mr. Kruszynski: Jeff, in dealing with the Martin's representatives for the last two months, either on the phone or in person, not with just myself but with other colleagues on the Council here, I will hold Mr. Bartles accountable for whatever goes around in that area in Martin's commitment to this store, if it's passed and the commitment they made to the other stores, I am pretty pleased at what I see. Like Councilman Cantazarite has said, he does live in a pretty heavily commercial area, I just so happen to live right off of Quince Road, we have a school there, you have fire trucks there, you have all kinds of traffic going up and down Quince so we get it on Quince also. I am also concerned of the constituents in that area that's why I will hold Mr. Bartle's accountable, I will be the first one banging on his door. I think he knows that.

Motion to pass the amendment for Bill No. 45-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Amended Bill No. 45-15 was passed by a voice vote to-wit; 9-0.

Mr. O'Brien: I wanted to acknowledge that Martin's investment is coming without any request to the county for incentives. I'm impressed with that among many other aspects of the project, the number of jobs that will be retained and additional jobs to be created as well. It's not often that investments in real estate of this nature do not come to us with a request for an incentive and I am very pleased with that and I will be supporting passage when we ultimately vote.

Ms. Hess: I also think that Martin's brings a lot to the community and am pleased with the developments I have seen and past and look forward to this one however, I will echo what Mark Catanzarite said as well, I think they should take the neighbor's concerns into consideration when they are making this development because they have lived there for a long time and to have their life disrupted or as they perceive as being disrupted needs to be given careful consideration. I know that Bobby K., that's his district, he will be as he said, knocking on Mr. Bartle's door if there is a problem and my district butts right up against that so again, I work with neighborhoods in the City of South Bend that's my day job, so I am very concerned about what neighbors think when there is development or new things are happening in their neighborhood.

Mr. Morton: Mr. Danch, I'd be interested in hearing from you as you progress with your conversation with the city engineer, hopefully there again, before the public hearing and if you would be so kind as to give me a call and let me know how that's progressing.

Mr. Danch: I will.

Motion to pass Bill No. 45-15 was made by Mr. Kruszynski and seconded by Mr. O'Brien. Bill No. 45-15 was passed to-wit; 9-0

**BILL NO. 53-15:** A RESOLUTION OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, ESTABLISHING REASONABLE ACCOMMODATION POLICIES AND PROCEDURES IN ZONING AND LAND USE DECISIONS WITHIN THE COUNTY OF ST. JOSEPH, INDIANA  
PETITIONER: MARK P. TELLOYAN

Mr. Noland reported that Bill No. 53-15 comes with a favorable a recommendation.

Mr. Telloyan: This proposed ordinance brings the county in mind with the ADA, the American Disabilities Act and Fair Housing Act. It also echo's a resolution passed earlier by our colleagues on the City of South Bend. Mark Lyons from the Building Department is here if there are any detailed questions, I was asked by Jamie Woods to present it to the Council, I would ask for its passage.

Motion to pass Bill No. 53-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Bill No. 53-15 was passed to-wit; 9-0

**BILL NO. 57-15: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION PETITIONER: AREA PLAN COMMISSION**

Mr. Noland reported that Bill No. 57-15 comes with a favorable a recommendation.

Larry Magliozzi, Executive Director of the Area Plan Commission, this is establishing new fees for the next two years, 2016-2017. It replaces a multiyear schedule that was approved back in 2009.

Motion to pass Bill No. 57-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 57-15 was passed to-wit; 9-0

**BILL NO. 60-15: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY AMERICAN STRUCTUREPOINT ON BEHALF OF NAVISTAR FOR THE PROPERTY LOCATED AT 32104 STATE ROAD 2, NEW CARLISLE THE SAME BEING PETITION NO. 08-05-15-14 FILED WITH THE AREA BOARD OF ZONING APPEALS**

Mr. Noland reported that Bill No. 60-15 comes with a favorable a recommendation.

Mark Lyons, Building Department, this was given public hearing at the August 5<sup>th</sup> at the Area Board of Zoning appeals, this is a special exception to allow an auto testing grounds. This comes to you with a unanimous favorable recommendation.

Mr. Catanzarite: Unrelated to the bill but I would just like to extend my congratulations to Mr. Lyons and thank him for his ten years of service to our county and wish you the best of luck moving forward. You brought a lot to the county in terms of helping us out in a lot of issues that have come before us.

Mr. Lyons: Thank you, I appreciate it.

Mr. Kruszynski: I'd like to echo that Mark, the little time I have had time to work with you, you have been very good but you have one last request, what about 56131 Butternut? I left you a message about a week ago.

Mr. Lyons: It's on the demo list, so it should be getting it taken care of. It will probably be the 2016 list. Chuck is just starting to get the 2016 list put together, probably end of November early December when he will be bringing those forward to get the process started.

Mr. Kruszynski: Thank you, good luck to you.

Mr. Hamann: Mr. Lyons, I didn't realize you were leaving us. I do wish you the best of luck and you were outstanding when I was a councilman and any concerns you were "Johnny on the spot" whenever I called, you would check on within twenty four hours of a property to see if it was in compliance with building code so I really appreciated your hard work so good luck.

Mr. Lyons: Thank you.

Mr. McCahill: Congratulations on going home go Packers.

Motion to pass Bill No. 60-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 60-15 was passed to-wit; 9-0

**Unfinished Business:**

**New Business:**

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

Mr. O'Brien: I just wanted to report to the council, I did have office hours or an open house last week to invite people to come in and speak about the Taxpayer Protection and Transparency Ordinance that I proposed. Only one person showed up, I spoke with that person to explain the ordinance, I had no other face to face questions about it. I have had nine or ten calls and messages in support of it. I will talk more about it at the committee meetings in a couple of weeks.

Jim Bogner, 807 W. Washington Street, South Bend, I come this evening regarding property in the City of South Bend, 803 W. Washington, I believe it resides in President Morton's district. This is also known as the Kiser Mansion. I am in front of Council this evening is because of an issue related to the Historic Preservation Commission. As you may or may not know, the Historic Preservation Commission for the last fifteen years has had a façade easement on this property. During this period of time they had care, custody and control of the façade of this building. A very unusual situation, an asset to our county. On February 23, 2015, the Historic Preservation Commission, under a deed of easement, transferred or essentially gave up the façade easement on this property, care, custody and control. There were questions at the city council last meeting that they had over the issue of whether this was a valid transfer. I realize in fairness of Historic Preservation Commission they are not here this evening, but it was a transfer of an asset. The other issue I am deeply concerned about, living directly next door to this property is that once the property was allowed to be transferred from the City of South Bend to Indiana Landmarks, two of the chimney's were dismantled. That had to of been through an agreement with HPC because they had care, custody and control of the façade, again an asset to this county. Those chimney's continued to be down today. They have not been restored, Councilman Catanzarite knew the people at the time that lived there, can validate the fact that they are there. There are serious questions that relate to how the Historic Preservation Commission handled this property over the 15 years they had it. My letter is directed to President Morton but it is for all of you, it basically asks, what has happened between December 11, 2011 which was the transfer of the property from the City of South Bend to the Historic Landmarks Foundation of Indiana, also called Indiana Landmarks until this deed of easement? I don't know that it ever came in front of council, I don't know if council was ever aware of it. I don't know whether the Historic Preservation Commission ever could do it without talking with council but there were clearly were two things that happened here. An important asset in this community, a façade easement, and there are also three others, were transferred. Secondly, during the period of time that Indiana Landmarks owned the property, there was work done on the property and it was not followed through on and does not till this day. The reason why I am here is to ask council to take a look at this through their legal folks and all of you to take a look at the history of this and what Historic Preservation does. Now having lived in the neighborhood, I can tell you, if I came down to any work on my property and I went the building department to get a permit, they would look at where I lived at, they would know it was an historic property and they would ask to review this. I know of no place else we could go almost four years without some kind of plan that came trough Historic Preservation. I think my concern to this is, they may have answers to this, but I don't understand why demolition to these chimney's which needed to be done and not rebuilt and I don't understand why an asset was given away without coming to the elected officials. There may be a question you may have is well, if this happened February why am I now coming before you now. It's because many of us just realized that this occurred through other issues that are unrelated to this council and because of the nature of Historic Preservation I think they owe everyone some answers, first of all, you folks and then ultimately, me. I think it's a question in government about fairness, about are we all going to be treated equally or is there a wink a nod that we are going to somehow take of this because this is going to a higher level and then the higher level turns and sells it. This is an important property in the city, the individuals that were working on this property are having issues with Indiana Landmarks which does not relate to this, the city is conducting their own investigation but I do believe that the Council does have issues relating to this to understand how it would have been sold and how it would have been passed over without anybody knowing anything. I'd be glad to take any questions anyone may have but the documentation, which I don't expect you to look at now, will clearly show you, what we call the Freedline Easement from 83, what governed it up unto the transfer of the easement.

Mr. Morton: What is the time table of the city's investigation?

Mr. Bogner: That's a very good question, Mr. President. The city isn't conducting a thorough investigation into issues that are related to Indiana Landmarks and the current property owners that have nothing to do directly with the Historic Preservation Commission so that is why I am here asking for your help. Basically to find out what you folks know about this and what will come of this. I don't know that the city has a time table but as you know, Historic Preservation Commission is a hybrid, it's part city and part county but most of the time county comes in. I also want to say too, it's very important to be fair. They are obviously not here to discuss this. I am not accusing them of doing anything wrong other than to say, no one would be allowed to do a dismantling as they did without some sort of plan and I believe my letter says what happened during this period of time. So no, I know that the city has a time table. I

do know that Community Investment and Scott Ford has assigned someone to do a thorough investigation and go back to the city council. I was not a part of that during that particular time, asking for an investigation. This is more related to Historic Preservation and what they did with the easement.

Mr. Kruszynski: Mr. Bogner, obviously you have presented this to the Historic Preservation....

Mr. Bogner: We have through the years presented much information to the Historic Preservation Commission. We have never received answers from them from during the period of time.

Mr. Kruszynski: When's the last time you addressed them?

Mr. Bogner: The last time we addressed the Historic Preservation Commission was at the time of the sale of the property from the City of South Bend to Indiana Landmarks and we were assured at that time that Historic Preservation and Landmarks would be working in cooperation to be able to assist in stabilizing and that was one of the reasons why the chimney's were removed and as I noted in my letter here, they were done in January and February of 2012. From that point on, it basically was this is an Indiana Landmarks problem and not our problem but the façade easement was not transferred until February of 2015 which means it was an asset of the county's. I come here this evening based on the information that I want to know number one, was it a legal transfer, could they do that without going through any of the bodies and secondly, basically what had happened during the period of time when Landmarks owned the property and HPC had a façade easement on it.

Mr. Kruszynski: Have you addressed this issue with their attorney?

Mr. Bogner: That portion was addressed through the city council and I believe that the city council was also looking at this portion that relates to whether the transfer of the façade easement was legal, so yes, that portion was done, I did not do it, it was done at the last council meeting. I did not personally do it.

Mr. Kruszynski: Mr. Zappia represents the Historic Preservation. Has he gotten back to you?

Mr. Bogner: He has not gotten back to me, but it was directly related to me, I come before the council to bring this to council's attention. I also, I might add, to show that there are three other properties that façade easements continue to be on, which is at a higher level of what would normally occur under HPC rules and guidelines and that's what that information provides you with.

Mr. O'Brien: Mr. Bogner, what is your ultimate goal here, you want to see someone repair and rebuild chimneys?

Mr. Bogner: Well, I think two things. Number one, my concern is, that an asset was passed along and there was a loss of local community involvement. The easement is very clear. Secondly, I think there should be some clarification as to how something can be taken down and be left down for four years without some kind of a plan and HPC is usually very good jumping on issues that have problems. I have seen them in several areas, including houses that are up for demolition that have historic nature to it. This is a very strange situation.

Mr. O'Brien: So you don't care if the chimneys are rebuilt or not?

Mr. Bogner: Obviously we want to have the chimneys rebuilt and I would like to see the property saved; there is a third chimney that was not dismantled that is in disrepair at this time. I am wanting to know what HPC knew and when they knew it and whether they transferred any of that information to anyone of the governing bodies before they gave up the easement.

**Adjournment:** Mr. Morton stated that the meeting was adjourned 7:25 p.m.















MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
September 8, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on September 8, 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. Noland made a motion to approve the minutes of the August 11, 2015 public hearing was seconded by Mr. O'Brien, the motion was passed by a voice vote; 9-0.

Mr. Noland made a motion to return Bill No. 58-15 back to committee per the petitioner; it was seconded by Mr. Catanzarite. The motion was passed by a voice vote; 9-0.

No report from the County Auditor  
No report from the County Commissioner  
No report from Special Committees.

**First Readings:**

**BILL NO. 67-15:** 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 13460 E. MCKINLEY AND 56020 CURRANT ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT PETITIONER: RBS PROPERTIES LLC  
Assigned to the Land Use Planning Committee

**BILL NO. 68-15:** AN ORDINANCE OF ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO 79-13 WHICH ESTABLISHED THE PUBLIC SAFETY COMMUNICATIONS CONSORTIUM OF ST. JOSEPH COUNTY, AND MODIFYING SECTION 6 OF SAID ORDINANCE REGARDING THE OPERATIONS BOARD POWERS AS ESTABLISHED THEREIN Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 69-15:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF THE ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC. 6-1.1-12.1-14 ET SEQ PETITIONER: ST. JOSEPH ENERGY CENTER, LLC  
Assigned to the Land Use Planning Committee

**9. Public Hearing on the Airport Authority, Solid Waste Management, and St. Joseph County 2016 Budget:**

**BILL NO. 62-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) AIRPORT AUTHORITY**

Mike Daigle, Executive Director, St. Joseph County Airport Authority, the Airport Authority is requesting consideration of our 2016 budget. Our budget consists of three different funds, the Aviation Fund, Cumulative Building and Debt Services. The total of these funds are twenty million, five hundred and forty one thousand. In our 2016 budget, we have reflected and amount of cost of living wage increases, additional wage adjustments and also some job upgrades based on changes and responsibilities. The largest increase in these funds is in the Cumulative Building fund primarily for air service development. As you know, we are receiving bids in the next two weeks to build a federal inspection station and a general aviation facility to be able and process international flights, a first for our region.

Motion to pass Bill No. 62-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 62-15 was passed to-wit; 9-0.

**BILL NO. 63-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) SOLID WASTE**

Randy Przybysz, Executive Director, Solid Waste Management, budget proposal for 2016 has been approved by our board which you should have a copy of that resolution. Everything in this budget was kept just about the same as last year, there are no raises being proposed. Our total budget for next year is being proposed as an increase of a hundred fifty two thousand, six hundred and forty three dollars and that comes basically from two line items, our Household Hazardous Waste Program in Mishawaka, last year was just under ten thousand people with seven hundred and sixty nine thousand pounds of hazardous material going through there. We are on track this year to exceed that number. People coming and the amount of material. Another factor is, for the last six years we have been under contract with a company called ERI to take the obsolete electronics. They have taken them for free so we rode that horse now all that we can because we were notified that they were the last ones offering to do it for free, that is not going to happen anymore. Our contract is up the end of this year. We have no idea what the charges are going to be or how much material we are going to take in until it actually happens. The proposal there was to take that budget line item from a hundred thousand to two hundred thousand. The other is a fifty thousand dollars put into a capital improvement fund, we have never had that before. There is some discussion to combine our office and our HHW program in one location, more centrally located to the population in the county and also large enough to handle the kind of numbers we are taking through there now. We are land locked where we are at. That money would only be used, should we find a piece of property to do any plans and only with the approval of the board. We have no choice on the electronics; we have to do something about that program. We are anticipating having to pay we just have no idea how much.

Mr. O'Brien: How much do you estimate will be brought in from fees?

Mr. Przybysz: Our total income is about two point five million per year. This budget is two point nine five.

Mr. O'Brien: Is there enough in reserve to fund this?

Mr. Przybysz: Yes and that was discussed with the board. Some of this, because of the process now having to before the Council, there are certain line items, like for the curb side recycling program where we budget for worst case scenario because we would not know until late in the year if fuel surcharges or something needed to kick in and raise the amount we are paying out for that.

Motion to pass Bill No. 63-15 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 63-15 was passed to-wit; 9-0.

**BILL NO. 64-15: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2016**

Mr. Hamann, St. Joseph County Auditor, the budget is still a work in progress. I can say at this juncture, it is estimated to be about fifty six point two million dollars in terms of expenditures for the general fund. When you

combine all the different funds we are looking at about a total budget of a hundred and thirteen million dollars. It is still a work in progress.

Motion to pass Bill No. 64-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 64-15 was passed to-wit; 9-0.

**BILL NO. 65-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES  
(BUDGET FORM 4) ST. JOSEPH COUNTY, INDIANA**

Mr. Hamann, St. Joseph County Auditor, tax rates again are a work in progress. To give a brief overview, the Assessor's office provides the gross assessment, that then rolls over to the Auditor's office and what our office does then is it comes up with the net assessed value of the property in the county, you take away the exemptions, the abatements and deductions, we then provide that to the state and then the state will take that number, take the number, the various budgets from various tax entities and levy and calculate what those tax rates will be so that will be a few months.

Motion to pass Bill No. 65-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 65-15 was passed to-wit; 9-0.

**SALARY AMENDMENT:**

**BILL NO. 66-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015  
DEPT. 0018 PROSECUTOR**

Mr. McCahill reported that Bill No. 66-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's Office, we are here asking for an amendment to our salary amendment to reflect the changes that we appropriated in our first budget to what the APS Grant finally came in at.

Motion to pass Bill No. 66-15 was made by Mr. McCahill and seconded by Ms. Hess. Bill No. 66-15 was passed to-wit; 9-0.

**BILL NO. 49-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE FISCAL YEAR 2015-2016 DEPT. 0025 JUVENILE & PROBATE COURT**

Mr. McCahill reported that Bill No. 49-15 comes with a favorable a recommendation.

Pete Morgan, Executive Director of the St. Joseph Probate Court and Juvenile Justice Center, we are seeking a salary amendment which would allow us to apply eleven thousand, five hundred dollars in funds which were awarded under a Juvenile Accountability Block grant to the salary known as Education Coordinator in our probation user fees budget in line number 11376, the reason for seeking the amendment is this would be the person charged with carrying out the duties of the grant over and above the reason for the position otherwise.

Motion to pass Bill No. 49-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-15 was passed to-wit; 9-0.

**Public Hearing/Public Comment:**

**BILL NO. 61-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE  
HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY  
GOVERNMENT**

A. Treasurer  
General Fund

FROM: 1000-11682-000-0003	Clerk/Cashier	\$400.00
TO: 1000-32020-000-0003	Travel	400.00
		<u>TOTAL: \$400.00</u>

B. Prosecutor  
Adult Protective Service Grant

FROM: 9108-32020-000-0018	Travel	\$1,000.00
9108-22010-000-0018	Gas, Oil and Lubricants	919.00
TO: 9108-11318-000-0018	Investigator APS	\$1,000.00
9108-11319-000-0018	Director APS	31.00
9108-37100-000-0018	Auto Lease	888.00
		<u>TOTAL: \$1919.00</u>

**APPROPRIATE**

C. Auditor's Office  
Enhanced Access Fund

1154-39750-000-0002	Data Processing	\$100,000.00
1155-39750-000-0002	Data Processing	100,000.00
		<u>TOTAL: \$200,000.00</u>

D. County Engineer  
Major Moves Const. Fund

1172-43155-000-0023	McKinley AM General	\$400,000.00
		<u>TOTAL: \$400,000.00</u>

E. Roads & Highway  
Local Road & Street

1169-39150-000-0060	Other Expenses	\$27,865.00
		<u>TOTAL: \$27,865.00</u>

F. Health Dept.  
Health Ebola Grant

8126-22148-000-0055	Field Supplies	\$8,000.00
8126-39750-000-0055	Data Processing	1,000.00
8126-44010-000-0055	Equipment	13,135.00
8126-44311-000-0055	Emergency Equip.	10,000.00
		<u>TOTAL: \$32,135.00</u>

G. Health Dept.  
Health Bioterrorism Grant

8113-21030-000-0055	Office Supplies	\$2,772.00
8113-22148-000-0055	Field Supplies	3,000.00
8113-32020-000-0055	Travel	3,160.00
8113-32050-000-0055	Instruction & Training	2,840.00
8113-32203-000-0055	Cell Phones	1,800.00
8113-44010-000-0055	Equipment	2,500.00
8113-45510-000-0055	Furniture & Fixtures	10,000.00
	<b><u>TOTAL: \$26,072.00</u></b>	

H. Health Dept.  
Health HUD Grant

9103-21030-000-0055	Office Supplies	\$250.00
9103-22148-000-0055	Field Supplies	3,700.00
9103-22328-000-0055	Equipment Repairs	9,785.00
9103-32020-000-0055	Travel	300.00
9103-36010-000-0055	Repairs Bldgs. & Structure	500.00
	<b><u>TOTAL: \$14,535.00</u></b>	

G. Juvenile & Probate Court  
JABG

8125-11385-000-0025	Probation Officer I	\$11,500.00
	<b><u>TOTAL: \$11,500.00</u></b>	

Motion to pass Bill No. 61-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 61-15 was passed to-wit; 9-0

**Land Use Planning:**

**BILL NO. 45-15:** PETITION TO VACATE PUBLIC WAYS AND PUBLIC PLACES WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA PETITIONER: EDWARD W. HARDIG

Mr. Noland reported that Bill No. 45-15 comes with a favorable a recommendation.

Mr. Danch, Danch, Harner and Associates, as we mentioned to Council, council had asked us last month to see if we could meet with the adjacent property owner and come to an agreement on the use of the property between us and Westwinds, property to the south. We have done that. Mr. Masters is here this evening to speak on behalf of his clients. We have come to agreement which stipulates how the property will be laid out, that we will be providing access for Mr. Master's clients. We provided Council with a site plan that shows the proposed the development that will occur on the property, assuming the Council will approve the vacation of Huron Street. The bill this evening has been revised, the ordinance that is before the Council this evening reflects part of the agreement we have with Mr. Masters clients that if the street gets vacated, they will acquire fifty feet of the sixty feet of right of way which is adjacent to their property that was part of the stipulation. We will also back that up by doing a quick claim deed to Mr. Masters clients to show that the transfer of that property so that property would remain in the county. This process is also on a parallel track, we have already done before the Area Plan Commission for the zoning issue for this property. We did receive a favorable recommendation from the Plan Commission; they also approved variances for the development. What we would say to Council this evening, there will be a public hearing for the residents, everyone that had been notified within three hundred feet for that development, there will be a public hearing where they can address their concerns at a city council meeting, that meeting will be on September 28 that will be a public hearing.

Mr. Kruszynski: Mike, I know there was an issue with the curb height on the north side of the building....

Mr. Danch: Yes, what we have done with that as part of the agreement, when we do our part of the development, there will be a curb at the north property line for Westwinds. There will be a nice clean line.

James A. Masters, Nemeth, Feeney, Masters and Campiti, 350 Columbia, South Bend, I am here tonight on behalf of Maron LLC and its owners. At your last meeting, we presented a remonstrance to the vacation of Huron Street. I am pleased to inform you that with the cooperation of the petitioner and the cooperation of the representatives of Martins, the issues raised by that remonstrance have been resolved. The remonstrance is hereby withdrawn.

Leon Grey, 56420 Butternut Road, South Bend, I am in favor of any improvement this community can have especially on the west side.

Murray Miller, 1201 Priscilla Drive, I am also in favor of this. The west side has been in need of a new grocery store in the area. I think it's well deserved for the people on the west side to get that. I am very much in favor.

Kevin Pajakowski, 58472 Eastwood Drive, South Bend, Martin's has done a wonderful thing, when they moved in, they cleaned up the area. They kept the area clean. Without Martin's, that's the one anchor we have had in this community on our side of town.

Susan Zawadowski, 159 N. Summit Drive, South Bend, I am a current Martin's customer at that store, I am very much in favor of the vacation of Huron Street. I look forward to walking and riding my bike to Martin's. I appreciate what Martin's does for our community.

Rev. Charles Zawadowski, 159 N. Summit Drive, South Bend, I am a pastor of St. Mary's Parish on Sample Street. I echo some of the thoughts we have heard today. We always talk about how we need new things on the west side, here it is. We, as a community, partner with Martin's. We do not partner with Kroger's or Meijers. Many neighborhood organizations, government entities have benefited from Martin's charity. They have an excellent track record. They are good neighbors. I endorse and support the vacation of Huron Street.

Charles Waddell, 5134 Hazelwood Court, South Bend, I am looking forward to shopping. Martin's has a history of hiring local contractors and local workers so I think it's a big boost for our economy. I am looking forward to this.

Diana Kisminski, 56921 Hollywood Blvd., South Bend, I am in opposition of Huron Street. I hope you have had an opportunity to look over the packet of information I provided to your office. As you can see from the diagram, Martin's plans to build a drive through service for customers to purchase coffee. As we all know, traffic from a drive through can quickly back up. As a result, drivers will have to wait on Hollywood Blvd. before accessing Martin's. This will result in cars backing up in both directions. This will cause a traffic jam on Grant as drivers wait to turn into Hollywood Blvd. There is no left turn signal at Mayflower and Sample. As a result, drivers will be detoured from using the Mayflower entrance into Martin's. There are a lot of children that live on Hollywood Blvd. We are your constituents, not Martin's. We need you to represent our interests.

Eric Kisminski, 56921 Hollywood Blvd., South Bend, I am here this evening representing myself and those that signed the petition. So far all we have heard from the representatives of Martin's are stories, lies and total disrespect to the residents regarding their concerns about their project. This proposed Martin's already has three entrances. Two on Mayflower and one on Western. As I looked on the Council list of names I was proved last week and addresses I noticed that none of you live in a heavily traffic road. Put yourself in our position. In America, we live in a democracy. We the people, who will be effected the most, took a vote and we voted to close the entrance to Martin's from Hollywood, you have the petition in your position.

Louann Gondos, 565547 Hollywood Blvd., I am representing my mother in law who lives on Hollywood Blvd. I am a Martin's supporter, I am happy the store is going to be put where it is going to be put. I have to agree, you guys have to cut off access to Hurron and Hollywood Blvd. It's our neighborhood. Just protect our neighborhood streets.

Denise Lentech, 56595 S. Hollywood Blvd., my husband and I have lived here for thirty eight years; we have raised our children and now enjoy our grandchildren visiting us here. We chose this neighborhood to live out our lives in because it is peaceful and friendly. We the neighbors who live on Hollywood, Ford and Elmer beg of you to allow the quality of our lives to remain somewhat, what we envisioned it when we chose this neighborhood to live out our lives. Please vote against the entrance/exit on Hollywood.

Jeffrey Booker, 56577 Hollywood Blvd., I too know that Martin's does a lot of good for our community. I am not against Martin's building a store. The realization of the Martin's project with a rear entrance off of Hollywood Blvd. is not fair. It's not fair to the residents or the county. The city will annex this part for the Martin's project, Martin's will use the road and the county will have to maintain it. That's not fair. It will put a lot of traffic back there. We are just asking for one concession from Martin's. Close that entrance.

Patricia Cichowicz Lynch, 23665 Grant Road, South Bend, Martin's has been a great neighbor. We know they will be moving and building in between Hollywood and Mayflower and we accept that but we object to an egress on Hollywood.

Thomas J. Kowalski, 56680 Hollywood Blvd., South Bend, I am representing my mom who is 92 years old and still resides there. With the entrance to Martin's on Hollywood, we won't be able to get out of our driveway most of the time. My mom is not driving but my mom does not want it there.

Mr. Danch: We are looking at the concerns of the residents that showed up this evening. This project has gone through review both county engineering department and also city engineer for the City of South Bend. We asked them to take a look at the project as well. We do have a main access point that would be onto Mayflower Road, actually we have two on Mayflower Road and there will be one on Western. The one off of Hollywood Blvd. we don't believe will be a main entrance for any access point from that residential area. That is to allow access for residents to come in; they don't have to go out to Mayflower Road, that's one of the reasons for that. It is not a main access point. We created that strictly to allow for residents that are going to use the Martin's to get back to their homes without either going out to Western Ave. or onto Mayflower. I have not heard any concerns from either the city engineering department or the county engineering department about increase amount of traffic that would be going out onto Hollywood Blvd. but we will take a look at that. We have heard concerns though, of the rout that is being taken from Grant up to Western and then over to the church for picking up children but I don't think there's that huge increase and I believe the county engineering department is also going to be taking a look at it from a traffic standpoint as well. What we would ask Council to do is allow us to move ahead and get to the city council portion for the rezoning where these remonstrators can show up and address their concerns with the city council as well.

Mr. Kruszynski: Mike, I think you just answered it, I know three for four of the residents got up and spoke were concerned about that access onto Hollywood. But their concerns should be addressed with the city council, am I correct?

Mr. Danch: That is correct. The city engineering department will have jurisdiction, we are going through that annexation procedure to bring it into the city. The city engineering department also has a close relationship with county engineering as well. So I think between the two they will also be looking at it. We will have to submit a final site plan for approval for those departments before we build.

Mr. Catanzarite: Just for the record, Mr. Kisminski mentioned none of live near commercial. I live about a hundred feet away from a Walgreens store near Ironwood and Edison so I do know what it is like to live next to commercial property and I have a dentist and an insurance office next door to me. Having gone through that process and worked with those groups when they moved into our neighborhood after I moved there and not known they were going to be there when I moved initially, the zoning screening requirements that are in place today are a lot more stringent than they were many years ago so for me personally, it's been a positive experience living next to a commercial property and some offices and the screen that has gone up has shielded my family from what I consider to be to very highly, intensive used properties so to our satisfaction, I just want to say I do live next to commercial property and by it and it has not been a bad experience. Mr. Danch, looking at our concerns, I think you have written commitments, you would not use Hollywood for any truck delivery access, right?

Mr. Danch: It was actually designed that way. Truck traffic will not go out onto Hollywood Blvd. We did work closely with the city engineering department on that as well as Jessica (Clark) and the way it's designed, the whole site is designed for truck traffic to come off of either Western Avenue come south through our access point which is east of John Becker's shopping center or come in off of Mayflower Road. The whole design for truck turning radius is dictated by that access routing. A truck could not come down Hollywood Blvd. and make the turn into the site and one of the things we have mentioned to the residents is, Martin's has complete control over any of the vendors that delivery goods/produce to their stores so that we can prevent that from happening.

Mr. Catanzarite: Hearing the concerns from most of the Hollywood residents who would be most impacted by this, is there a design possibility of an entrance or an exit off of Hollywood that could be achieved that would make it less intensive?

Mr. Danch: We can take a look at that but it's almost going to be up to the engineering department to see if there is a way to limit how that traffic would access Hollywood Blvd. There are certain ways to do an entrance way to deliver traffic one way or another.

Mr. Catanzarite: You negotiated with Westwinds. Westwinds contends that many of their patrons currently and have for a long time always used Hollywood Blvd. to avoid Mayflower Road, is that correct? Was that conveyed to you?

Mr. Danch: I have heard that, the patrons that came out of Westwinds would like to go over toward Hollywood because it's easier that way. I also heard where there is a situation where Huron Street was a straight through, there were actually people cutting through Mayflower over to Hollywood Blvd. and racing down that so by our design, we will be able to stop that.

Mr. Catanzarite: By offsetting that.

Mr. Danch: By offsetting that and making it more difficult, we are also going to include signage, stop signs within our site.

Mr. Morton: You are saying that you are talking to the city engineer?

Mr. Danch: We have done that, yes. What I am saying is, before we can get our approval to start the project, they will have to review everything and make sure that we are in compliance as well.

Mr. Morton: Is the city engineer; is he aware of all the concerns of the residents?

Mr. Danch: They will be, I think with them showing up, they were at the Area Plan Commission meeting so I think some of those concerns were conveyed at the Area Plan Commission meeting that we had approximately two weeks ago. It will also be at the city council meeting as well.

Mr. Morton: I think it would make sense if the city engineer was made aware of these concerns before the night of the public hearing. That just makes sense.

Mr. Danch: I would be glad to inform them, I have no trouble doing that.

Mr. Catanzarite: I hope Martin's is very sensitive to that issue; it sounds like you are trying to address it or willing to look at it and possibly address it. I think the people have made some very thoughtful and true statements about how the impact will be on their neighborhood.

Mr. Morton: Mr. Danch, the site plan you presented tonight is amended, correct?

Mr. Danch: Correct.

Mr. Kruszynski: I have just a few comments. Some of the concerns that were addressed, I know Mr. Booker, you brought up about the traffic count or study, I have emailed our county engineer, Jessica Clark last week after I heard your concern in regards to that. She is working with MACOG to get that done before winter, we would like to see what that count is before Martin's is built, if this passes. The lady that brought up about a couple of intersections in regards to Grant and Mayflower, again, that is a city issue, the county does not have any jurisdiction over that intersection. Same thing with Western and Mayflower, if we recall at the neighborhood meeting that a few of us attended, Councilman Oliver Davis indicated that he would be looking at those traffic signals, he was going to talk to the city engineer to address that issue along with some left turning lanes, which Mike, isn't there some left turning lanes purposed on Huron?

Mr. Danch: Yes, the main entrance way we have on to Mayflower Road at the request of city engineer they asked that we provide a left turn lane onto Mayflower Road. That also has a dedicated right turn lane as well. That was part of their design when they took a look at our site plan.

Mr. Kruszynski: Also, I have spoken to Jessica in regards to the way that Hollywood is constructed and she is going to take a look at that Mr. Booker and once we get traffic counts and again, if this is passed and get traffic counts later then that issue will be addressed. I also had a meeting with Area Plan and discussed some options that could be done to Hollywood along with Jessica that if that traffic turns to get real bad, there are things we can do, we as a county can do to Hollywood, not to the access point onto Hollywood but there are things we can do down the road if starts to be a real nuisance.

Audience member: Is Martin's going to post a bond (inaudible) on that nice new road you put in? I think someone should consider that.

Mr. Kruszynski: Jeff, in dealing with the Martin's representatives for the last two months, either on the phone or in person, not with just myself but with other colleagues on the Council here, I will hold Mr. Bartles accountable for whatever goes around in that area in Martin's commitment to this store, if it's passed and the commitment they made to the other stores, I am pretty pleased at what I see. Like Councilman Cantazarite has said, he does live in a pretty heavily commercial area, I just so happen to live right off of Quince Road, we have a school there, you have fire trucks there, you have all kinds of traffic going up and down Quince so we get it on Quince also. I am also concerned of the constituents in that area that's why I will hold Mr. Bartle's accountable, I will be the first one banging on his door. I think he knows that.

Motion to pass the amendment for Bill No. 45-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Amended Bill No. 45-15 was passed by a voice vote to-wit; 9-0.

Mr. O'Brien: I wanted to acknowledge that Martin's investment is coming without any request to the county for incentives. I'm impressed with that among many other aspects of the project, the number of jobs that will be retained and additional jobs to be created as well. It's not often that investments in real estate of this nature do not come to us with a request for an incentive and I am very pleased with that and I will be supporting passage when we ultimately vote.

Ms. Hess: I also think that Martin's brings a lot to the community and am pleased with the developments I have seen and past and look forward to this one however, I will echo what Mark Catanzarite said as well, I think they should take the neighbor's concerns into consideration when they are making this development because they have lived there for a long time and to have their life disrupted or as they perceive as being disrupted needs to be given careful consideration. I know that Bobby K., that's his district, he will be as he said, knocking on Mr. Bartle's door if there is a problem and my district butts right up against that so again, I work with neighborhoods in the City of South Bend that's my day job, so I am very concerned about what neighbors think when there is development or new things are happening in their neighborhood.

Mr. Morton: Mr. Danch, I'd be interested in hearing from you as you progress with your conversation with the city engineer, hopefully there again, before the public hearing and if you would be so kind as to give me a call and let me know how that's progressing.

Mr. Danch: I will.

Motion to pass Bill No. 45-15 was made by Mr. Kruszynski and seconded by Mr. O'Brien. Bill No. 45-15 was passed to-wit; 9-0

**BILL NO. 53-15:** A RESOLUTION OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, ESTABLISHING REASONABLE ACCOMMODATION POLICIES AND PROCEDURES IN ZONING AND LAND USE DECISIONS WITHIN THE COUNTY OF ST. JOSEPH, INDIANA  
PETITIONER: MARK P. TELLOYAN

Mr. Noland reported that Bill No. 53-15 comes with a favorable a recommendation.

Mr. Telloyan: This proposed ordinance brings the county in mind with the ADA, the American Disabilities Act and Fair Housing Act. It also echo's a resolution passed earlier by our colleagues on the City of South Bend. Mark Lyons from the Building Department is here if there are any detailed questions, I was asked by Jamie Woods to present it to the Council, I would ask for its passage.

Motion to pass Bill No. 53-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Bill No. 53-15 was passed to-wit; 9-0

**BILL NO. 57-15: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION PETITIONER: AREA PLAN COMMISSION**

Mr. Noland reported that Bill No. 57-15 comes with a favorable a recommendation.

Larry Magliozzi, Executive Director of the Area Plan Commission, this is establishing new fees for the next two years, 2016-2017. It replaces a multiyear schedule that was approved back in 2009.

Motion to pass Bill No. 57-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 57-15 was passed to-wit; 9-0

**BILL NO. 60-15: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY AMERICAN STRUCTUREPOINT ON BEHALF OF NAVISTAR FOR THE PROPERTY LOCATED AT 32104 STATE ROAD 2, NEW CARLISLE THE SAME BEING PETITION NO. 08-05-15-14 FILED WITH THE AREA BOARD OF ZONING APPEALS**

Mr. Noland reported that Bill No. 60-15 comes with a favorable a recommendation.

Mark Lyons, Building Department, this was given public hearing at the August 5<sup>th</sup> at the Area Board of Zoning appeals, this is a special exception to allow an auto testing grounds. This comes to you with a unanimous favorable recommendation.

Mr. Catanzarite: Unrelated to the bill but I would just like to extend my congratulations to Mr. Lyons and thank him for his ten years of service to our county and wish you the best of luck moving forward. You brought a lot to the county in terms of helping us out in a lot of issues that have come before us.

Mr. Lyons: Thank you, I appreciate it.

Mr. Kruszynski: I'd like to echo that Mark, the little time I have had time to work with you, you have been very good but you have one last request, what about 56131 Butternut? I left you a message about a week ago.

Mr. Lyons: It's on the demo list, so it should be getting it taken care of. It will probably be the 2016 list. Chuck is just starting to get the 2016 list put together, probably end of November early December when he will be bringing those forward to get the process started.

Mr. Kruszynski: Thank you, good luck to you.

Mr. Hamann: Mr. Lyons, I didn't realize you were leaving us. I do wish you the best of luck and you were outstanding when I was a councilman and any concerns you were "Johnny on the spot" whenever I called, you would check on within twenty four hours of a property to see if it was in compliance with building code so I really appreciated your hard work so good luck.

Mr. Lyons: Thank you.

Mr. McCahill: Congratulations on going home go Packers.

Motion to pass Bill No. 60-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 60-15 was passed to-wit; 9-0

**Unfinished Business:**

**New Business:**

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

Mr. O'Brien: I just wanted to report to the council, I did have office hours or an open house last week to invite people to come in and speak about the Taxpayer Protection and Transparency Ordinance that I proposed. Only one person showed up, I spoke with that person to explain the ordinance, I had no other face to face questions about it. I have had nine or ten calls and messages in support of it. I will talk more about it at the committee meetings in a couple of weeks.

Jim Bogner, 807 W. Washington Street, South Bend, I come this evening regarding property in the City of South Bend, 803 W. Washington, I believe it resides in President Morton's district. This is also known as the Kiser Mansion. I am in front of Council this evening is because of an issue related to the Historic Preservation Commission. As you may or may not know, the Historic Preservation Commission for the last fifteen years has had a façade easement on this property. During this period of time they had care, custody and control of the façade of this building. A very unusual situation, an asset to our county. On February 23, 2015, the Historic Preservation Commission, under a deed of easement, transferred or essentially gave up the façade easement on this property, care, custody and control. There were questions at the city council last meeting that they had over the issue of whether this was a valid transfer. I realize in fairness of Historic Preservation Commission they are not here this evening, but it was a transfer of an asset. The other issue I am deeply concerned about, living directly next door to this property is that once the property was allowed to be transferred from the City of South Bend to Indiana Landmarks, two of the chimney's were dismantled. That had to of been through an agreement with HPC because they had care, custody and control of the façade, again an asset to this county. Those chimney's continued to be down today. They have not been restored, Councilman Catanzarite knew the people at the time that lived there, can validate the fact that they are there. There are serious questions that relate to how the Historic Preservation Commission handled this property over the 15 years they had it. My letter is directed to President Morton but it is for all of you, it basically asks, what has happened between December 11, 2011 which was the transfer of the property from the City of South Bend to the Historic Landmarks Foundation of Indiana, also called Indiana Landmarks until this deed of easement? I don't know that it ever came in front of council, I don't know if council was ever aware of it. I don't know whether the Historic Preservation Commission ever could do it without talking with council but there were clearly were two things that happened here. An important asset in this community, a façade easement, and there are also three others, were transferred. Secondly, during the period of time that Indiana Landmarks owned the property, there was work done on the property and it was not followed through on and does not till this day. The reason why I am here is to ask council to take a look at this through their legal folks and all of you to take a look at the history of this and what Historic Preservation does. Now having lived in the neighborhood, I can tell you, if I came down to any work on my property and I went the building department to get a permit, they would look at where I lived at, they would know it was an historic property and they would ask to review this. I know of no place else we could go almost four years without some kind of plan that came trough Historic Preservation. I think my concern to this is, they may have answers to this, but I don't understand why demolition to these chimney's which needed to be done and not rebuilt and I don't understand why an asset was given away without coming to the elected officials. There may be a question you may have is well, if this happened February why am I now coming before you now. It's because many of us just realized that this occurred through other issues that are unrelated to this council and because of the nature of Historic Preservation I think they owe everyone some answers, first of all, you folks and then ultimately, me. I think it's a question in government about fairness, about are we all going to be treated equally or is there a wink a nod that we are going to somehow take of this because this is going to a higher level and then the higher level turns and sells it. This is an important property in the city, the individuals that were working on this property are having issues with Indiana Landmarks which does not relate to this, the city is conducting their own investigation but I do believe that the Council does have issues relating to this to understand how it would have been sold and how it would have been passed over without anybody knowing anything. I'd be glad to take any questions anyone may have but the documentation, which I don't expect you to look at now, will clearly show you, what we call the Freedline Easement from 83, what governed it up unto the transfer of the easement.

Mr. Morton: What is the time table of the city's investigation?

Mr. Bogner: That's a very good question, Mr. President. The city isn't conducting a thorough investigation into issues that are related to Indiana Landmarks and the current property owners that have nothing to do directly with the Historic Preservation Commission so that is why I am here asking for your help. Basically to find out what you folks know about this and what will come of this. I don't know that the city has a time table but as you know, Historic Preservation Commission is a hybrid, it's part city and part county but most of the time county comes in. I also want to say too, it's very important to be fair. They are obviously not here to discuss this. I am not accusing them of doing anything wrong other than to say, no one would be allowed to do a dismantling as they did without some sort of plan and I believe my letter says what happened during this period of time. So no, I know that the city has a time table. I

do know that Community Investment and Scott Ford has assigned someone to do a thorough investigation and go back to the city council. I was not a part of that during that particular time, asking for an investigation. This is more related to Historic Preservation and what they did with the easement.

Mr. Kruszynski: Mr. Bogner, obviously you have presented this to the Historic Preservation....

Mr. Bogner: We have through the years presented much information to the Historic Preservation Commission. We have never received answers from them from during the period of time.

Mr. Kruszynski: When's the last time you addressed them?

Mr. Bogner: The last time we addressed the Historic Preservation Commission was at the time of the sale of the property from the City of South Bend to Indiana Landmarks and we were assured at that time that Historic Preservation and Landmarks would be working in cooperation to be able to assist in stabilizing and that was one of the reasons why the chimney's were removed and as I noted in my letter here, they were done in January and February of 2012. From that point on, it basically was this is an Indiana Landmarks problem and not our problem but the façade easement was not transferred until February of 2015 which means it was an asset of the county's. I come here this evening based on the information that I want to know number one, was it a legal transfer, could they do that without going through any of the bodies and secondly, basically what had happened during the period of time when Landmarks owned the property and HPC had a façade easement on it.

Mr. Kruszynski: Have you addressed this issue with their attorney?

Mr. Bogner: That portion was addressed through the city council and I believe that the city council was also looking at this portion that relates to whether the transfer of the façade easement was legal, so yes, that portion was done, I did not do it, it was done at the last council meeting. I did not personally do it.

Mr. Kruszynski: Mr. Zappia represents the Historic Preservation. Has he gotten back to you?

Mr. Bogner: He has not gotten back to me, but it was directly related to me, I come before the council to bring this to council's attention. I also, I might add, to show that there are three other properties that façade easements continue to be on, which is at a higher level of what would normally occur under HPC rules and guidelines and that's what that information provides you with.

Mr. O'Brien: Mr. Bogner, what is your ultimate goal here, you want to see someone repair and rebuild chimneys?

Mr. Bogner: Well, I think two things. Number one, my concern is, that an asset was passed along and there was a loss of local community involvement. The easement is very clear. Secondly, I think there should be some clarification as to how something can be taken down and be left down for four years without some kind of a plan and HPC is usually very good jumping on issues that have problems. I have seen them in several areas, including houses that are up for demolition that have historic nature to it. This is a very strange situation.

Mr. O'Brien: So you don't care if the chimneys are rebuilt or not?

Mr. Bogner: Obviously we want to have the chimneys rebuilt and I would like to see the property saved; there is a third chimney that was not dismantled that is in disrepair at this time. I am wanting to know what HPC knew and when they knew it and whether they transferred any of that information to anyone of the governing bodies before they gave up the easement.

**Adjournment:** Mr. Morton stated that the meeting was adjourned 7:25 p.m.















MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
September 8, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on September 8, 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. Noland made a motion to approve the minutes of the August 11, 2015 public hearing was seconded by Mr. O'Brien, the motion was passed by a voice vote; 9-0.

Mr. Noland made a motion to return Bill No. 58-15 back to committee per the petitioner; it was seconded by Mr. Catanzarite. The motion was passed by a voice vote; 9-0.

No report from the County Auditor  
No report from the County Commissioner  
No report from Special Committees.

**First Readings:**

**BILL NO. 67-15:** 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 13460 E. MCKINLEY AND 56020 CURRANT ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT PETITIONER: RBS PROPERTIES LLC  
Assigned to the Land Use Planning Committee

**BILL NO. 68-15:** AN ORDINANCE OF ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO 79-13 WHICH ESTABLISHED THE PUBLIC SAFETY COMMUNICATIONS CONSORTIUM OF ST. JOSEPH COUNTY, AND MODIFYING SECTION 6 OF SAID ORDINANCE REGARDING THE OPERATIONS BOARD POWERS AS ESTABLISHED THEREIN Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 69-15:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF THE ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC. 6-1.1-12.1-14 ET SEQ PETITIONER: ST. JOSEPH ENERGY CENTER, LLC  
Assigned to the Land Use Planning Committee

**9. Public Hearing on the Airport Authority, Solid Waste Management, and St. Joseph County 2016 Budget:**

**BILL NO. 62-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) AIRPORT AUTHORITY**

Mike Daigle, Executive Director, St. Joseph County Airport Authority, the Airport Authority is requesting consideration of our 2016 budget. Our budget consists of three different funds, the Aviation Fund, Cumulative Building and Debt Services. The total of these funds are twenty million, five hundred and forty one thousand. In our 2016 budget, we have reflected and amount of cost of living wage increases, additional wage adjustments and also some job upgrades based on changes and responsibilities. The largest increase in these funds is in the Cumulative Building fund primarily for air service development. As you know, we are receiving bids in the next two weeks to build a federal inspection station and a general aviation facility to be able and process international flights, a first for our region.

Motion to pass Bill No. 62-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 62-15 was passed to-wit; 9-0.

**BILL NO. 63-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) SOLID WASTE**

Randy Przybysz, Executive Director, Solid Waste Management, budget proposal for 2016 has been approved by our board which you should have a copy of that resolution. Everything in this budget was kept just about the same as last year, there are no raises being proposed. Our total budget for next year is being proposed as an increase of a hundred fifty two thousand, six hundred and forty three dollars and that comes basically from two line items, our Household Hazardous Waste Program in Mishawaka, last year was just under ten thousand people with seven hundred and sixty nine thousand pounds of hazardous material going through there. We are on track this year to exceed that number. People coming and the amount of material. Another factor is, for the last six years we have been under contract with a company called ERI to take the obsolete electronics. They have taken them for free so we rode that horse now all that we can because we were notified that they were the last ones offering to do it for free, that is not going to happen anymore. Our contract is up the end of this year. We have no idea what the charges are going to be or how much material we are going to take in until it actually happens. The proposal there was to take that budget line item from a hundred thousand to two hundred thousand. The other is a fifty thousand dollars put into a capital improvement fund, we have never had that before. There is some discussion to combine our office and our HHW program in one location, more centrally located to the population in the county and also large enough to handle the kind of numbers we are taking through there now. We are land locked where we are at. That money would only be used, should we find a piece of property to do any plans and only with the approval of the board. We have no choice on the electronics; we have to do something about that program. We are anticipating having to pay we just have no idea how much.

Mr. O'Brien: How much do you estimate will be brought in from fees?

Mr. Przybysz: Our total income is about two point five million per year. This budget is two point nine five.

Mr. O'Brien: Is there enough in reserve to fund this?

Mr. Przybysz: Yes and that was discussed with the board. Some of this, because of the process now having to before the Council, there are certain line items, like for the curb side recycling program where we budget for worst case scenario because we would not know until late in the year if fuel surcharges or something needed to kick in and raise the amount we are paying out for that.

Motion to pass Bill No. 63-15 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 63-15 was passed to-wit; 9-0.

**BILL NO. 64-15: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2016**

Mr. Hamann, St. Joseph County Auditor, the budget is still a work in progress. I can say at this juncture, it is estimated to be about fifty six point two million dollars in terms of expenditures for the general fund. When you

combine all the different funds we are looking at about a total budget of a hundred and thirteen million dollars. It is still a work in progress.

Motion to pass Bill No. 64-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 64-15 was passed to-wit; 9-0.

**BILL NO. 65-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES  
(BUDGET FORM 4) ST. JOSEPH COUNTY, INDIANA**

Mr. Hamann, St. Joseph County Auditor, tax rates again are a work in progress. To give a brief overview, the Assessor's office provides the gross assessment, that then rolls over to the Auditor's office and what our office does then is it comes up with the net assessed value of the property in the county, you take away the exemptions, the abatements and deductions, we then provide that to the state and then the state will take that number, take the number, the various budgets from various tax entities and levy and calculate what those tax rates will be so that will be a few months.

Motion to pass Bill No. 65-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 65-15 was passed to-wit; 9-0.

**SALARY AMENDMENT:**

**BILL NO. 66-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015  
DEPT. 0018 PROSECUTOR**

Mr. McCahill reported that Bill No. 66-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's Office, we are here asking for an amendment to our salary amendment to reflect the changes that we appropriated in our first budget to what the APS Grant finally came in at.

Motion to pass Bill No. 66-15 was made by Mr. McCahill and seconded by Ms. Hess. Bill No. 66-15 was passed to-wit; 9-0.

**BILL NO. 49-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE FISCAL YEAR 2015-2016 DEPT. 0025 JUVENILE & PROBATE COURT**

Mr. McCahill reported that Bill No. 49-15 comes with a favorable a recommendation.

Pete Morgan, Executive Director of the St. Joseph Probate Court and Juvenile Justice Center, we are seeking a salary amendment which would allow us to apply eleven thousand, five hundred dollars in funds which were awarded under a Juvenile Accountability Block grant to the salary known as Education Coordinator in our probation user fees budget in line number 11376, the reason for seeking the amendment is this would be the person charged with carrying out the duties of the grant over and above the reason for the position otherwise.

Motion to pass Bill No. 49-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-15 was passed to-wit; 9-0.

**Public Hearing/Public Comment:**

**BILL NO. 61-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE  
HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY  
GOVERNMENT**

A. Treasurer  
General Fund

FROM: 1000-11682-000-0003	Clerk/Cashier	\$400.00
TO: 1000-32020-000-0003	Travel	400.00
		<u>TOTAL: \$400.00</u>

B. Prosecutor  
Adult Protective Service Grant

FROM: 9108-32020-000-0018	Travel	\$1,000.00
9108-22010-000-0018	Gas, Oil and Lubricants	919.00
TO: 9108-11318-000-0018	Investigator APS	\$1,000.00
9108-11319-000-0018	Director APS	31.00
9108-37100-000-0018	Auto Lease	888.00
		<u>TOTAL: \$1919.00</u>

**APPROPRIATE**

C. Auditor's Office  
Enhanced Access Fund

1154-39750-000-0002	Data Processing	\$100,000.00
1155-39750-000-0002	Data Processing	100,000.00
		<u>TOTAL: \$200,000.00</u>

D. County Engineer  
Major Moves Const. Fund

1172-43155-000-0023	McKinley AM General	\$400,000.00
		<u>TOTAL: \$400,000.00</u>

E. Roads & Highway  
Local Road & Street

1169-39150-000-0060	Other Expenses	\$27,865.00
		<u>TOTAL: \$27,865.00</u>

F. Health Dept.  
Health Ebola Grant

8126-22148-000-0055	Field Supplies	\$8,000.00
8126-39750-000-0055	Data Processing	1,000.00
8126-44010-000-0055	Equipment	13,135.00
8126-44311-000-0055	Emergency Equip.	10,000.00
		<u>TOTAL: \$32,135.00</u>

G. Health Dept.  
Health Bioterrorism Grant

8113-21030-000-0055	Office Supplies	\$2,772.00
8113-22148-000-0055	Field Supplies	3,000.00
8113-32020-000-0055	Travel	3,160.00
8113-32050-000-0055	Instruction & Training	2,840.00
8113-32203-000-0055	Cell Phones	1,800.00
8113-44010-000-0055	Equipment	2,500.00
8113-45510-000-0055	Furniture & Fixtures	10,000.00
	<b><u>TOTAL: \$26,072.00</u></b>	

H. Health Dept.  
Health HUD Grant

9103-21030-000-0055	Office Supplies	\$250.00
9103-22148-000-0055	Field Supplies	3,700.00
9103-22328-000-0055	Equipment Repairs	9,785.00
9103-32020-000-0055	Travel	300.00
9103-36010-000-0055	Repairs Bldgs. & Structure	500.00
	<b><u>TOTAL: \$14,535.00</u></b>	

G. Juvenile & Probate Court  
JABG

8125-11385-000-0025	Probation Officer I	\$11,500.00
	<b><u>TOTAL: \$11,500.00</u></b>	

Motion to pass Bill No. 61-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 61-15 was passed to-wit; 9-0

**Land Use Planning:**

**BILL NO. 45-15:** PETITION TO VACATE PUBLIC WAYS AND PUBLIC PLACES WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA PETITIONER: EDWARD W. HARDIG

Mr. Noland reported that Bill No. 45-15 comes with a favorable a recommendation.

Mr. Danch, Danch, Harner and Associates, as we mentioned to Council, council had asked us last month to see if we could meet with the adjacent property owner and come to an agreement on the use of the property between us and Westwinds, property to the south. We have done that. Mr. Masters is here this evening to speak on behalf of his clients. We have come to agreement which stipulates how the property will be laid out, that we will be providing access for Mr. Master's clients. We provided Council with a site plan that shows the proposed the development that will occur on the property, assuming the Council will approve the vacation of Huron Street. The bill this evening has been revised, the ordinance that is before the Council this evening reflects part of the agreement we have with Mr. Masters clients that if the street gets vacated, they will acquire fifty feet of the sixty feet of right of way which is adjacent to their property that was part of the stipulation. We will also back that up by doing a quick claim deed to Mr. Masters clients to show that the transfer of that property so that property would remain in the county. This process is also on a parallel track, we have already done before the Area Plan Commission for the zoning issue for this property. We did receive a favorable recommendation from the Plan Commission; they also approved variances for the development. What we would say to Council this evening, there will be a public hearing for the residents, everyone that had been notified within three hundred feet for that development, there will be a public hearing where they can address their concerns at a city council meeting, that meeting will be on September 28 that will be a public hearing.

Mr. Kruszynski: Mike, I know there was an issue with the curb height on the north side of the building....

Mr. Danch: Yes, what we have done with that as part of the agreement, when we do our part of the development, there will be a curb at the north property line for Westwinds. There will be a nice clean line.

James A. Masters, Nemeth, Feeney, Masters and Campiti, 350 Columbia, South Bend, I am here tonight on behalf of Maron LLC and its owners. At your last meeting, we presented a remonstrance to the vacation of Huron Street. I am pleased to inform you that with the cooperation of the petitioner and the cooperation of the representatives of Martins, the issues raised by that remonstrance have been resolved. The remonstrance is hereby withdrawn.

Leon Grey, 56420 Butternut Road, South Bend, I am in favor of any improvement this community can have especially on the west side.

Murray Miller, 1201 Priscilla Drive, I am also in favor of this. The west side has been in need of a new grocery store in the area. I think it's well deserved for the people on the west side to get that. I am very much in favor.

Kevin Pajakowski, 58472 Eastwood Drive, South Bend, Martin's has done a wonderful thing, when they moved in, they cleaned up the area. They kept the area clean. Without Martin's, that's the one anchor we have had in this community on our side of town.

Susan Zawadowski, 159 N. Summit Drive, South Bend, I am a current Martin's customer at that store, I am very much in favor of the vacation of Huron Street. I look forward to walking and riding my bike to Martin's. I appreciate what Martin's does for our community.

Rev. Charles Zawadowski, 159 N. Summit Drive, South Bend, I am a pastor of St. Mary's Parish on Sample Street. I echo some of the thoughts we have heard today. We always talk about how we need new things on the west side, here it is. We, as a community, partner with Martin's. We do not partner with Kroger's or Meijers. Many neighborhood organizations, government entities have benefited from Martin's charity. They have an excellent track record. They are good neighbors. I endorse and support the vacation of Huron Street.

Charles Waddell, 5134 Hazelwood Court, South Bend, I am looking forward to shopping. Martin's has a history of hiring local contractors and local workers so I think it's a big boost for our economy. I am looking forward to this.

Diana Kisminski, 56921 Hollywood Blvd., South Bend, I am in opposition of Huron Street. I hope you have had an opportunity to look over the packet of information I provided to your office. As you can see from the diagram, Martin's plans to build a drive through service for customers to purchase coffee. As we all know, traffic from a drive through can quickly back up. As a result, drivers will have to wait on Hollywood Blvd. before accessing Martin's. This will result in cars backing up in both directions. This will cause a traffic jam on Grant as drivers wait to turn into Hollywood Blvd. There is no left turn signal at Mayflower and Sample. As a result, drivers will be detoured from using the Mayflower entrance into Martin's. There are a lot of children that live on Hollywood Blvd. We are your constituents, not Martin's. We need you to represent our interests.

Eric Kisminski, 56921 Hollywood Blvd., South Bend, I am here this evening representing myself and those that signed the petition. So far all we have heard from the representatives of Martin's are stories, lies and total disrespect to the residents regarding their concerns about their project. This proposed Martin's already has three entrances. Two on Mayflower and one on Western. As I looked on the Council list of names I was proved last week and addresses I noticed that none of you live in a heavily traffic road. Put yourself in our position. In America, we live in a democracy. We the people, who will be effected the most, took a vote and we voted to close the entrance to Martin's from Hollywood, you have the petition in your position.

Louann Gondos, 565547 Hollywood Blvd., I am representing my mother in law who lives on Hollywood Blvd. I am a Martin's supporter, I am happy the store is going to be put where it is going to be put. I have to agree, you guys have to cut off access to Hurron and Hollywood Blvd. It's our neighborhood. Just protect our neighborhood streets.

Denise Lentech, 56595 S. Hollywood Blvd., my husband and I have lived here for thirty eight years; we have raised our children and now enjoy our grandchildren visiting us here. We chose this neighborhood to live out our lives in because it is peaceful and friendly. We the neighbors who live on Hollywood, Ford and Elmer beg of you to allow the quality of our lives to remain somewhat, what we envisioned it when we chose this neighborhood to live out our lives. Please vote against the entrance/exit on Hollywood.

Jeffrey Booker, 56577 Hollywood Blvd., I too know that Martin's does a lot of good for our community. I am not against Martin's building a store. The realization of the Martin's project with a rear entrance off of Hollywood Blvd. is not fair. It's not fair to the residents or the county. The city will annex this part for the Martin's project, Martin's will use the road and the county will have to maintain it. That's not fair. It will put a lot of traffic back there. We are just asking for one concession from Martin's. Close that entrance.

Patricia Cichowicz Lynch, 23665 Grant Road, South Bend, Martin's has been a great neighbor. We know they will be moving and building in between Hollywood and Mayflower and we accept that but we object to an egress on Hollywood.

Thomas J. Kowalski, 56680 Hollywood Blvd., South Bend, I am representing my mom who is 92 years old and still resides there. With the entrance to Martin's on Hollywood, we won't be able to get out of our driveway most of the time. My mom is not driving but my mom does not want it there.

Mr. Danch: We are looking at the concerns of the residents that showed up this evening. This project has gone through review both county engineering department and also city engineer for the City of South Bend. We asked them to take a look at the project as well. We do have a main access point that would be onto Mayflower Road, actually we have two on Mayflower Road and there will be one on Western. The one off of Hollywood Blvd. we don't believe will be a main entrance for any access point from that residential area. That is to allow access for residents to come in; they don't have to go out to Mayflower Road, that's one of the reasons for that. It is not a main access point. We created that strictly to allow for residents that are going to use the Martin's to get back to their homes without either going out to Western Ave. or onto Mayflower. I have not heard any concerns from either the city engineering department or the county engineering department about increase amount of traffic that would be going out onto Hollywood Blvd. but we will take a look at that. We have heard concerns though, of the rout that is being taken from Grant up to Western and then over to the church for picking up children but I don't think there's that huge increase and I believe the county engineering department is also going to be taking a look at it from a traffic standpoint as well. What we would ask Council to do is allow us to move ahead and get to the city council portion for the rezoning where these remonstrators can show up and address their concerns with the city council as well.

Mr. Kruszynski: Mike, I think you just answered it, I know three for four of the residents got up and spoke were concerned about that access onto Hollywood. But their concerns should be addressed with the city council, am I correct?

Mr. Danch: That is correct. The city engineering department will have jurisdiction, we are going through that annexation procedure to bring it into the city. The city engineering department also has a close relationship with county engineering as well. So I think between the two they will also be looking at it. We will have to submit a final site plan for approval for those departments before we build.

Mr. Catanzarite: Just for the record, Mr. Kisminski mentioned none of live near commercial. I live about a hundred feet away from a Walgreens store near Ironwood and Edison so I do know what it is like to live next to commercial property and I have a dentist and an insurance office next door to me. Having gone through that process and worked with those groups when they moved into our neighborhood after I moved there and not known they were going to be there when I moved initially, the zoning screening requirements that are in place today are a lot more stringent than they were many years ago so for me personally, it's been a positive experience living next to a commercial property and some offices and the screen that has gone up has shielded my family from what I consider to be to very highly, intensive used properties so to our satisfaction, I just want to say I do live next to commercial property and by it and it has not been a bad experience. Mr. Danch, looking at our concerns, I think you have written commitments, you would not use Hollywood for any truck delivery access, right?

Mr. Danch: It was actually designed that way. Truck traffic will not go out onto Hollywood Blvd. We did work closely with the city engineering department on that as well as Jessica (Clark) and the way it's designed, the whole site is designed for truck traffic to come off of either Western Avenue come south through our access point which is east of John Becker's shopping center or come in off of Mayflower Road. The whole design for truck turning radius is dictated by that access routing. A truck could not come down Hollywood Blvd. and make the turn into the site and one of the things we have mentioned to the residents is, Martin's has complete control over any of the vendors that delivery goods/produce to their stores so that we can prevent that from happening.

Mr. Catanzarite: Hearing the concerns from most of the Hollywood residents who would be most impacted by this, is there a design possibility of an entrance or an exit off of Hollywood that could be achieved that would make it less intensive?

Mr. Danch: We can take a look at that but it's almost going to be up to the engineering department to see if there is a way to limit how that traffic would access Hollywood Blvd. There are certain ways to do an entrance way to deliver traffic one way or another.

Mr. Catanzarite: You negotiated with Westwinds. Westwinds contends that many of their patrons currently and have for a long time always used Hollywood Blvd. to avoid Mayflower Road, is that correct? Was that conveyed to you?

Mr. Danch: I have heard that, the patrons that came out of Westwinds would like to go over toward Hollywood because it's easier that way. I also heard where there is a situation where Huron Street was a straight through, there were actually people cutting through Mayflower over to Hollywood Blvd. and racing down that so by our design, we will be able to stop that.

Mr. Catanzarite: By offsetting that.

Mr. Danch: By offsetting that and making it more difficult, we are also going to include signage, stop signs within our site.

Mr. Morton: You are saying that you are talking to the city engineer?

Mr. Danch: We have done that, yes. What I am saying is, before we can get our approval to start the project, they will have to review everything and make sure that we are in compliance as well.

Mr. Morton: Is the city engineer; is he aware of all the concerns of the residents?

Mr. Danch: They will be, I think with them showing up, they were at the Area Plan Commission meeting so I think some of those concerns were conveyed at the Area Plan Commission meeting that we had approximately two weeks ago. It will also be at the city council meeting as well.

Mr. Morton: I think it would make sense if the city engineer was made aware of these concerns before the night of the public hearing. That just makes sense.

Mr. Danch: I would be glad to inform them, I have no trouble doing that.

Mr. Catanzarite: I hope Martin's is very sensitive to that issue; it sounds like you are trying to address it or willing to look at it and possibly address it. I think the people have made some very thoughtful and true statements about how the impact will be on their neighborhood.

Mr. Morton: Mr. Danch, the site plan you presented tonight is amended, correct?

Mr. Danch: Correct.

Mr. Kruszynski: I have just a few comments. Some of the concerns that were addressed, I know Mr. Booker, you brought up about the traffic count or study, I have emailed our county engineer, Jessica Clark last week after I heard your concern in regards to that. She is working with MACOG to get that done before winter, we would like to see what that count is before Martin's is built, if this passes. The lady that brought up about a couple of intersections in regards to Grant and Mayflower, again, that is a city issue, the county does not have any jurisdiction over that intersection. Same thing with Western and Mayflower, if we recall at the neighborhood meeting that a few of us attended, Councilman Oliver Davis indicated that he would be looking at those traffic signals, he was going to talk to the city engineer to address that issue along with some left turning lanes, which Mike, isn't there some left turning lanes purposed on Huron?

Mr. Danch: Yes, the main entrance way we have on to Mayflower Road at the request of city engineer they asked that we provide a left turn lane onto Mayflower Road. That also has a dedicated right turn lane as well. That was part of their design when they took a look at our site plan.

Mr. Kruszynski: Also, I have spoken to Jessica in regards to the way that Hollywood is constructed and she is going to take a look at that Mr. Booker and once we get traffic counts and again, if this is passed and get traffic counts later then that issue will be addressed. I also had a meeting with Area Plan and discussed some options that could be done to Hollywood along with Jessica that if that traffic turns to get real bad, there are things we can do, we as a county can do to Hollywood, not to the access point onto Hollywood but there are things we can do down the road if starts to be a real nuisance.

Audience member: Is Martin's going to post a bond (inaudible) on that nice new road you put in? I think someone should consider that.

Mr. Kruszynski: Jeff, in dealing with the Martin's representatives for the last two months, either on the phone or in person, not with just myself but with other colleagues on the Council here, I will hold Mr. Bartles accountable for whatever goes around in that area in Martin's commitment to this store, if it's passed and the commitment they made to the other stores, I am pretty pleased at what I see. Like Councilman Cantazarite has said, he does live in a pretty heavily commercial area, I just so happen to live right off of Quince Road, we have a school there, you have fire trucks there, you have all kinds of traffic going up and down Quince so we get it on Quince also. I am also concerned of the constituents in that area that's why I will hold Mr. Bartle's accountable, I will be the first one banging on his door. I think he knows that.

Motion to pass the amendment for Bill No. 45-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Amended Bill No. 45-15 was passed by a voice vote to-wit; 9-0.

Mr. O'Brien: I wanted to acknowledge that Martin's investment is coming without any request to the county for incentives. I'm impressed with that among many other aspects of the project, the number of jobs that will be retained and additional jobs to be created as well. It's not often that investments in real estate of this nature do not come to us with a request for an incentive and I am very pleased with that and I will be supporting passage when we ultimately vote.

Ms. Hess: I also think that Martin's brings a lot to the community and am pleased with the developments I have seen and past and look forward to this one however, I will echo what Mark Catanzarite said as well, I think they should take the neighbor's concerns into consideration when they are making this development because they have lived there for a long time and to have their life disrupted or as they perceive as being disrupted needs to be given careful consideration. I know that Bobby K., that's his district, he will be as he said, knocking on Mr. Bartle's door if there is a problem and my district butts right up against that so again, I work with neighborhoods in the City of South Bend that's my day job, so I am very concerned about what neighbors think when there is development or new things are happening in their neighborhood.

Mr. Morton: Mr. Danch, I'd be interested in hearing from you as you progress with your conversation with the city engineer, hopefully there again, before the public hearing and if you would be so kind as to give me a call and let me know how that's progressing.

Mr. Danch: I will.

Motion to pass Bill No. 45-15 was made by Mr. Kruszynski and seconded by Mr. O'Brien. Bill No. 45-15 was passed to-wit; 9-0

**BILL NO. 53-15:** A RESOLUTION OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, ESTABLISHING REASONABLE ACCOMMODATION POLICIES AND PROCEDURES IN ZONING AND LAND USE DECISIONS WITHIN THE COUNTY OF ST. JOSEPH, INDIANA  
PETITIONER: MARK P. TELLOYAN

Mr. Noland reported that Bill No. 53-15 comes with a favorable a recommendation.

Mr. Telloyan: This proposed ordinance brings the county in mind with the ADA, the American Disabilities Act and Fair Housing Act. It also echo's a resolution passed earlier by our colleagues on the City of South Bend. Mark Lyons from the Building Department is here if there are any detailed questions, I was asked by Jamie Woods to present it to the Council, I would ask for its passage.

Motion to pass Bill No. 53-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Bill No. 53-15 was passed to-wit; 9-0

**BILL NO. 57-15: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION PETITIONER: AREA PLAN COMMISSION**

Mr. Noland reported that Bill No. 57-15 comes with a favorable a recommendation.

Larry Magliozzi, Executive Director of the Area Plan Commission, this is establishing new fees for the next two years, 2016-2017. It replaces a multiyear schedule that was approved back in 2009.

Motion to pass Bill No. 57-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 57-15 was passed to-wit; 9-0

**BILL NO. 60-15: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY AMERICAN STRUCTUREPOINT ON BEHALF OF NAVISTAR FOR THE PROPERTY LOCATED AT 32104 STATE ROAD 2, NEW CARLISLE THE SAME BEING PETITION NO. 08-05-15-14 FILED WITH THE AREA BOARD OF ZONING APPEALS**

Mr. Noland reported that Bill No. 60-15 comes with a favorable a recommendation.

Mark Lyons, Building Department, this was given public hearing at the August 5<sup>th</sup> at the Area Board of Zoning appeals, this is a special exception to allow an auto testing grounds. This comes to you with a unanimous favorable recommendation.

Mr. Catanzarite: Unrelated to the bill but I would just like to extend my congratulations to Mr. Lyons and thank him for his ten years of service to our county and wish you the best of luck moving forward. You brought a lot to the county in terms of helping us out in a lot of issues that have come before us.

Mr. Lyons: Thank you, I appreciate it.

Mr. Kruszynski: I'd like to echo that Mark, the little time I have had time to work with you, you have been very good but you have one last request, what about 56131 Butternut? I left you a message about a week ago.

Mr. Lyons: It's on the demo list, so it should be getting it taken care of. It will probably be the 2016 list. Chuck is just starting to get the 2016 list put together, probably end of November early December when he will be bringing those forward to get the process started.

Mr. Kruszynski: Thank you, good luck to you.

Mr. Hamann: Mr. Lyons, I didn't realize you were leaving us. I do wish you the best of luck and you were outstanding when I was a councilman and any concerns you were "Johnny on the spot" whenever I called, you would check on within twenty four hours of a property to see if it was in compliance with building code so I really appreciated your hard work so good luck.

Mr. Lyons: Thank you.

Mr. McCahill: Congratulations on going home go Packers.

Motion to pass Bill No. 60-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 60-15 was passed to-wit; 9-0

**Unfinished Business:**

**New Business:**

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

Mr. O'Brien: I just wanted to report to the council, I did have office hours or an open house last week to invite people to come in and speak about the Taxpayer Protection and Transparency Ordinance that I proposed. Only one person showed up, I spoke with that person to explain the ordinance, I had no other face to face questions about it. I have had nine or ten calls and messages in support of it. I will talk more about it at the committee meetings in a couple of weeks.

Jim Bogner, 807 W. Washington Street, South Bend, I come this evening regarding property in the City of South Bend, 803 W. Washington, I believe it resides in President Morton's district. This is also known as the Kiser Mansion. I am in front of Council this evening is because of an issue related to the Historic Preservation Commission. As you may or may not know, the Historic Preservation Commission for the last fifteen years has had a façade easement on this property. During this period of time they had care, custody and control of the façade of this building. A very unusual situation, an asset to our county. On February 23, 2015, the Historic Preservation Commission, under a deed of easement, transferred or essentially gave up the façade easement on this property, care, custody and control. There were questions at the city council last meeting that they had over the issue of whether this was a valid transfer. I realize in fairness of Historic Preservation Commission they are not here this evening, but it was a transfer of an asset. The other issue I am deeply concerned about, living directly next door to this property is that once the property was allowed to be transferred from the City of South Bend to Indiana Landmarks, two of the chimney's were dismantled. That had to of been through an agreement with HPC because they had care, custody and control of the façade, again an asset to this county. Those chimney's continued to be down today. They have not been restored, Councilman Catanzarite knew the people at the time that lived there, can validate the fact that they are there. There are serious questions that relate to how the Historic Preservation Commission handled this property over the 15 years they had it. My letter is directed to President Morton but it is for all of you, it basically asks, what has happened between December 11, 2011 which was the transfer of the property from the City of South Bend to the Historic Landmarks Foundation of Indiana, also called Indiana Landmarks until this deed of easement? I don't know that it ever came in front of council, I don't know if council was ever aware of it. I don't know whether the Historic Preservation Commission ever could do it without talking with council but there were clearly were two things that happened here. An important asset in this community, a façade easement, and there are also three others, were transferred. Secondly, during the period of time that Indiana Landmarks owned the property, there was work done on the property and it was not followed through on and does not till this day. The reason why I am here is to ask council to take a look at this through their legal folks and all of you to take a look at the history of this and what Historic Preservation does. Now having lived in the neighborhood, I can tell you, if I came down to any work on my property and I went the building department to get a permit, they would look at where I lived at, they would know it was an historic property and they would ask to review this. I know of no place else we could go almost four years without some kind of plan that came trough Historic Preservation. I think my concern to this is, they may have answers to this, but I don't understand why demolition to these chimney's which needed to be done and not rebuilt and I don't understand why an asset was given away without coming to the elected officials. There may be a question you may have is well, if this happened February why am I now coming before you now. It's because many of us just realized that this occurred through other issues that are unrelated to this council and because of the nature of Historic Preservation I think they owe everyone some answers, first of all, you folks and then ultimately, me. I think it's a question in government about fairness, about are we all going to be treated equally or is there a wink a nod that we are going to somehow take of this because this is going to a higher level and then the higher level turns and sells it. This is an important property in the city, the individuals that were working on this property are having issues with Indiana Landmarks which does not relate to this, the city is conducting their own investigation but I do believe that the Council does have issues relating to this to understand how it would have been sold and how it would have been passed over without anybody knowing anything. I'd be glad to take any questions anyone may have but the documentation, which I don't expect you to look at now, will clearly show you, what we call the Freedline Easement from 83, what governed it up unto the transfer of the easement.

Mr. Morton: What is the time table of the city's investigation?

Mr. Bogner: That's a very good question, Mr. President. The city isn't conducting a thorough investigation into issues that are related to Indiana Landmarks and the current property owners that have nothing to do directly with the Historic Preservation Commission so that is why I am here asking for your help. Basically to find out what you folks know about this and what will come of this. I don't know that the city has a time table but as you know, Historic Preservation Commission is a hybrid, it's part city and part county but most of the time county comes in. I also want to say too, it's very important to be fair. They are obviously not here to discuss this. I am not accusing them of doing anything wrong other than to say, no one would be allowed to do a dismantling as they did without some sort of plan and I believe my letter says what happened during this period of time. So no, I know that the city has a time table. I

do know that Community Investment and Scott Ford has assigned someone to do a thorough investigation and go back to the city council. I was not a part of that during that particular time, asking for an investigation. This is more related to Historic Preservation and what they did with the easement.

Mr. Kruszynski: Mr. Bogner, obviously you have presented this to the Historic Preservation....

Mr. Bogner: We have through the years presented much information to the Historic Preservation Commission. We have never received answers from them from during the period of time.

Mr. Kruszynski: When's the last time you addressed them?

Mr. Bogner: The last time we addressed the Historic Preservation Commission was at the time of the sale of the property from the City of South Bend to Indiana Landmarks and we were assured at that time that Historic Preservation and Landmarks would be working in cooperation to be able to assist in stabilizing and that was one of the reasons why the chimney's were removed and as I noted in my letter here, they were done in January and February of 2012. From that point on, it basically was this is an Indiana Landmarks problem and not our problem but the façade easement was not transferred until February of 2015 which means it was an asset of the county's. I come here this evening based on the information that I want to know number one, was it a legal transfer, could they do that without going through any of the bodies and secondly, basically what had happened during the period of time when Landmarks owned the property and HPC had a façade easement on it.

Mr. Kruszynski: Have you addressed this issue with their attorney?

Mr. Bogner: That portion was addressed through the city council and I believe that the city council was also looking at this portion that relates to whether the transfer of the façade easement was legal, so yes, that portion was done, I did not do it, it was done at the last council meeting. I did not personally do it.

Mr. Kruszynski: Mr. Zappia represents the Historic Preservation. Has he gotten back to you?

Mr. Bogner: He has not gotten back to me, but it was directly related to me, I come before the council to bring this to council's attention. I also, I might add, to show that there are three other properties that façade easements continue to be on, which is at a higher level of what would normally occur under HPC rules and guidelines and that's what that information provides you with.

Mr. O'Brien: Mr. Bogner, what is your ultimate goal here, you want to see someone repair and rebuild chimneys?

Mr. Bogner: Well, I think two things. Number one, my concern is, that an asset was passed along and there was a loss of local community involvement. The easement is very clear. Secondly, I think there should be some clarification as to how something can be taken down and be left down for four years without some kind of a plan and HPC is usually very good jumping on issues that have problems. I have seen them in several areas, including houses that are up for demolition that have historic nature to it. This is a very strange situation.

Mr. O'Brien: So you don't care if the chimneys are rebuilt or not?

Mr. Bogner: Obviously we want to have the chimneys rebuilt and I would like to see the property saved; there is a third chimney that was not dismantled that is in disrepair at this time. I am wanting to know what HPC knew and when they knew it and whether they transferred any of that information to anyone of the governing bodies before they gave up the easement.

**Adjournment:** Mr. Morton stated that the meeting was adjourned 7:25 p.m.















MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
September 8, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on September 8, 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. Noland made a motion to approve the minutes of the August 11, 2015 public hearing was seconded by Mr. O'Brien, the motion was passed by a voice vote; 9-0.

Mr. Noland made a motion to return Bill No. 58-15 back to committee per the petitioner; it was seconded by Mr. Catanzarite. The motion was passed by a voice vote; 9-0.

No report from the County Auditor  
No report from the County Commissioner  
No report from Special Committees.

**First Readings:**

**BILL NO. 67-15:** 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 13460 E. MCKINLEY AND 56020 CURRANT ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT PETITIONER: RBS PROPERTIES LLC  
Assigned to the Land Use Planning Committee

**BILL NO. 68-15:** AN ORDINANCE OF ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO 79-13 WHICH ESTABLISHED THE PUBLIC SAFETY COMMUNICATIONS CONSORTIUM OF ST. JOSEPH COUNTY, AND MODIFYING SECTION 6 OF SAID ORDINANCE REGARDING THE OPERATIONS BOARD POWERS AS ESTABLISHED THEREIN Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 69-15:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF THE ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC. 6-1.1-12.1-14 ET SEQ PETITIONER: ST. JOSEPH ENERGY CENTER, LLC  
Assigned to the Land Use Planning Committee

**9. Public Hearing on the Airport Authority, Solid Waste Management, and St. Joseph County 2016 Budget:**

**BILL NO. 62-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) AIRPORT AUTHORITY**

Mike Daigle, Executive Director, St. Joseph County Airport Authority, the Airport Authority is requesting consideration of our 2016 budget. Our budget consists of three different funds, the Aviation Fund, Cumulative Building and Debt Services. The total of these funds are twenty million, five hundred and forty one thousand. In our 2016 budget, we have reflected and amount of cost of living wage increases, additional wage adjustments and also some job upgrades based on changes and responsibilities. The largest increase in these funds is in the Cumulative Building fund primarily for air service development. As you know, we are receiving bids in the next two weeks to build a federal inspection station and a general aviation facility to be able and process international flights, a first for our region.

Motion to pass Bill No. 62-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 62-15 was passed to-wit; 9-0.

**BILL NO. 63-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) SOLID WASTE**

Randy Przybysz, Executive Director, Solid Waste Management, budget proposal for 2016 has been approved by our board which you should have a copy of that resolution. Everything in this budget was kept just about the same as last year, there are no raises being proposed. Our total budget for next year is being proposed as an increase of a hundred fifty two thousand, six hundred and forty three dollars and that comes basically from two line items, our Household Hazardous Waste Program in Mishawaka, last year was just under ten thousand people with seven hundred and sixty nine thousand pounds of hazardous material going through there. We are on track this year to exceed that number. People coming and the amount of material. Another factor is, for the last six years we have been under contract with a company called ERI to take the obsolete electronics. They have taken them for free so we rode that horse now all that we can because we were notified that they were the last ones offering to do it for free, that is not going to happen anymore. Our contract is up the end of this year. We have no idea what the charges are going to be or how much material we are going to take in until it actually happens. The proposal there was to take that budget line item from a hundred thousand to two hundred thousand. The other is a fifty thousand dollars put into a capital improvement fund, we have never had that before. There is some discussion to combine our office and our HHW program in one location, more centrally located to the population in the county and also large enough to handle the kind of numbers we are taking through there now. We are land locked where we are at. That money would only be used, should we find a piece of property to do any plans and only with the approval of the board. We have no choice on the electronics; we have to do something about that program. We are anticipating having to pay we just have no idea how much.

Mr. O'Brien: How much do you estimate will be brought in from fees?

Mr. Przybysz: Our total income is about two point five million per year. This budget is two point nine five.

Mr. O'Brien: Is there enough in reserve to fund this?

Mr. Przybysz: Yes and that was discussed with the board. Some of this, because of the process now having to before the Council, there are certain line items, like for the curb side recycling program where we budget for worst case scenario because we would not know until late in the year if fuel surcharges or something needed to kick in and raise the amount we are paying out for that.

Motion to pass Bill No. 63-15 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 63-15 was passed to-wit; 9-0.

**BILL NO. 64-15: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2016**

Mr. Hamann, St. Joseph County Auditor, the budget is still a work in progress. I can say at this juncture, it is estimated to be about fifty six point two million dollars in terms of expenditures for the general fund. When you

combine all the different funds we are looking at about a total budget of a hundred and thirteen million dollars. It is still a work in progress.

Motion to pass Bill No. 64-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 64-15 was passed to-wit; 9-0.

**BILL NO. 65-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES  
(BUDGET FORM 4) ST. JOSEPH COUNTY, INDIANA**

Mr. Hamann, St. Joseph County Auditor, tax rates again are a work in progress. To give a brief overview, the Assessor's office provides the gross assessment, that then rolls over to the Auditor's office and what our office does then is it comes up with the net assessed value of the property in the county, you take away the exemptions, the abatements and deductions, we then provide that to the state and then the state will take that number, take the number, the various budgets from various tax entities and levy and calculate what those tax rates will be so that will be a few months.

Motion to pass Bill No. 65-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 65-15 was passed to-wit; 9-0.

**SALARY AMENDMENT:**

**BILL NO. 66-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015  
DEPT. 0018 PROSECUTOR**

Mr. McCahill reported that Bill No. 66-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's Office, we are here asking for an amendment to our salary amendment to reflect the changes that we appropriated in our first budget to what the APS Grant finally came in at.

Motion to pass Bill No. 66-15 was made by Mr. McCahill and seconded by Ms. Hess. Bill No. 66-15 was passed to-wit; 9-0.

**BILL NO. 49-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE FISCAL YEAR 2015-2016 DEPT. 0025 JUVENILE & PROBATE COURT**

Mr. McCahill reported that Bill No. 49-15 comes with a favorable a recommendation.

Pete Morgan, Executive Director of the St. Joseph Probate Court and Juvenile Justice Center, we are seeking a salary amendment which would allow us to apply eleven thousand, five hundred dollars in funds which were awarded under a Juvenile Accountability Block grant to the salary known as Education Coordinator in our probation user fees budget in line number 11376, the reason for seeking the amendment is this would be the person charged with carrying out the duties of the grant over and above the reason for the position otherwise.

Motion to pass Bill No. 49-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-15 was passed to-wit; 9-0.

**Public Hearing/Public Comment:**

**BILL NO. 61-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE  
HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY  
GOVERNMENT**

A. Treasurer  
General Fund

FROM: 1000-11682-000-0003	Clerk/Cashier	\$400.00
TO: 1000-32020-000-0003	Travel	400.00
		<u>TOTAL: \$400.00</u>

B. Prosecutor  
Adult Protective Service Grant

FROM: 9108-32020-000-0018	Travel	\$1,000.00
9108-22010-000-0018	Gas, Oil and Lubricants	919.00
TO: 9108-11318-000-0018	Investigator APS	\$1,000.00
9108-11319-000-0018	Director APS	31.00
9108-37100-000-0018	Auto Lease	888.00
		<u>TOTAL: \$1919.00</u>

**APPROPRIATE**

C. Auditor's Office  
Enhanced Access Fund

1154-39750-000-0002	Data Processing	\$100,000.00
1155-39750-000-0002	Data Processing	100,000.00
		<u>TOTAL: \$200,000.00</u>

D. County Engineer  
Major Moves Const. Fund

1172-43155-000-0023	McKinley AM General	\$400,000.00
		<u>TOTAL: \$400,000.00</u>

E. Roads & Highway  
Local Road & Street

1169-39150-000-0060	Other Expenses	\$27,865.00
		<u>TOTAL: \$27,865.00</u>

F. Health Dept.  
Health Ebola Grant

8126-22148-000-0055	Field Supplies	\$8,000.00
8126-39750-000-0055	Data Processing	1,000.00
8126-44010-000-0055	Equipment	13,135.00
8126-44311-000-0055	Emergency Equip.	10,000.00
		<u>TOTAL: \$32,135.00</u>

G. Health Dept.  
Health Bioterrorism Grant

8113-21030-000-0055	Office Supplies	\$2,772.00
8113-22148-000-0055	Field Supplies	3,000.00
8113-32020-000-0055	Travel	3,160.00
8113-32050-000-0055	Instruction & Training	2,840.00
8113-32203-000-0055	Cell Phones	1,800.00
8113-44010-000-0055	Equipment	2,500.00
8113-45510-000-0055	Furniture & Fixtures	10,000.00
	<b><u>TOTAL: \$26,072.00</u></b>	

H. Health Dept.  
Health HUD Grant

9103-21030-000-0055	Office Supplies	\$250.00
9103-22148-000-0055	Field Supplies	3,700.00
9103-22328-000-0055	Equipment Repairs	9,785.00
9103-32020-000-0055	Travel	300.00
9103-36010-000-0055	Repairs Bldgs. & Structure	500.00
	<b><u>TOTAL: \$14,535.00</u></b>	

G. Juvenile & Probate Court  
JABG

8125-11385-000-0025	Probation Officer I	\$11,500.00
	<b><u>TOTAL: \$11,500.00</u></b>	

Motion to pass Bill No. 61-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 61-15 was passed to-wit; 9-0

**Land Use Planning:**

**BILL NO. 45-15:** PETITION TO VACATE PUBLIC WAYS AND PUBLIC PLACES WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA PETITIONER: EDWARD W. HARDIG

Mr. Noland reported that Bill No. 45-15 comes with a favorable a recommendation.

Mr. Danch, Danch, Harner and Associates, as we mentioned to Council, council had asked us last month to see if we could meet with the adjacent property owner and come to an agreement on the use of the property between us and Westwinds, property to the south. We have done that. Mr. Masters is here this evening to speak on behalf of his clients. We have come to agreement which stipulates how the property will be laid out, that we will be providing access for Mr. Master's clients. We provided Council with a site plan that shows the proposed the development that will occur on the property, assuming the Council will approve the vacation of Huron Street. The bill this evening has been revised, the ordinance that is before the Council this evening reflects part of the agreement we have with Mr. Masters clients that if the street gets vacated, they will acquire fifty feet of the sixty feet of right of way which is adjacent to their property that was part of the stipulation. We will also back that up by doing a quick claim deed to Mr. Masters clients to show that the transfer of that property so that property would remain in the county. This process is also on a parallel track, we have already done before the Area Plan Commission for the zoning issue for this property. We did receive a favorable recommendation from the Plan Commission; they also approved variances for the development. What we would say to Council this evening, there will be a public hearing for the residents, everyone that had been notified within three hundred feet for that development, there will be a public hearing where they can address their concerns at a city council meeting, that meeting will be on September 28 that will be a public hearing.

Mr. Kruszynski: Mike, I know there was an issue with the curb height on the north side of the building....

Mr. Danch: Yes, what we have done with that as part of the agreement, when we do our part of the development, there will be a curb at the north property line for Westwinds. There will be a nice clean line.

James A. Masters, Nemeth, Feeney, Masters and Campiti, 350 Columbia, South Bend, I am here tonight on behalf of Maron LLC and its owners. At your last meeting, we presented a remonstrance to the vacation of Huron Street. I am pleased to inform you that with the cooperation of the petitioner and the cooperation of the representatives of Martins, the issues raised by that remonstrance have been resolved. The remonstrance is hereby withdrawn.

Leon Grey, 56420 Butternut Road, South Bend, I am in favor of any improvement this community can have especially on the west side.

Murray Miller, 1201 Priscilla Drive, I am also in favor of this. The west side has been in need of a new grocery store in the area. I think it's well deserved for the people on the west side to get that. I am very much in favor.

Kevin Pajakowski, 58472 Eastwood Drive, South Bend, Martin's has done a wonderful thing, when they moved in, they cleaned up the area. They kept the area clean. Without Martin's, that's the one anchor we have had in this community on our side of town.

Susan Zawadowski, 159 N. Summit Drive, South Bend, I am a current Martin's customer at that store, I am very much in favor of the vacation of Huron Street. I look forward to walking and riding my bike to Martin's. I appreciate what Martin's does for our community.

Rev. Charles Zawadowski, 159 N. Summit Drive, South Bend, I am a pastor of St. Mary's Parish on Sample Street. I echo some of the thoughts we have heard today. We always talk about how we need new things on the west side, here it is. We, as a community, partner with Martin's. We do not partner with Kroger's or Meijers. Many neighborhood organizations, government entities have benefited from Martin's charity. They have an excellent track record. They are good neighbors. I endorse and support the vacation of Huron Street.

Charles Waddell, 5134 Hazelwood Court, South Bend, I am looking forward to shopping. Martin's has a history of hiring local contractors and local workers so I think it's a big boost for our economy. I am looking forward to this.

Diana Kisminski, 56921 Hollywood Blvd., South Bend, I am in opposition of Huron Street. I hope you have had an opportunity to look over the packet of information I provided to your office. As you can see from the diagram, Martin's plans to build a drive through service for customers to purchase coffee. As we all know, traffic from a drive through can quickly back up. As a result, drivers will have to wait on Hollywood Blvd. before accessing Martin's. This will result in cars backing up in both directions. This will cause a traffic jam on Grant as drivers wait to turn into Hollywood Blvd. There is no left turn signal at Mayflower and Sample. As a result, drivers will be detoured from using the Mayflower entrance into Martin's. There are a lot of children that live on Hollywood Blvd. We are your constituents, not Martin's. We need you to represent our interests.

Eric Kisminski, 56921 Hollywood Blvd., South Bend, I am here this evening representing myself and those that signed the petition. So far all we have heard from the representatives of Martin's are stories, lies and total disrespect to the residents regarding their concerns about their project. This proposed Martin's already has three entrances. Two on Mayflower and one on Western. As I looked on the Council list of names I was proved last week and addresses I noticed that none of you live in a heavily traffic road. Put yourself in our position. In America, we live in a democracy. We the people, who will be effected the most, took a vote and we voted to close the entrance to Martin's from Hollywood, you have the petition in your position.

Louann Gondos, 565547 Hollywood Blvd., I am representing my mother in law who lives on Hollywood Blvd. I am a Martin's supporter, I am happy the store is going to be put where it is going to be put. I have to agree, you guys have to cut off access to Hurron and Hollywood Blvd. It's our neighborhood. Just protect our neighborhood streets.

Denise Lentech, 56595 S. Hollywood Blvd., my husband and I have lived here for thirty eight years; we have raised our children and now enjoy our grandchildren visiting us here. We chose this neighborhood to live out our lives in because it is peaceful and friendly. We the neighbors who live on Hollywood, Ford and Elmer beg of you to allow the quality of our lives to remain somewhat, what we envisioned it when we chose this neighborhood to live out our lives. Please vote against the entrance/exit on Hollywood.

Jeffrey Booker, 56577 Hollywood Blvd., I too know that Martin's does a lot of good for our community. I am not against Martin's building a store. The realization of the Martin's project with a rear entrance off of Hollywood Blvd. is not fair. It's not fair to the residents or the county. The city will annex this part for the Martin's project, Martin's will use the road and the county will have to maintain it. That's not fair. It will put a lot of traffic back there. We are just asking for one concession from Martin's. Close that entrance.

Patricia Cichowicz Lynch, 23665 Grant Road, South Bend, Martin's has been a great neighbor. We know they will be moving and building in between Hollywood and Mayflower and we accept that but we object to an egress on Hollywood.

Thomas J. Kowalski, 56680 Hollywood Blvd., South Bend, I am representing my mom who is 92 years old and still resides there. With the entrance to Martin's on Hollywood, we won't be able to get out of our driveway most of the time. My mom is not driving but my mom does not want it there.

Mr. Danch: We are looking at the concerns of the residents that showed up this evening. This project has gone through review both county engineering department and also city engineer for the City of South Bend. We asked them to take a look at the project as well. We do have a main access point that would be onto Mayflower Road, actually we have two on Mayflower Road and there will be one on Western. The one off of Hollywood Blvd. we don't believe will be a main entrance for any access point from that residential area. That is to allow access for residents to come in; they don't have to go out to Mayflower Road, that's one of the reasons for that. It is not a main access point. We created that strictly to allow for residents that are going to use the Martin's to get back to their homes without either going out to Western Ave. or onto Mayflower. I have not heard any concerns from either the city engineering department or the county engineering department about increase amount of traffic that would be going out onto Hollywood Blvd. but we will take a look at that. We have heard concerns though, of the rout that is being taken from Grant up to Western and then over to the church for picking up children but I don't think there's that huge increase and I believe the county engineering department is also going to be taking a look at it from a traffic standpoint as well. What we would ask Council to do is allow us to move ahead and get to the city council portion for the rezoning where these remonstrators can show up and address their concerns with the city council as well.

Mr. Kruszynski: Mike, I think you just answered it, I know three for four of the residents got up and spoke were concerned about that access onto Hollywood. But their concerns should be addressed with the city council, am I correct?

Mr. Danch: That is correct. The city engineering department will have jurisdiction, we are going through that annexation procedure to bring it into the city. The city engineering department also has a close relationship with county engineering as well. So I think between the two they will also be looking at it. We will have to submit a final site plan for approval for those departments before we build.

Mr. Catanzarite: Just for the record, Mr. Kisminski mentioned none of live near commercial. I live about a hundred feet away from a Walgreens store near Ironwood and Edison so I do know what it is like to live next to commercial property and I have a dentist and an insurance office next door to me. Having gone through that process and worked with those groups when they moved into our neighborhood after I moved there and not known they were going to be there when I moved initially, the zoning screening requirements that are in place today are a lot more stringent than they were many years ago so for me personally, it's been a positive experience living next to a commercial property and some offices and the screen that has gone up has shielded my family from what I consider to be to very highly, intensive used properties so to our satisfaction, I just want to say I do live next to commercial property and by it and it has not been a bad experience. Mr. Danch, looking at our concerns, I think you have written commitments, you would not use Hollywood for any truck delivery access, right?

Mr. Danch: It was actually designed that way. Truck traffic will not go out onto Hollywood Blvd. We did work closely with the city engineering department on that as well as Jessica (Clark) and the way it's designed, the whole site is designed for truck traffic to come off of either Western Avenue come south through our access point which is east of John Becker's shopping center or come in off of Mayflower Road. The whole design for truck turning radius is dictated by that access routing. A truck could not come down Hollywood Blvd. and make the turn into the site and one of the things we have mentioned to the residents is, Martin's has complete control over any of the vendors that delivery goods/produce to their stores so that we can prevent that from happening.

Mr. Catanzarite: Hearing the concerns from most of the Hollywood residents who would be most impacted by this, is there a design possibility of an entrance or an exit off of Hollywood that could be achieved that would make it less intensive?

Mr. Danch: We can take a look at that but it's almost going to be up to the engineering department to see if there is a way to limit how that traffic would access Hollywood Blvd. There are certain ways to do an entrance way to deliver traffic one way or another.

Mr. Catanzarite: You negotiated with Westwinds. Westwinds contends that many of their patrons currently and have for a long time always used Hollywood Blvd. to avoid Mayflower Road, is that correct? Was that conveyed to you?

Mr. Danch: I have heard that, the patrons that came out of Westwinds would like to go over toward Hollywood because it's easier that way. I also heard where there is a situation where Huron Street was a straight through, there were actually people cutting through Mayflower over to Hollywood Blvd. and racing down that so by our design, we will be able to stop that.

Mr. Catanzarite: By offsetting that.

Mr. Danch: By offsetting that and making it more difficult, we are also going to include signage, stop signs within our site.

Mr. Morton: You are saying that you are talking to the city engineer?

Mr. Danch: We have done that, yes. What I am saying is, before we can get our approval to start the project, they will have to review everything and make sure that we are in compliance as well.

Mr. Morton: Is the city engineer; is he aware of all the concerns of the residents?

Mr. Danch: They will be, I think with them showing up, they were at the Area Plan Commission meeting so I think some of those concerns were conveyed at the Area Plan Commission meeting that we had approximately two weeks ago. It will also be at the city council meeting as well.

Mr. Morton: I think it would make sense if the city engineer was made aware of these concerns before the night of the public hearing. That just makes sense.

Mr. Danch: I would be glad to inform them, I have no trouble doing that.

Mr. Catanzarite: I hope Martin's is very sensitive to that issue; it sounds like you are trying to address it or willing to look at it and possibly address it. I think the people have made some very thoughtful and true statements about how the impact will be on their neighborhood.

Mr. Morton: Mr. Danch, the site plan you presented tonight is amended, correct?

Mr. Danch: Correct.

Mr. Kruszynski: I have just a few comments. Some of the concerns that were addressed, I know Mr. Booker, you brought up about the traffic count or study, I have emailed our county engineer, Jessica Clark last week after I heard your concern in regards to that. She is working with MACOG to get that done before winter, we would like to see what that count is before Martin's is built, if this passes. The lady that brought up about a couple of intersections in regards to Grant and Mayflower, again, that is a city issue, the county does not have any jurisdiction over that intersection. Same thing with Western and Mayflower, if we recall at the neighborhood meeting that a few of us attended, Councilman Oliver Davis indicated that he would be looking at those traffic signals, he was going to talk to the city engineer to address that issue along with some left turning lanes, which Mike, isn't there some left turning lanes purposed on Huron?

Mr. Danch: Yes, the main entrance way we have on to Mayflower Road at the request of city engineer they asked that we provide a left turn lane onto Mayflower Road. That also has a dedicated right turn lane as well. That was part of their design when they took a look at our site plan.

Mr. Kruszynski: Also, I have spoken to Jessica in regards to the way that Hollywood is constructed and she is going to take a look at that Mr. Booker and once we get traffic counts and again, if this is passed and get traffic counts later then that issue will be addressed. I also had a meeting with Area Plan and discussed some options that could be done to Hollywood along with Jessica that if that traffic turns to get real bad, there are things we can do, we as a county can do to Hollywood, not to the access point onto Hollywood but there are things we can do down the road if starts to be a real nuisance.

Audience member: Is Martin's going to post a bond (inaudible) on that nice new road you put in? I think someone should consider that.

Mr. Kruszynski: Jeff, in dealing with the Martin's representatives for the last two months, either on the phone or in person, not with just myself but with other colleagues on the Council here, I will hold Mr. Bartles accountable for whatever goes around in that area in Martin's commitment to this store, if it's passed and the commitment they made to the other stores, I am pretty pleased at what I see. Like Councilman Cantazarite has said, he does live in a pretty heavily commercial area, I just so happen to live right off of Quince Road, we have a school there, you have fire trucks there, you have all kinds of traffic going up and down Quince so we get it on Quince also. I am also concerned of the constituents in that area that's why I will hold Mr. Bartle's accountable, I will be the first one banging on his door. I think he knows that.

Motion to pass the amendment for Bill No. 45-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Amended Bill No. 45-15 was passed by a voice vote to-wit; 9-0.

Mr. O'Brien: I wanted to acknowledge that Martin's investment is coming without any request to the county for incentives. I'm impressed with that among many other aspects of the project, the number of jobs that will be retained and additional jobs to be created as well. It's not often that investments in real estate of this nature do not come to us with a request for an incentive and I am very pleased with that and I will be supporting passage when we ultimately vote.

Ms. Hess: I also think that Martin's brings a lot to the community and am pleased with the developments I have seen and past and look forward to this one however, I will echo what Mark Catanzarite said as well, I think they should take the neighbor's concerns into consideration when they are making this development because they have lived there for a long time and to have their life disrupted or as they perceive as being disrupted needs to be given careful consideration. I know that Bobby K., that's his district, he will be as he said, knocking on Mr. Bartle's door if there is a problem and my district butts right up against that so again, I work with neighborhoods in the City of South Bend that's my day job, so I am very concerned about what neighbors think when there is development or new things are happening in their neighborhood.

Mr. Morton: Mr. Danch, I'd be interested in hearing from you as you progress with your conversation with the city engineer, hopefully there again, before the public hearing and if you would be so kind as to give me a call and let me know how that's progressing.

Mr. Danch: I will.

Motion to pass Bill No. 45-15 was made by Mr. Kruszynski and seconded by Mr. O'Brien. Bill No. 45-15 was passed to-wit; 9-0

**BILL NO. 53-15:** A RESOLUTION OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, ESTABLISHING REASONABLE ACCOMMODATION POLICIES AND PROCEDURES IN ZONING AND LAND USE DECISIONS WITHIN THE COUNTY OF ST. JOSEPH, INDIANA  
PETITIONER: MARK P. TELLOYAN

Mr. Noland reported that Bill No. 53-15 comes with a favorable a recommendation.

Mr. Telloyan: This proposed ordinance brings the county in mind with the ADA, the American Disabilities Act and Fair Housing Act. It also echo's a resolution passed earlier by our colleagues on the City of South Bend. Mark Lyons from the Building Department is here if there are any detailed questions, I was asked by Jamie Woods to present it to the Council, I would ask for its passage.

Motion to pass Bill No. 53-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Bill No. 53-15 was passed to-wit; 9-0

**BILL NO. 57-15: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION PETITIONER: AREA PLAN COMMISSION**

Mr. Noland reported that Bill No. 57-15 comes with a favorable a recommendation.

Larry Magliozzi, Executive Director of the Area Plan Commission, this is establishing new fees for the next two years, 2016-2017. It replaces a multiyear schedule that was approved back in 2009.

Motion to pass Bill No. 57-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 57-15 was passed to-wit; 9-0

**BILL NO. 60-15: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY AMERICAN STRUCTUREPOINT ON BEHALF OF NAVISTAR FOR THE PROPERTY LOCATED AT 32104 STATE ROAD 2, NEW CARLISLE THE SAME BEING PETITION NO. 08-05-15-14 FILED WITH THE AREA BOARD OF ZONING APPEALS**

Mr. Noland reported that Bill No. 60-15 comes with a favorable a recommendation.

Mark Lyons, Building Department, this was given public hearing at the August 5<sup>th</sup> at the Area Board of Zoning appeals, this is a special exception to allow an auto testing grounds. This comes to you with a unanimous favorable recommendation.

Mr. Catanzarite: Unrelated to the bill but I would just like to extend my congratulations to Mr. Lyons and thank him for his ten years of service to our county and wish you the best of luck moving forward. You brought a lot to the county in terms of helping us out in a lot of issues that have come before us.

Mr. Lyons: Thank you, I appreciate it.

Mr. Kruszynski: I'd like to echo that Mark, the little time I have had time to work with you, you have been very good but you have one last request, what about 56131 Butternut? I left you a message about a week ago.

Mr. Lyons: It's on the demo list, so it should be getting it taken care of. It will probably be the 2016 list. Chuck is just starting to get the 2016 list put together, probably end of November early December when he will be bringing those forward to get the process started.

Mr. Kruszynski: Thank you, good luck to you.

Mr. Hamann: Mr. Lyons, I didn't realize you were leaving us. I do wish you the best of luck and you were outstanding when I was a councilman and any concerns you were "Johnny on the spot" whenever I called, you would check on within twenty four hours of a property to see if it was in compliance with building code so I really appreciated your hard work so good luck.

Mr. Lyons: Thank you.

Mr. McCahill: Congratulations on going home go Packers.

Motion to pass Bill No. 60-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 60-15 was passed to-wit; 9-0

**Unfinished Business:**

**New Business:**

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

Mr. O'Brien: I just wanted to report to the council, I did have office hours or an open house last week to invite people to come in and speak about the Taxpayer Protection and Transparency Ordinance that I proposed. Only one person showed up, I spoke with that person to explain the ordinance, I had no other face to face questions about it. I have had nine or ten calls and messages in support of it. I will talk more about it at the committee meetings in a couple of weeks.

Jim Bogner, 807 W. Washington Street, South Bend, I come this evening regarding property in the City of South Bend, 803 W. Washington, I believe it resides in President Morton's district. This is also known as the Kiser Mansion. I am in front of Council this evening is because of an issue related to the Historic Preservation Commission. As you may or may not know, the Historic Preservation Commission for the last fifteen years has had a façade easement on this property. During this period of time they had care, custody and control of the façade of this building. A very unusual situation, an asset to our county. On February 23, 2015, the Historic Preservation Commission, under a deed of easement, transferred or essentially gave up the façade easement on this property, care, custody and control. There were questions at the city council last meeting that they had over the issue of whether this was a valid transfer. I realize in fairness of Historic Preservation Commission they are not here this evening, but it was a transfer of an asset. The other issue I am deeply concerned about, living directly next door to this property is that once the property was allowed to be transferred from the City of South Bend to Indiana Landmarks, two of the chimney's were dismantled. That had to of been through an agreement with HPC because they had care, custody and control of the façade, again an asset to this county. Those chimney's continued to be down today. They have not been restored, Councilman Catanzarite knew the people at the time that lived there, can validate the fact that they are there. There are serious questions that relate to how the Historic Preservation Commission handled this property over the 15 years they had it. My letter is directed to President Morton but it is for all of you, it basically asks, what has happened between December 11, 2011 which was the transfer of the property from the City of South Bend to the Historic Landmarks Foundation of Indiana, also called Indiana Landmarks until this deed of easement? I don't know that it ever came in front of council, I don't know if council was ever aware of it. I don't know whether the Historic Preservation Commission ever could do it without talking with council but there were clearly were two things that happened here. An important asset in this community, a façade easement, and there are also three others, were transferred. Secondly, during the period of time that Indiana Landmarks owned the property, there was work done on the property and it was not followed through on and does not till this day. The reason why I am here is to ask council to take a look at this through their legal folks and all of you to take a look at the history of this and what Historic Preservation does. Now having lived in the neighborhood, I can tell you, if I came down to any work on my property and I went the building department to get a permit, they would look at where I lived at, they would know it was an historic property and they would ask to review this. I know of no place else we could go almost four years without some kind of plan that came trough Historic Preservation. I think my concern to this is, they may have answers to this, but I don't understand why demolition to these chimney's which needed to be done and not rebuilt and I don't understand why an asset was given away without coming to the elected officials. There may be a question you may have is well, if this happened February why am I now coming before you now. It's because many of us just realized that this occurred through other issues that are unrelated to this council and because of the nature of Historic Preservation I think they owe everyone some answers, first of all, you folks and then ultimately, me. I think it's a question in government about fairness, about are we all going to be treated equally or is there a wink a nod that we are going to somehow take of this because this is going to a higher level and then the higher level turns and sells it. This is an important property in the city, the individuals that were working on this property are having issues with Indiana Landmarks which does not relate to this, the city is conducting their own investigation but I do believe that the Council does have issues relating to this to understand how it would have been sold and how it would have been passed over without anybody knowing anything. I'd be glad to take any questions anyone may have but the documentation, which I don't expect you to look at now, will clearly show you, what we call the Freedline Easement from 83, what governed it up unto the transfer of the easement.

Mr. Morton: What is the time table of the city's investigation?

Mr. Bogner: That's a very good question, Mr. President. The city isn't conducting a thorough investigation into issues that are related to Indiana Landmarks and the current property owners that have nothing to do directly with the Historic Preservation Commission so that is why I am here asking for your help. Basically to find out what you folks know about this and what will come of this. I don't know that the city has a time table but as you know, Historic Preservation Commission is a hybrid, it's part city and part county but most of the time county comes in. I also want to say too, it's very important to be fair. They are obviously not here to discuss this. I am not accusing them of doing anything wrong other than to say, no one would be allowed to do a dismantling as they did without some sort of plan and I believe my letter says what happened during this period of time. So no, I know that the city has a time table. I

do know that Community Investment and Scott Ford has assigned someone to do a thorough investigation and go back to the city council. I was not a part of that during that particular time, asking for an investigation. This is more related to Historic Preservation and what they did with the easement.

Mr. Kruszynski: Mr. Bogner, obviously you have presented this to the Historic Preservation....

Mr. Bogner: We have through the years presented much information to the Historic Preservation Commission. We have never received answers from them from during the period of time.

Mr. Kruszynski: When's the last time you addressed them?

Mr. Bogner: The last time we addressed the Historic Preservation Commission was at the time of the sale of the property from the City of South Bend to Indiana Landmarks and we were assured at that time that Historic Preservation and Landmarks would be working in cooperation to be able to assist in stabilizing and that was one of the reasons why the chimney's were removed and as I noted in my letter here, they were done in January and February of 2012. From that point on, it basically was this is an Indiana Landmarks problem and not our problem but the façade easement was not transferred until February of 2015 which means it was an asset of the county's. I come here this evening based on the information that I want to know number one, was it a legal transfer, could they do that without going through any of the bodies and secondly, basically what had happened during the period of time when Landmarks owned the property and HPC had a façade easement on it.

Mr. Kruszynski: Have you addressed this issue with their attorney?

Mr. Bogner: That portion was addressed through the city council and I believe that the city council was also looking at this portion that relates to whether the transfer of the façade easement was legal, so yes, that portion was done, I did not do it, it was done at the last council meeting. I did not personally do it.

Mr. Kruszynski: Mr. Zappia represents the Historic Preservation. Has he gotten back to you?

Mr. Bogner: He has not gotten back to me, but it was directly related to me, I come before the council to bring this to council's attention. I also, I might add, to show that there are three other properties that façade easements continue to be on, which is at a higher level of what would normally occur under HPC rules and guidelines and that's what that information provides you with.

Mr. O'Brien: Mr. Bogner, what is your ultimate goal here, you want to see someone repair and rebuild chimneys?

Mr. Bogner: Well, I think two things. Number one, my concern is, that an asset was passed along and there was a loss of local community involvement. The easement is very clear. Secondly, I think there should be some clarification as to how something can be taken down and be left down for four years without some kind of a plan and HPC is usually very good jumping on issues that have problems. I have seen them in several areas, including houses that are up for demolition that have historic nature to it. This is a very strange situation.

Mr. O'Brien: So you don't care if the chimneys are rebuilt or not?

Mr. Bogner: Obviously we want to have the chimneys rebuilt and I would like to see the property saved; there is a third chimney that was not dismantled that is in disrepair at this time. I am wanting to know what HPC knew and when they knew it and whether they transferred any of that information to anyone of the governing bodies before they gave up the easement.

**Adjournment:** Mr. Morton stated that the meeting was adjourned 7:25 p.m.















MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
September 8, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on September 8, 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. Noland made a motion to approve the minutes of the August 11, 2015 public hearing was seconded by Mr. O'Brien, the motion was passed by a voice vote; 9-0.

Mr. Noland made a motion to return Bill No. 58-15 back to committee per the petitioner; it was seconded by Mr. Catanzarite. The motion was passed by a voice vote; 9-0.

No report from the County Auditor  
No report from the County Commissioner  
No report from Special Committees.

**First Readings:**

**BILL NO. 67-15:** 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 13460 E. MCKINLEY AND 56020 CURRANT ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT PETITIONER: RBS PROPERTIES LLC  
Assigned to the Land Use Planning Committee

**BILL NO. 68-15:** AN ORDINANCE OF ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO 79-13 WHICH ESTABLISHED THE PUBLIC SAFETY COMMUNICATIONS CONSORTIUM OF ST. JOSEPH COUNTY, AND MODIFYING SECTION 6 OF SAID ORDINANCE REGARDING THE OPERATIONS BOARD POWERS AS ESTABLISHED THEREIN Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 69-15:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF THE ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC. 6-1.1-12.1-14 ET SEQ PETITIONER: ST. JOSEPH ENERGY CENTER, LLC  
Assigned to the Land Use Planning Committee

**9. Public Hearing on the Airport Authority, Solid Waste Management, and St. Joseph County 2016 Budget:**

**BILL NO. 62-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) AIRPORT AUTHORITY**

Mike Daigle, Executive Director, St. Joseph County Airport Authority, the Airport Authority is requesting consideration of our 2016 budget. Our budget consists of three different funds, the Aviation Fund, Cumulative Building and Debt Services. The total of these funds are twenty million, five hundred and forty one thousand. In our 2016 budget, we have reflected and amount of cost of living wage increases, additional wage adjustments and also some job upgrades based on changes and responsibilities. The largest increase in these funds is in the Cumulative Building fund primarily for air service development. As you know, we are receiving bids in the next two weeks to build a federal inspection station and a general aviation facility to be able and process international flights, a first for our region.

Motion to pass Bill No. 62-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 62-15 was passed to-wit; 9-0.

**BILL NO. 63-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) SOLID WASTE**

Randy Przybysz, Executive Director, Solid Waste Management, budget proposal for 2016 has been approved by our board which you should have a copy of that resolution. Everything in this budget was kept just about the same as last year, there are no raises being proposed. Our total budget for next year is being proposed as an increase of a hundred fifty two thousand, six hundred and forty three dollars and that comes basically from two line items, our Household Hazardous Waste Program in Mishawaka, last year was just under ten thousand people with seven hundred and sixty nine thousand pounds of hazardous material going through there. We are on track this year to exceed that number. People coming and the amount of material. Another factor is, for the last six years we have been under contract with a company called ERI to take the obsolete electronics. They have taken them for free so we rode that horse now all that we can because we were notified that they were the last ones offering to do it for free, that is not going to happen anymore. Our contract is up the end of this year. We have no idea what the charges are going to be or how much material we are going to take in until it actually happens. The proposal there was to take that budget line item from a hundred thousand to two hundred thousand. The other is a fifty thousand dollars put into a capital improvement fund, we have never had that before. There is some discussion to combine our office and our HHW program in one location, more centrally located to the population in the county and also large enough to handle the kind of numbers we are taking through there now. We are land locked where we are at. That money would only be used, should we find a piece of property to do any plans and only with the approval of the board. We have no choice on the electronics; we have to do something about that program. We are anticipating having to pay we just have no idea how much.

Mr. O'Brien: How much do you estimate will be brought in from fees?

Mr. Przybysz: Our total income is about two point five million per year. This budget is two point nine five.

Mr. O'Brien: Is there enough in reserve to fund this?

Mr. Przybysz: Yes and that was discussed with the board. Some of this, because of the process now having to before the Council, there are certain line items, like for the curb side recycling program where we budget for worst case scenario because we would not know until late in the year if fuel surcharges or something needed to kick in and raise the amount we are paying out for that.

Motion to pass Bill No. 63-15 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 63-15 was passed to-wit; 9-0.

**BILL NO. 64-15: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2016**

Mr. Hamann, St. Joseph County Auditor, the budget is still a work in progress. I can say at this juncture, it is estimated to be about fifty six point two million dollars in terms of expenditures for the general fund. When you

combine all the different funds we are looking at about a total budget of a hundred and thirteen million dollars. It is still a work in progress.

Motion to pass Bill No. 64-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 64-15 was passed to-wit; 9-0.

**BILL NO. 65-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES  
(BUDGET FORM 4) ST. JOSEPH COUNTY, INDIANA**

Mr. Hamann, St. Joseph County Auditor, tax rates again are a work in progress. To give a brief overview, the Assessor's office provides the gross assessment, that then rolls over to the Auditor's office and what our office does then is it comes up with the net assessed value of the property in the county, you take away the exemptions, the abatements and deductions, we then provide that to the state and then the state will take that number, take the number, the various budgets from various tax entities and levy and calculate what those tax rates will be so that will be a few months.

Motion to pass Bill No. 65-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 65-15 was passed to-wit; 9-0.

**SALARY AMENDMENT:**

**BILL NO. 66-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015  
DEPT. 0018 PROSECUTOR**

Mr. McCahill reported that Bill No. 66-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's Office, we are here asking for an amendment to our salary amendment to reflect the changes that we appropriated in our first budget to what the APS Grant finally came in at.

Motion to pass Bill No. 66-15 was made by Mr. McCahill and seconded by Ms. Hess. Bill No. 66-15 was passed to-wit; 9-0.

**BILL NO. 49-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE FISCAL YEAR 2015-2016 DEPT. 0025 JUVENILE & PROBATE COURT**

Mr. McCahill reported that Bill No. 49-15 comes with a favorable a recommendation.

Pete Morgan, Executive Director of the St. Joseph Probate Court and Juvenile Justice Center, we are seeking a salary amendment which would allow us to apply eleven thousand, five hundred dollars in funds which were awarded under a Juvenile Accountability Block grant to the salary known as Education Coordinator in our probation user fees budget in line number 11376, the reason for seeking the amendment is this would be the person charged with carrying out the duties of the grant over and above the reason for the position otherwise.

Motion to pass Bill No. 49-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-15 was passed to-wit; 9-0.

**Public Hearing/Public Comment:**

**BILL NO. 61-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE  
HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY  
GOVERNMENT**

A. Treasurer  
General Fund

FROM: 1000-11682-000-0003	Clerk/Cashier	\$400.00
TO: 1000-32020-000-0003	Travel	400.00
		<u>TOTAL: \$400.00</u>

B. Prosecutor  
Adult Protective Service Grant

FROM: 9108-32020-000-0018	Travel	\$1,000.00
9108-22010-000-0018	Gas, Oil and Lubricants	919.00
TO: 9108-11318-000-0018	Investigator APS	\$1,000.00
9108-11319-000-0018	Director APS	31.00
9108-37100-000-0018	Auto Lease	888.00
		<u>TOTAL: \$1919.00</u>

**APPROPRIATE**

C. Auditor's Office  
Enhanced Access Fund

1154-39750-000-0002	Data Processing	\$100,000.00
1155-39750-000-0002	Data Processing	100,000.00
		<u>TOTAL: \$200,000.00</u>

D. County Engineer  
Major Moves Const. Fund

1172-43155-000-0023	McKinley AM General	\$400,000.00
		<u>TOTAL: \$400,000.00</u>

E. Roads & Highway  
Local Road & Street

1169-39150-000-0060	Other Expenses	\$27,865.00
		<u>TOTAL: \$27,865.00</u>

F. Health Dept.  
Health Ebola Grant

8126-22148-000-0055	Field Supplies	\$8,000.00
8126-39750-000-0055	Data Processing	1,000.00
8126-44010-000-0055	Equipment	13,135.00
8126-44311-000-0055	Emergency Equip.	10,000.00
		<u>TOTAL: \$32,135.00</u>

G. Health Dept.  
Health Bioterrorism Grant

8113-21030-000-0055	Office Supplies	\$2,772.00
8113-22148-000-0055	Field Supplies	3,000.00
8113-32020-000-0055	Travel	3,160.00
8113-32050-000-0055	Instruction & Training	2,840.00
8113-32203-000-0055	Cell Phones	1,800.00
8113-44010-000-0055	Equipment	2,500.00
8113-45510-000-0055	Furniture & Fixtures	10,000.00
	<b><u>TOTAL: \$26,072.00</u></b>	

H. Health Dept.  
Health HUD Grant

9103-21030-000-0055	Office Supplies	\$250.00
9103-22148-000-0055	Field Supplies	3,700.00
9103-22328-000-0055	Equipment Repairs	9,785.00
9103-32020-000-0055	Travel	300.00
9103-36010-000-0055	Repairs Bldgs. & Structure	500.00
	<b><u>TOTAL: \$14,535.00</u></b>	

G. Juvenile & Probate Court  
JABG

8125-11385-000-0025	Probation Officer I	\$11,500.00
	<b><u>TOTAL: \$11,500.00</u></b>	

Motion to pass Bill No. 61-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 61-15 was passed to-wit; 9-0

**Land Use Planning:**

**BILL NO. 45-15:** PETITION TO VACATE PUBLIC WAYS AND PUBLIC PLACES WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA PETITIONER: EDWARD W. HARDIG

Mr. Noland reported that Bill No. 45-15 comes with a favorable a recommendation.

Mr. Danch, Danch, Harner and Associates, as we mentioned to Council, council had asked us last month to see if we could meet with the adjacent property owner and come to an agreement on the use of the property between us and Westwinds, property to the south. We have done that. Mr. Masters is here this evening to speak on behalf of his clients. We have come to agreement which stipulates how the property will be laid out, that we will be providing access for Mr. Master's clients. We provided Council with a site plan that shows the proposed the development that will occur on the property, assuming the Council will approve the vacation of Huron Street. The bill this evening has been revised, the ordinance that is before the Council this evening reflects part of the agreement we have with Mr. Masters clients that if the street gets vacated, they will acquire fifty feet of the sixty feet of right of way which is adjacent to their property that was part of the stipulation. We will also back that up by doing a quick claim deed to Mr. Masters clients to show that the transfer of that property so that property would remain in the county. This process is also on a parallel track, we have already done before the Area Plan Commission for the zoning issue for this property. We did receive a favorable recommendation from the Plan Commission; they also approved variances for the development. What we would say to Council this evening, there will be a public hearing for the residents, everyone that had been notified within three hundred feet for that development, there will be a public hearing where they can address their concerns at a city council meeting, that meeting will be on September 28 that will be a public hearing.

Mr. Kruszynski: Mike, I know there was an issue with the curb height on the north side of the building....

Mr. Danch: Yes, what we have done with that as part of the agreement, when we do our part of the development, there will be a curb at the north property line for Westwinds. There will be a nice clean line.

James A. Masters, Nemeth, Feeney, Masters and Campiti, 350 Columbia, South Bend, I am here tonight on behalf of Maron LLC and its owners. At your last meeting, we presented a remonstrance to the vacation of Huron Street. I am pleased to inform you that with the cooperation of the petitioner and the cooperation of the representatives of Martins, the issues raised by that remonstrance have been resolved. The remonstrance is hereby withdrawn.

Leon Grey, 56420 Butternut Road, South Bend, I am in favor of any improvement this community can have especially on the west side.

Murray Miller, 1201 Priscilla Drive, I am also in favor of this. The west side has been in need of a new grocery store in the area. I think it's well deserved for the people on the west side to get that. I am very much in favor.

Kevin Pajakowski, 58472 Eastwood Drive, South Bend, Martin's has done a wonderful thing, when they moved in, they cleaned up the area. They kept the area clean. Without Martin's, that's the one anchor we have had in this community on our side of town.

Susan Zawadowski, 159 N. Summit Drive, South Bend, I am a current Martin's customer at that store, I am very much in favor of the vacation of Huron Street. I look forward to walking and riding my bike to Martin's. I appreciate what Martin's does for our community.

Rev. Charles Zawadowski, 159 N. Summit Drive, South Bend, I am a pastor of St. Mary's Parish on Sample Street. I echo some of the thoughts we have heard today. We always talk about how we need new things on the west side, here it is. We, as a community, partner with Martin's. We do not partner with Kroger's or Meijers. Many neighborhood organizations, government entities have benefited from Martin's charity. They have an excellent track record. They are good neighbors. I endorse and support the vacation of Huron Street.

Charles Waddell, 5134 Hazelwood Court, South Bend, I am looking forward to shopping. Martin's has a history of hiring local contractors and local workers so I think it's a big boost for our economy. I am looking forward to this.

Diana Kisminski, 56921 Hollywood Blvd., South Bend, I am in opposition of Huron Street. I hope you have had an opportunity to look over the packet of information I provided to your office. As you can see from the diagram, Martin's plans to build a drive through service for customers to purchase coffee. As we all know, traffic from a drive through can quickly back up. As a result, drivers will have to wait on Hollywood Blvd. before accessing Martin's. This will result in cars backing up in both directions. This will cause a traffic jam on Grant as drivers wait to turn into Hollywood Blvd. There is no left turn signal at Mayflower and Sample. As a result, drivers will be detoured from using the Mayflower entrance into Martin's. There are a lot of children that live on Hollywood Blvd. We are your constituents, not Martin's. We need you to represent our interests.

Eric Kisminski, 56921 Hollywood Blvd., South Bend, I am here this evening representing myself and those that signed the petition. So far all we have heard from the representatives of Martin's are stories, lies and total disrespect to the residents regarding their concerns about their project. This proposed Martin's already has three entrances. Two on Mayflower and one on Western. As I looked on the Council list of names I was proved last week and addresses I noticed that none of you live in a heavily traffic road. Put yourself in our position. In America, we live in a democracy. We the people, who will be effected the most, took a vote and we voted to close the entrance to Martin's from Hollywood, you have the petition in your position.

Louann Gondos, 565547 Hollywood Blvd., I am representing my mother in law who lives on Hollywood Blvd. I am a Martin's supporter, I am happy the store is going to be put where it is going to be put. I have to agree, you guys have to cut off access to Hurron and Hollywood Blvd. It's our neighborhood. Just protect our neighborhood streets.

Denise Lentech, 56595 S. Hollywood Blvd., my husband and I have lived here for thirty eight years; we have raised our children and now enjoy our grandchildren visiting us here. We chose this neighborhood to live out our lives in because it is peaceful and friendly. We the neighbors who live on Hollywood, Ford and Elmer beg of you to allow the quality of our lives to remain somewhat, what we envisioned it when we chose this neighborhood to live out our lives. Please vote against the entrance/exit on Hollywood.

Jeffrey Booker, 56577 Hollywood Blvd., I too know that Martin's does a lot of good for our community. I am not against Martin's building a store. The realization of the Martin's project with a rear entrance off of Hollywood Blvd. is not fair. It's not fair to the residents or the county. The city will annex this part for the Martin's project, Martin's will use the road and the county will have to maintain it. That's not fair. It will put a lot of traffic back there. We are just asking for one concession from Martin's. Close that entrance.

Patricia Cichowicz Lynch, 23665 Grant Road, South Bend, Martin's has been a great neighbor. We know they will be moving and building in between Hollywood and Mayflower and we accept that but we object to an egress on Hollywood.

Thomas J. Kowalski, 56680 Hollywood Blvd., South Bend, I am representing my mom who is 92 years old and still resides there. With the entrance to Martin's on Hollywood, we won't be able to get out of our driveway most of the time. My mom is not driving but my mom does not want it there.

Mr. Danch: We are looking at the concerns of the residents that showed up this evening. This project has gone through review both county engineering department and also city engineer for the City of South Bend. We asked them to take a look at the project as well. We do have a main access point that would be onto Mayflower Road, actually we have two on Mayflower Road and there will be one on Western. The one off of Hollywood Blvd. we don't believe will be a main entrance for any access point from that residential area. That is to allow access for residents to come in; they don't have to go out to Mayflower Road, that's one of the reasons for that. It is not a main access point. We created that strictly to allow for residents that are going to use the Martin's to get back to their homes without either going out to Western Ave. or onto Mayflower. I have not heard any concerns from either the city engineering department or the county engineering department about increase amount of traffic that would be going out onto Hollywood Blvd. but we will take a look at that. We have heard concerns though, of the rout that is being taken from Grant up to Western and then over to the church for picking up children but I don't think there's that huge increase and I believe the county engineering department is also going to be taking a look at it from a traffic standpoint as well. What we would ask Council to do is allow us to move ahead and get to the city council portion for the rezoning where these remonstrators can show up and address their concerns with the city council as well.

Mr. Kruszynski: Mike, I think you just answered it, I know three for four of the residents got up and spoke were concerned about that access onto Hollywood. But their concerns should be addressed with the city council, am I correct?

Mr. Danch: That is correct. The city engineering department will have jurisdiction, we are going through that annexation procedure to bring it into the city. The city engineering department also has a close relationship with county engineering as well. So I think between the two they will also be looking at it. We will have to submit a final site plan for approval for those departments before we build.

Mr. Catanzarite: Just for the record, Mr. Kisminski mentioned none of live near commercial. I live about a hundred feet away from a Walgreens store near Ironwood and Edison so I do know what it is like to live next to commercial property and I have a dentist and an insurance office next door to me. Having gone through that process and worked with those groups when they moved into our neighborhood after I moved there and not known they were going to be there when I moved initially, the zoning screening requirements that are in place today are a lot more stringent than they were many years ago so for me personally, it's been a positive experience living next to a commercial property and some offices and the screen that has gone up has shielded my family from what I consider to be to very highly, intensive used properties so to our satisfaction, I just want to say I do live next to commercial property and by it and it has not been a bad experience. Mr. Danch, looking at our concerns, I think you have written commitments, you would not use Hollywood for any truck delivery access, right?

Mr. Danch: It was actually designed that way. Truck traffic will not go out onto Hollywood Blvd. We did work closely with the city engineering department on that as well as Jessica (Clark) and the way it's designed, the whole site is designed for truck traffic to come off of either Western Avenue come south through our access point which is east of John Becker's shopping center or come in off of Mayflower Road. The whole design for truck turning radius is dictated by that access routing. A truck could not come down Hollywood Blvd. and make the turn into the site and one of the things we have mentioned to the residents is, Martin's has complete control over any of the vendors that delivery goods/produce to their stores so that we can prevent that from happening.

Mr. Catanzarite: Hearing the concerns from most of the Hollywood residents who would be most impacted by this, is there a design possibility of an entrance or an exit off of Hollywood that could be achieved that would make it less intensive?

Mr. Danch: We can take a look at that but it's almost going to be up to the engineering department to see if there is a way to limit how that traffic would access Hollywood Blvd. There are certain ways to do an entrance way to deliver traffic one way or another.

Mr. Catanzarite: You negotiated with Westwinds. Westwinds contends that many of their patrons currently and have for a long time always used Hollywood Blvd. to avoid Mayflower Road, is that correct? Was that conveyed to you?

Mr. Danch: I have heard that, the patrons that came out of Westwinds would like to go over toward Hollywood because it's easier that way. I also heard where there is a situation where Huron Street was a straight through, there were actually people cutting through Mayflower over to Hollywood Blvd. and racing down that so by our design, we will be able to stop that.

Mr. Catanzarite: By offsetting that.

Mr. Danch: By offsetting that and making it more difficult, we are also going to include signage, stop signs within our site.

Mr. Morton: You are saying that you are talking to the city engineer?

Mr. Danch: We have done that, yes. What I am saying is, before we can get our approval to start the project, they will have to review everything and make sure that we are in compliance as well.

Mr. Morton: Is the city engineer; is he aware of all the concerns of the residents?

Mr. Danch: They will be, I think with them showing up, they were at the Area Plan Commission meeting so I think some of those concerns were conveyed at the Area Plan Commission meeting that we had approximately two weeks ago. It will also be at the city council meeting as well.

Mr. Morton: I think it would make sense if the city engineer was made aware of these concerns before the night of the public hearing. That just makes sense.

Mr. Danch: I would be glad to inform them, I have no trouble doing that.

Mr. Catanzarite: I hope Martin's is very sensitive to that issue; it sounds like you are trying to address it or willing to look at it and possibly address it. I think the people have made some very thoughtful and true statements about how the impact will be on their neighborhood.

Mr. Morton: Mr. Danch, the site plan you presented tonight is amended, correct?

Mr. Danch: Correct.

Mr. Kruszynski: I have just a few comments. Some of the concerns that were addressed, I know Mr. Booker, you brought up about the traffic count or study, I have emailed our county engineer, Jessica Clark last week after I heard your concern in regards to that. She is working with MACOG to get that done before winter, we would like to see what that count is before Martin's is built, if this passes. The lady that brought up about a couple of intersections in regards to Grant and Mayflower, again, that is a city issue, the county does not have any jurisdiction over that intersection. Same thing with Western and Mayflower, if we recall at the neighborhood meeting that a few of us attended, Councilman Oliver Davis indicated that he would be looking at those traffic signals, he was going to talk to the city engineer to address that issue along with some left turning lanes, which Mike, isn't there some left turning lanes purposed on Huron?

Mr. Danch: Yes, the main entrance way we have on to Mayflower Road at the request of city engineer they asked that we provide a left turn lane onto Mayflower Road. That also has a dedicated right turn lane as well. That was part of their design when they took a look at our site plan.

Mr. Kruszynski: Also, I have spoken to Jessica in regards to the way that Hollywood is constructed and she is going to take a look at that Mr. Booker and once we get traffic counts and again, if this is passed and get traffic counts later then that issue will be addressed. I also had a meeting with Area Plan and discussed some options that could be done to Hollywood along with Jessica that if that traffic turns to get real bad, there are things we can do, we as a county can do to Hollywood, not to the access point onto Hollywood but there are things we can do down the road if starts to be a real nuisance.

Audience member: Is Martin's going to post a bond (inaudible) on that nice new road you put in? I think someone should consider that.

Mr. Kruszynski: Jeff, in dealing with the Martin's representatives for the last two months, either on the phone or in person, not with just myself but with other colleagues on the Council here, I will hold Mr. Bartles accountable for whatever goes around in that area in Martin's commitment to this store, if it's passed and the commitment they made to the other stores, I am pretty pleased at what I see. Like Councilman Cantazarite has said, he does live in a pretty heavily commercial area, I just so happen to live right off of Quince Road, we have a school there, you have fire trucks there, you have all kinds of traffic going up and down Quince so we get it on Quince also. I am also concerned of the constituents in that area that's why I will hold Mr. Bartle's accountable, I will be the first one banging on his door. I think he knows that.

Motion to pass the amendment for Bill No. 45-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Amended Bill No. 45-15 was passed by a voice vote to-wit; 9-0.

Mr. O'Brien: I wanted to acknowledge that Martin's investment is coming without any request to the county for incentives. I'm impressed with that among many other aspects of the project, the number of jobs that will be retained and additional jobs to be created as well. It's not often that investments in real estate of this nature do not come to us with a request for an incentive and I am very pleased with that and I will be supporting passage when we ultimately vote.

Ms. Hess: I also think that Martin's brings a lot to the community and am pleased with the developments I have seen and past and look forward to this one however, I will echo what Mark Catanzarite said as well, I think they should take the neighbor's concerns into consideration when they are making this development because they have lived there for a long time and to have their life disrupted or as they perceive as being disrupted needs to be given careful consideration. I know that Bobby K., that's his district, he will be as he said, knocking on Mr. Bartle's door if there is a problem and my district butts right up against that so again, I work with neighborhoods in the City of South Bend that's my day job, so I am very concerned about what neighbors think when there is development or new things are happening in their neighborhood.

Mr. Morton: Mr. Danch, I'd be interested in hearing from you as you progress with your conversation with the city engineer, hopefully there again, before the public hearing and if you would be so kind as to give me a call and let me know how that's progressing.

Mr. Danch: I will.

Motion to pass Bill No. 45-15 was made by Mr. Kruszynski and seconded by Mr. O'Brien. Bill No. 45-15 was passed to-wit; 9-0

**BILL NO. 53-15:** A RESOLUTION OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, ESTABLISHING REASONABLE ACCOMMODATION POLICIES AND PROCEDURES IN ZONING AND LAND USE DECISIONS WITHIN THE COUNTY OF ST. JOSEPH, INDIANA  
PETITIONER: MARK P. TELLOYAN

Mr. Noland reported that Bill No. 53-15 comes with a favorable a recommendation.

Mr. Telloyan: This proposed ordinance brings the county in mind with the ADA, the American Disabilities Act and Fair Housing Act. It also echo's a resolution passed earlier by our colleagues on the City of South Bend. Mark Lyons from the Building Department is here if there are any detailed questions, I was asked by Jamie Woods to present it to the Council, I would ask for its passage.

Motion to pass Bill No. 53-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Bill No. 53-15 was passed to-wit; 9-0

**BILL NO. 57-15: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION PETITIONER: AREA PLAN COMMISSION**

Mr. Noland reported that Bill No. 57-15 comes with a favorable a recommendation.

Larry Magliozzi, Executive Director of the Area Plan Commission, this is establishing new fees for the next two years, 2016-2017. It replaces a multiyear schedule that was approved back in 2009.

Motion to pass Bill No. 57-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 57-15 was passed to-wit; 9-0

**BILL NO. 60-15: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY AMERICAN STRUCTUREPOINT ON BEHALF OF NAVISTAR FOR THE PROPERTY LOCATED AT 32104 STATE ROAD 2, NEW CARLISLE THE SAME BEING PETITION NO. 08-05-15-14 FILED WITH THE AREA BOARD OF ZONING APPEALS**

Mr. Noland reported that Bill No. 60-15 comes with a favorable a recommendation.

Mark Lyons, Building Department, this was given public hearing at the August 5<sup>th</sup> at the Area Board of Zoning appeals, this is a special exception to allow an auto testing grounds. This comes to you with a unanimous favorable recommendation.

Mr. Catanzarite: Unrelated to the bill but I would just like to extend my congratulations to Mr. Lyons and thank him for his ten years of service to our county and wish you the best of luck moving forward. You brought a lot to the county in terms of helping us out in a lot of issues that have come before us.

Mr. Lyons: Thank you, I appreciate it.

Mr. Kruszynski: I'd like to echo that Mark, the little time I have had time to work with you, you have been very good but you have one last request, what about 56131 Butternut? I left you a message about a week ago.

Mr. Lyons: It's on the demo list, so it should be getting it taken care of. It will probably be the 2016 list. Chuck is just starting to get the 2016 list put together, probably end of November early December when he will be bringing those forward to get the process started.

Mr. Kruszynski: Thank you, good luck to you.

Mr. Hamann: Mr. Lyons, I didn't realize you were leaving us. I do wish you the best of luck and you were outstanding when I was a councilman and any concerns you were "Johnny on the spot" whenever I called, you would check on within twenty four hours of a property to see if it was in compliance with building code so I really appreciated your hard work so good luck.

Mr. Lyons: Thank you.

Mr. McCahill: Congratulations on going home go Packers.

Motion to pass Bill No. 60-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 60-15 was passed to-wit; 9-0

**Unfinished Business:**

**New Business:**

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

Mr. O'Brien: I just wanted to report to the council, I did have office hours or an open house last week to invite people to come in and speak about the Taxpayer Protection and Transparency Ordinance that I proposed. Only one person showed up, I spoke with that person to explain the ordinance, I had no other face to face questions about it. I have had nine or ten calls and messages in support of it. I will talk more about it at the committee meetings in a couple of weeks.

Jim Bogner, 807 W. Washington Street, South Bend, I come this evening regarding property in the City of South Bend, 803 W. Washington, I believe it resides in President Morton's district. This is also known as the Kiser Mansion. I am in front of Council this evening is because of an issue related to the Historic Preservation Commission. As you may or may not know, the Historic Preservation Commission for the last fifteen years has had a façade easement on this property. During this period of time they had care, custody and control of the façade of this building. A very unusual situation, an asset to our county. On February 23, 2015, the Historic Preservation Commission, under a deed of easement, transferred or essentially gave up the façade easement on this property, care, custody and control. There were questions at the city council last meeting that they had over the issue of whether this was a valid transfer. I realize in fairness of Historic Preservation Commission they are not here this evening, but it was a transfer of an asset. The other issue I am deeply concerned about, living directly next door to this property is that once the property was allowed to be transferred from the City of South Bend to Indiana Landmarks, two of the chimney's were dismantled. That had to of been through an agreement with HPC because they had care, custody and control of the façade, again an asset to this county. Those chimney's continued to be down today. They have not been restored, Councilman Catanzarite knew the people at the time that lived there, can validate the fact that they are there. There are serious questions that relate to how the Historic Preservation Commission handled this property over the 15 years they had it. My letter is directed to President Morton but it is for all of you, it basically asks, what has happened between December 11, 2011 which was the transfer of the property from the City of South Bend to the Historic Landmarks Foundation of Indiana, also called Indiana Landmarks until this deed of easement? I don't know that it ever came in front of council, I don't know if council was ever aware of it. I don't know whether the Historic Preservation Commission ever could do it without talking with council but there were clearly were two things that happened here. An important asset in this community, a façade easement, and there are also three others, were transferred. Secondly, during the period of time that Indiana Landmarks owned the property, there was work done on the property and it was not followed through on and does not till this day. The reason why I am here is to ask council to take a look at this through their legal folks and all of you to take a look at the history of this and what Historic Preservation does. Now having lived in the neighborhood, I can tell you, if I came down to any work on my property and I went the building department to get a permit, they would look at where I lived at, they would know it was an historic property and they would ask to review this. I know of no place else we could go almost four years without some kind of plan that came trough Historic Preservation. I think my concern to this is, they may have answers to this, but I don't understand why demolition to these chimney's which needed to be done and not rebuilt and I don't understand why an asset was given away without coming to the elected officials. There may be a question you may have is well, if this happened February why am I now coming before you now. It's because many of us just realized that this occurred through other issues that are unrelated to this council and because of the nature of Historic Preservation I think they owe everyone some answers, first of all, you folks and then ultimately, me. I think it's a question in government about fairness, about are we all going to be treated equally or is there a wink a nod that we are going to somehow take of this because this is going to a higher level and then the higher level turns and sells it. This is an important property in the city, the individuals that were working on this property are having issues with Indiana Landmarks which does not relate to this, the city is conducting their own investigation but I do believe that the Council does have issues relating to this to understand how it would have been sold and how it would have been passed over without anybody knowing anything. I'd be glad to take any questions anyone may have but the documentation, which I don't expect you to look at now, will clearly show you, what we call the Freedline Easement from 83, what governed it up unto the transfer of the easement.

Mr. Morton: What is the time table of the city's investigation?

Mr. Bogner: That's a very good question, Mr. President. The city isn't conducting a thorough investigation into issues that are related to Indiana Landmarks and the current property owners that have nothing to do directly with the Historic Preservation Commission so that is why I am here asking for your help. Basically to find out what you folks know about this and what will come of this. I don't know that the city has a time table but as you know, Historic Preservation Commission is a hybrid, it's part city and part county but most of the time county comes in. I also want to say too, it's very important to be fair. They are obviously not here to discuss this. I am not accusing them of doing anything wrong other than to say, no one would be allowed to do a dismantling as they did without some sort of plan and I believe my letter says what happened during this period of time. So no, I know that the city has a time table. I

do know that Community Investment and Scott Ford has assigned someone to do a thorough investigation and go back to the city council. I was not a part of that during that particular time, asking for an investigation. This is more related to Historic Preservation and what they did with the easement.

Mr. Kruszynski: Mr. Bogner, obviously you have presented this to the Historic Preservation....

Mr. Bogner: We have through the years presented much information to the Historic Preservation Commission. We have never received answers from them from during the period of time.

Mr. Kruszynski: When's the last time you addressed them?

Mr. Bogner: The last time we addressed the Historic Preservation Commission was at the time of the sale of the property from the City of South Bend to Indiana Landmarks and we were assured at that time that Historic Preservation and Landmarks would be working in cooperation to be able to assist in stabilizing and that was one of the reasons why the chimney's were removed and as I noted in my letter here, they were done in January and February of 2012. From that point on, it basically was this is an Indiana Landmarks problem and not our problem but the façade easement was not transferred until February of 2015 which means it was an asset of the county's. I come here this evening based on the information that I want to know number one, was it a legal transfer, could they do that without going through any of the bodies and secondly, basically what had happened during the period of time when Landmarks owned the property and HPC had a façade easement on it.

Mr. Kruszynski: Have you addressed this issue with their attorney?

Mr. Bogner: That portion was addressed through the city council and I believe that the city council was also looking at this portion that relates to whether the transfer of the façade easement was legal, so yes, that portion was done, I did not do it, it was done at the last council meeting. I did not personally do it.

Mr. Kruszynski: Mr. Zappia represents the Historic Preservation. Has he gotten back to you?

Mr. Bogner: He has not gotten back to me, but it was directly related to me, I come before the council to bring this to council's attention. I also, I might add, to show that there are three other properties that façade easements continue to be on, which is at a higher level of what would normally occur under HPC rules and guidelines and that's what that information provides you with.

Mr. O'Brien: Mr. Bogner, what is your ultimate goal here, you want to see someone repair and rebuild chimneys?

Mr. Bogner: Well, I think two things. Number one, my concern is, that an asset was passed along and there was a loss of local community involvement. The easement is very clear. Secondly, I think there should be some clarification as to how something can be taken down and be left down for four years without some kind of a plan and HPC is usually very good jumping on issues that have problems. I have seen them in several areas, including houses that are up for demolition that have historic nature to it. This is a very strange situation.

Mr. O'Brien: So you don't care if the chimneys are rebuilt or not?

Mr. Bogner: Obviously we want to have the chimneys rebuilt and I would like to see the property saved; there is a third chimney that was not dismantled that is in disrepair at this time. I am wanting to know what HPC knew and when they knew it and whether they transferred any of that information to anyone of the governing bodies before they gave up the easement.

**Adjournment:** Mr. Morton stated that the meeting was adjourned 7:25 p.m.















MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
September 8, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on September 8, 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. Noland made a motion to approve the minutes of the August 11, 2015 public hearing was seconded by Mr. O'Brien, the motion was passed by a voice vote; 9-0.

Mr. Noland made a motion to return Bill No. 58-15 back to committee per the petitioner; it was seconded by Mr. Catanzarite. The motion was passed by a voice vote; 9-0.

No report from the County Auditor  
No report from the County Commissioner  
No report from Special Committees.

**First Readings:**

**BILL NO. 67-15:** 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 13460 E. MCKINLEY AND 56020 CURRANT ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT PETITIONER: RBS PROPERTIES LLC  
Assigned to the Land Use Planning Committee

**BILL NO. 68-15:** AN ORDINANCE OF ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO 79-13 WHICH ESTABLISHED THE PUBLIC SAFETY COMMUNICATIONS CONSORTIUM OF ST. JOSEPH COUNTY, AND MODIFYING SECTION 6 OF SAID ORDINANCE REGARDING THE OPERATIONS BOARD POWERS AS ESTABLISHED THEREIN Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 69-15:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF THE ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC. 6-1.1-12.1-14 ET SEQ PETITIONER: ST. JOSEPH ENERGY CENTER, LLC  
Assigned to the Land Use Planning Committee

**9. Public Hearing on the Airport Authority, Solid Waste Management, and St. Joseph County 2016 Budget:**

**BILL NO. 62-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) AIRPORT AUTHORITY**

Mike Daigle, Executive Director, St. Joseph County Airport Authority, the Airport Authority is requesting consideration of our 2016 budget. Our budget consists of three different funds, the Aviation Fund, Cumulative Building and Debt Services. The total of these funds are twenty million, five hundred and forty one thousand. In our 2016 budget, we have reflected and amount of cost of living wage increases, additional wage adjustments and also some job upgrades based on changes and responsibilities. The largest increase in these funds is in the Cumulative Building fund primarily for air service development. As you know, we are receiving bids in the next two weeks to build a federal inspection station and a general aviation facility to be able and process international flights, a first for our region.

Motion to pass Bill No. 62-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 62-15 was passed to-wit; 9-0.

**BILL NO. 63-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) SOLID WASTE**

Randy Przybysz, Executive Director, Solid Waste Management, budget proposal for 2016 has been approved by our board which you should have a copy of that resolution. Everything in this budget was kept just about the same as last year, there are no raises being proposed. Our total budget for next year is being proposed as an increase of a hundred fifty two thousand, six hundred and forty three dollars and that comes basically from two line items, our Household Hazardous Waste Program in Mishawaka, last year was just under ten thousand people with seven hundred and sixty nine thousand pounds of hazardous material going through there. We are on track this year to exceed that number. People coming and the amount of material. Another factor is, for the last six years we have been under contract with a company called ERI to take the obsolete electronics. They have taken them for free so we rode that horse now all that we can because we were notified that they were the last ones offering to do it for free, that is not going to happen anymore. Our contract is up the end of this year. We have no idea what the charges are going to be or how much material we are going to take in until it actually happens. The proposal there was to take that budget line item from a hundred thousand to two hundred thousand. The other is a fifty thousand dollars put into a capital improvement fund, we have never had that before. There is some discussion to combine our office and our HHW program in one location, more centrally located to the population in the county and also large enough to handle the kind of numbers we are taking through there now. We are land locked where we are at. That money would only be used, should we find a piece of property to do any plans and only with the approval of the board. We have no choice on the electronics; we have to do something about that program. We are anticipating having to pay we just have no idea how much.

Mr. O'Brien: How much do you estimate will be brought in from fees?

Mr. Przybysz: Our total income is about two point five million per year. This budget is two point nine five.

Mr. O'Brien: Is there enough in reserve to fund this?

Mr. Przybysz: Yes and that was discussed with the board. Some of this, because of the process now having to before the Council, there are certain line items, like for the curb side recycling program where we budget for worst case scenario because we would not know until late in the year if fuel surcharges or something needed to kick in and raise the amount we are paying out for that.

Motion to pass Bill No. 63-15 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 63-15 was passed to-wit; 9-0.

**BILL NO. 64-15: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2016**

Mr. Hamann, St. Joseph County Auditor, the budget is still a work in progress. I can say at this juncture, it is estimated to be about fifty six point two million dollars in terms of expenditures for the general fund. When you

combine all the different funds we are looking at about a total budget of a hundred and thirteen million dollars. It is still a work in progress.

Motion to pass Bill No. 64-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 64-15 was passed to-wit; 9-0.

**BILL NO. 65-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES  
(BUDGET FORM 4) ST. JOSEPH COUNTY, INDIANA**

Mr. Hamann, St. Joseph County Auditor, tax rates again are a work in progress. To give a brief overview, the Assessor's office provides the gross assessment, that then rolls over to the Auditor's office and what our office does then is it comes up with the net assessed value of the property in the county, you take away the exemptions, the abatements and deductions, we then provide that to the state and then the state will take that number, take the number, the various budgets from various tax entities and levy and calculate what those tax rates will be so that will be a few months.

Motion to pass Bill No. 65-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 65-15 was passed to-wit; 9-0.

**SALARY AMENDMENT:**

**BILL NO. 66-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015  
DEPT. 0018 PROSECUTOR**

Mr. McCahill reported that Bill No. 66-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's Office, we are here asking for an amendment to our salary amendment to reflect the changes that we appropriated in our first budget to what the APS Grant finally came in at.

Motion to pass Bill No. 66-15 was made by Mr. McCahill and seconded by Ms. Hess. Bill No. 66-15 was passed to-wit; 9-0.

**BILL NO. 49-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE FISCAL YEAR 2015-2016 DEPT. 0025 JUVENILE & PROBATE COURT**

Mr. McCahill reported that Bill No. 49-15 comes with a favorable a recommendation.

Pete Morgan, Executive Director of the St. Joseph Probate Court and Juvenile Justice Center, we are seeking a salary amendment which would allow us to apply eleven thousand, five hundred dollars in funds which were awarded under a Juvenile Accountability Block grant to the salary known as Education Coordinator in our probation user fees budget in line number 11376, the reason for seeking the amendment is this would be the person charged with carrying out the duties of the grant over and above the reason for the position otherwise.

Motion to pass Bill No. 49-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-15 was passed to-wit; 9-0.

**Public Hearing/Public Comment:**

**BILL NO. 61-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE  
HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY  
GOVERNMENT**

A. Treasurer  
General Fund

FROM: 1000-11682-000-0003	Clerk/Cashier	\$400.00
TO: 1000-32020-000-0003	Travel	400.00
		<u>TOTAL: \$400.00</u>

B. Prosecutor  
Adult Protective Service Grant

FROM: 9108-32020-000-0018	Travel	\$1,000.00
9108-22010-000-0018	Gas, Oil and Lubricants	919.00
TO: 9108-11318-000-0018	Investigator APS	\$1,000.00
9108-11319-000-0018	Director APS	31.00
9108-37100-000-0018	Auto Lease	888.00
		<u>TOTAL: \$1919.00</u>

**APPROPRIATE**

C. Auditor's Office  
Enhanced Access Fund

1154-39750-000-0002	Data Processing	\$100,000.00
1155-39750-000-0002	Data Processing	100,000.00
		<u>TOTAL: \$200,000.00</u>

D. County Engineer  
Major Moves Const. Fund

1172-43155-000-0023	McKinley AM General	\$400,000.00
		<u>TOTAL: \$400,000.00</u>

E. Roads & Highway  
Local Road & Street

1169-39150-000-0060	Other Expenses	\$27,865.00
		<u>TOTAL: \$27,865.00</u>

F. Health Dept.  
Health Ebola Grant

8126-22148-000-0055	Field Supplies	\$8,000.00
8126-39750-000-0055	Data Processing	1,000.00
8126-44010-000-0055	Equipment	13,135.00
8126-44311-000-0055	Emergency Equip.	10,000.00
		<u>TOTAL: \$32,135.00</u>

G. Health Dept.  
Health Bioterrorism Grant

8113-21030-000-0055	Office Supplies	\$2,772.00
8113-22148-000-0055	Field Supplies	3,000.00
8113-32020-000-0055	Travel	3,160.00
8113-32050-000-0055	Instruction & Training	2,840.00
8113-32203-000-0055	Cell Phones	1,800.00
8113-44010-000-0055	Equipment	2,500.00
8113-45510-000-0055	Furniture & Fixtures	10,000.00
	<b><u>TOTAL: \$26,072.00</u></b>	

H. Health Dept.  
Health HUD Grant

9103-21030-000-0055	Office Supplies	\$250.00
9103-22148-000-0055	Field Supplies	3,700.00
9103-22328-000-0055	Equipment Repairs	9,785.00
9103-32020-000-0055	Travel	300.00
9103-36010-000-0055	Repairs Bldgs. & Structure	500.00
	<b><u>TOTAL: \$14,535.00</u></b>	

G. Juvenile & Probate Court  
JABG

8125-11385-000-0025	Probation Officer I	\$11,500.00
	<b><u>TOTAL: \$11,500.00</u></b>	

Motion to pass Bill No. 61-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 61-15 was passed to-wit; 9-0

**Land Use Planning:**

**BILL NO. 45-15:** PETITION TO VACATE PUBLIC WAYS AND PUBLIC PLACES WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA PETITIONER: EDWARD W. HARDIG

Mr. Noland reported that Bill No. 45-15 comes with a favorable a recommendation.

Mr. Danch, Danch, Harner and Associates, as we mentioned to Council, council had asked us last month to see if we could meet with the adjacent property owner and come to an agreement on the use of the property between us and Westwinds, property to the south. We have done that. Mr. Masters is here this evening to speak on behalf of his clients. We have come to agreement which stipulates how the property will be laid out, that we will be providing access for Mr. Master's clients. We provided Council with a site plan that shows the proposed the development that will occur on the property, assuming the Council will approve the vacation of Huron Street. The bill this evening has been revised, the ordinance that is before the Council this evening reflects part of the agreement we have with Mr. Masters clients that if the street gets vacated, they will acquire fifty feet of the sixty feet of right of way which is adjacent to their property that was part of the stipulation. We will also back that up by doing a quick claim deed to Mr. Masters clients to show that the transfer of that property so that property would remain in the county. This process is also on a parallel track, we have already done before the Area Plan Commission for the zoning issue for this property. We did receive a favorable recommendation from the Plan Commission; they also approved variances for the development. What we would say to Council this evening, there will be a public hearing for the residents, everyone that had been notified within three hundred feet for that development, there will be a public hearing where they can address their concerns at a city council meeting, that meeting will be on September 28 that will be a public hearing.

Mr. Kruszynski: Mike, I know there was an issue with the curb height on the north side of the building....

Mr. Danch: Yes, what we have done with that as part of the agreement, when we do our part of the development, there will be a curb at the north property line for Westwinds. There will be a nice clean line.

James A. Masters, Nemeth, Feeney, Masters and Campiti, 350 Columbia, South Bend, I am here tonight on behalf of Maron LLC and its owners. At your last meeting, we presented a remonstrance to the vacation of Huron Street. I am pleased to inform you that with the cooperation of the petitioner and the cooperation of the representatives of Martins, the issues raised by that remonstrance have been resolved. The remonstrance is hereby withdrawn.

Leon Grey, 56420 Butternut Road, South Bend, I am in favor of any improvement this community can have especially on the west side.

Murray Miller, 1201 Priscilla Drive, I am also in favor of this. The west side has been in need of a new grocery store in the area. I think it's well deserved for the people on the west side to get that. I am very much in favor.

Kevin Pajakowski, 58472 Eastwood Drive, South Bend, Martin's has done a wonderful thing, when they moved in, they cleaned up the area. They kept the area clean. Without Martin's, that's the one anchor we have had in this community on our side of town.

Susan Zawadowski, 159 N. Summit Drive, South Bend, I am a current Martin's customer at that store, I am very much in favor of the vacation of Huron Street. I look forward to walking and riding my bike to Martin's. I appreciate what Martin's does for our community.

Rev. Charles Zawadowski, 159 N. Summit Drive, South Bend, I am a pastor of St. Mary's Parish on Sample Street. I echo some of the thoughts we have heard today. We always talk about how we need new things on the west side, here it is. We, as a community, partner with Martin's. We do not partner with Kroger's or Meijers. Many neighborhood organizations, government entities have benefited from Martin's charity. They have an excellent track record. They are good neighbors. I endorse and support the vacation of Huron Street.

Charles Waddell, 5134 Hazelwood Court, South Bend, I am looking forward to shopping. Martin's has a history of hiring local contractors and local workers so I think it's a big boost for our economy. I am looking forward to this.

Diana Kisminski, 56921 Hollywood Blvd., South Bend, I am in opposition of Huron Street. I hope you have had an opportunity to look over the packet of information I provided to your office. As you can see from the diagram, Martin's plans to build a drive through service for customers to purchase coffee. As we all know, traffic from a drive through can quickly back up. As a result, drivers will have to wait on Hollywood Blvd. before accessing Martin's. This will result in cars backing up in both directions. This will cause a traffic jam on Grant as drivers wait to turn into Hollywood Blvd. There is no left turn signal at Mayflower and Sample. As a result, drivers will be detoured from using the Mayflower entrance into Martin's. There are a lot of children that live on Hollywood Blvd. We are your constituents, not Martin's. We need you to represent our interests.

Eric Kisminski, 56921 Hollywood Blvd., South Bend, I am here this evening representing myself and those that signed the petition. So far all we have heard from the representatives of Martin's are stories, lies and total disrespect to the residents regarding their concerns about their project. This proposed Martin's already has three entrances. Two on Mayflower and one on Western. As I looked on the Council list of names I was proved last week and addresses I noticed that none of you live in a heavily traffic road. Put yourself in our position. In America, we live in a democracy. We the people, who will be effected the most, took a vote and we voted to close the entrance to Martin's from Hollywood, you have the petition in your position.

Louann Gondos, 565547 Hollywood Blvd., I am representing my mother in law who lives on Hollywood Blvd. I am a Martin's supporter, I am happy the store is going to be put where it is going to be put. I have to agree, you guys have to cut off access to Hurron and Hollywood Blvd. It's our neighborhood. Just protect our neighborhood streets.

Denise Lentech, 56595 S. Hollywood Blvd., my husband and I have lived here for thirty eight years; we have raised our children and now enjoy our grandchildren visiting us here. We chose this neighborhood to live out our lives in because it is peaceful and friendly. We the neighbors who live on Hollywood, Ford and Elmer beg of you to allow the quality of our lives to remain somewhat, what we envisioned it when we chose this neighborhood to live out our lives. Please vote against the entrance/exit on Hollywood.

Jeffrey Booker, 56577 Hollywood Blvd., I too know that Martin's does a lot of good for our community. I am not against Martin's building a store. The realization of the Martin's project with a rear entrance off of Hollywood Blvd. is not fair. It's not fair to the residents or the county. The city will annex this part for the Martin's project, Martin's will use the road and the county will have to maintain it. That's not fair. It will put a lot of traffic back there. We are just asking for one concession from Martin's. Close that entrance.

Patricia Cichowicz Lynch, 23665 Grant Road, South Bend, Martin's has been a great neighbor. We know they will be moving and building in between Hollywood and Mayflower and we accept that but we object to an egress on Hollywood.

Thomas J. Kowalski, 56680 Hollywood Blvd., South Bend, I am representing my mom who is 92 years old and still resides there. With the entrance to Martin's on Hollywood, we won't be able to get out of our driveway most of the time. My mom is not driving but my mom does not want it there.

Mr. Danch: We are looking at the concerns of the residents that showed up this evening. This project has gone through review both county engineering department and also city engineer for the City of South Bend. We asked them to take a look at the project as well. We do have a main access point that would be onto Mayflower Road, actually we have two on Mayflower Road and there will be one on Western. The one off of Hollywood Blvd. we don't believe will be a main entrance for any access point from that residential area. That is to allow access for residents to come in; they don't have to go out to Mayflower Road, that's one of the reasons for that. It is not a main access point. We created that strictly to allow for residents that are going to use the Martin's to get back to their homes without either going out to Western Ave. or onto Mayflower. I have not heard any concerns from either the city engineering department or the county engineering department about increase amount of traffic that would be going out onto Hollywood Blvd. but we will take a look at that. We have heard concerns though, of the rout that is being taken from Grant up to Western and then over to the church for picking up children but I don't think there's that huge increase and I believe the county engineering department is also going to be taking a look at it from a traffic standpoint as well. What we would ask Council to do is allow us to move ahead and get to the city council portion for the rezoning where these remonstrators can show up and address their concerns with the city council as well.

Mr. Kruszynski: Mike, I think you just answered it, I know three for four of the residents got up and spoke were concerned about that access onto Hollywood. But their concerns should be addressed with the city council, am I correct?

Mr. Danch: That is correct. The city engineering department will have jurisdiction, we are going through that annexation procedure to bring it into the city. The city engineering department also has a close relationship with county engineering as well. So I think between the two they will also be looking at it. We will have to submit a final site plan for approval for those departments before we build.

Mr. Catanzarite: Just for the record, Mr. Kisminski mentioned none of live near commercial. I live about a hundred feet away from a Walgreens store near Ironwood and Edison so I do know what it is like to live next to commercial property and I have a dentist and an insurance office next door to me. Having gone through that process and worked with those groups when they moved into our neighborhood after I moved there and not known they were going to be there when I moved initially, the zoning screening requirements that are in place today are a lot more stringent than they were many years ago so for me personally, it's been a positive experience living next to a commercial property and some offices and the screen that has gone up has shielded my family from what I consider to be to very highly, intensive used properties so to our satisfaction, I just want to say I do live next to commercial property and by it and it has not been a bad experience. Mr. Danch, looking at our concerns, I think you have written commitments, you would not use Hollywood for any truck delivery access, right?

Mr. Danch: It was actually designed that way. Truck traffic will not go out onto Hollywood Blvd. We did work closely with the city engineering department on that as well as Jessica (Clark) and the way it's designed, the whole site is designed for truck traffic to come off of either Western Avenue come south through our access point which is east of John Becker's shopping center or come in off of Mayflower Road. The whole design for truck turning radius is dictated by that access routing. A truck could not come down Hollywood Blvd. and make the turn into the site and one of the things we have mentioned to the residents is, Martin's has complete control over any of the vendors that delivery goods/produce to their stores so that we can prevent that from happening.

Mr. Catanzarite: Hearing the concerns from most of the Hollywood residents who would be most impacted by this, is there a design possibility of an entrance or an exit off of Hollywood that could be achieved that would make it less intensive?

Mr. Danch: We can take a look at that but it's almost going to be up to the engineering department to see if there is a way to limit how that traffic would access Hollywood Blvd. There are certain ways to do an entrance way to deliver traffic one way or another.

Mr. Catanzarite: You negotiated with Westwinds. Westwinds contends that many of their patrons currently and have for a long time always used Hollywood Blvd. to avoid Mayflower Road, is that correct? Was that conveyed to you?

Mr. Danch: I have heard that, the patrons that came out of Westwinds would like to go over toward Hollywood because it's easier that way. I also heard where there is a situation where Huron Street was a straight through, there were actually people cutting through Mayflower over to Hollywood Blvd. and racing down that so by our design, we will be able to stop that.

Mr. Catanzarite: By offsetting that.

Mr. Danch: By offsetting that and making it more difficult, we are also going to include signage, stop signs within our site.

Mr. Morton: You are saying that you are talking to the city engineer?

Mr. Danch: We have done that, yes. What I am saying is, before we can get our approval to start the project, they will have to review everything and make sure that we are in compliance as well.

Mr. Morton: Is the city engineer; is he aware of all the concerns of the residents?

Mr. Danch: They will be, I think with them showing up, they were at the Area Plan Commission meeting so I think some of those concerns were conveyed at the Area Plan Commission meeting that we had approximately two weeks ago. It will also be at the city council meeting as well.

Mr. Morton: I think it would make sense if the city engineer was made aware of these concerns before the night of the public hearing. That just makes sense.

Mr. Danch: I would be glad to inform them, I have no trouble doing that.

Mr. Catanzarite: I hope Martin's is very sensitive to that issue; it sounds like you are trying to address it or willing to look at it and possibly address it. I think the people have made some very thoughtful and true statements about how the impact will be on their neighborhood.

Mr. Morton: Mr. Danch, the site plan you presented tonight is amended, correct?

Mr. Danch: Correct.

Mr. Kruszynski: I have just a few comments. Some of the concerns that were addressed, I know Mr. Booker, you brought up about the traffic count or study, I have emailed our county engineer, Jessica Clark last week after I heard your concern in regards to that. She is working with MACOG to get that done before winter, we would like to see what that count is before Martin's is built, if this passes. The lady that brought up about a couple of intersections in regards to Grant and Mayflower, again, that is a city issue, the county does not have any jurisdiction over that intersection. Same thing with Western and Mayflower, if we recall at the neighborhood meeting that a few of us attended, Councilman Oliver Davis indicated that he would be looking at those traffic signals, he was going to talk to the city engineer to address that issue along with some left turning lanes, which Mike, isn't there some left turning lanes purposed on Huron?

Mr. Danch: Yes, the main entrance way we have on to Mayflower Road at the request of city engineer they asked that we provide a left turn lane onto Mayflower Road. That also has a dedicated right turn lane as well. That was part of their design when they took a look at our site plan.

Mr. Kruszynski: Also, I have spoken to Jessica in regards to the way that Hollywood is constructed and she is going to take a look at that Mr. Booker and once we get traffic counts and again, if this is passed and get traffic counts later then that issue will be addressed. I also had a meeting with Area Plan and discussed some options that could be done to Hollywood along with Jessica that if that traffic turns to get real bad, there are things we can do, we as a county can do to Hollywood, not to the access point onto Hollywood but there are things we can do down the road if starts to be a real nuisance.

Audience member: Is Martin's going to post a bond (inaudible) on that nice new road you put in? I think someone should consider that.

Mr. Kruszynski: Jeff, in dealing with the Martin's representatives for the last two months, either on the phone or in person, not with just myself but with other colleagues on the Council here, I will hold Mr. Bartles accountable for whatever goes around in that area in Martin's commitment to this store, if it's passed and the commitment they made to the other stores, I am pretty pleased at what I see. Like Councilman Cantazarite has said, he does live in a pretty heavily commercial area, I just so happen to live right off of Quince Road, we have a school there, you have fire trucks there, you have all kinds of traffic going up and down Quince so we get it on Quince also. I am also concerned of the constituents in that area that's why I will hold Mr. Bartle's accountable, I will be the first one banging on his door. I think he knows that.

Motion to pass the amendment for Bill No. 45-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Amended Bill No. 45-15 was passed by a voice vote to-wit; 9-0.

Mr. O'Brien: I wanted to acknowledge that Martin's investment is coming without any request to the county for incentives. I'm impressed with that among many other aspects of the project, the number of jobs that will be retained and additional jobs to be created as well. It's not often that investments in real estate of this nature do not come to us with a request for an incentive and I am very pleased with that and I will be supporting passage when we ultimately vote.

Ms. Hess: I also think that Martin's brings a lot to the community and am pleased with the developments I have seen and past and look forward to this one however, I will echo what Mark Catanzarite said as well, I think they should take the neighbor's concerns into consideration when they are making this development because they have lived there for a long time and to have their life disrupted or as they perceive as being disrupted needs to be given careful consideration. I know that Bobby K., that's his district, he will be as he said, knocking on Mr. Bartle's door if there is a problem and my district butts right up against that so again, I work with neighborhoods in the City of South Bend that's my day job, so I am very concerned about what neighbors think when there is development or new things are happening in their neighborhood.

Mr. Morton: Mr. Danch, I'd be interested in hearing from you as you progress with your conversation with the city engineer, hopefully there again, before the public hearing and if you would be so kind as to give me a call and let me know how that's progressing.

Mr. Danch: I will.

Motion to pass Bill No. 45-15 was made by Mr. Kruszynski and seconded by Mr. O'Brien. Bill No. 45-15 was passed to-wit; 9-0

**BILL NO. 53-15:** A RESOLUTION OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, ESTABLISHING REASONABLE ACCOMMODATION POLICIES AND PROCEDURES IN ZONING AND LAND USE DECISIONS WITHIN THE COUNTY OF ST. JOSEPH, INDIANA  
PETITIONER: MARK P. TELLOYAN

Mr. Noland reported that Bill No. 53-15 comes with a favorable a recommendation.

Mr. Telloyan: This proposed ordinance brings the county in mind with the ADA, the American Disabilities Act and Fair Housing Act. It also echo's a resolution passed earlier by our colleagues on the City of South Bend. Mark Lyons from the Building Department is here if there are any detailed questions, I was asked by Jamie Woods to present it to the Council, I would ask for its passage.

Motion to pass Bill No. 53-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Bill No. 53-15 was passed to-wit; 9-0

**BILL NO. 57-15: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION PETITIONER: AREA PLAN COMMISSION**

Mr. Noland reported that Bill No. 57-15 comes with a favorable a recommendation.

Larry Magliozzi, Executive Director of the Area Plan Commission, this is establishing new fees for the next two years, 2016-2017. It replaces a multiyear schedule that was approved back in 2009.

Motion to pass Bill No. 57-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 57-15 was passed to-wit; 9-0

**BILL NO. 60-15: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY AMERICAN STRUCTUREPOINT ON BEHALF OF NAVISTAR FOR THE PROPERTY LOCATED AT 32104 STATE ROAD 2, NEW CARLISLE THE SAME BEING PETITION NO. 08-05-15-14 FILED WITH THE AREA BOARD OF ZONING APPEALS**

Mr. Noland reported that Bill No. 60-15 comes with a favorable a recommendation.

Mark Lyons, Building Department, this was given public hearing at the August 5<sup>th</sup> at the Area Board of Zoning appeals, this is a special exception to allow an auto testing grounds. This comes to you with a unanimous favorable recommendation.

Mr. Catanzarite: Unrelated to the bill but I would just like to extend my congratulations to Mr. Lyons and thank him for his ten years of service to our county and wish you the best of luck moving forward. You brought a lot to the county in terms of helping us out in a lot of issues that have come before us.

Mr. Lyons: Thank you, I appreciate it.

Mr. Kruszynski: I'd like to echo that Mark, the little time I have had time to work with you, you have been very good but you have one last request, what about 56131 Butternut? I left you a message about a week ago.

Mr. Lyons: It's on the demo list, so it should be getting it taken care of. It will probably be the 2016 list. Chuck is just starting to get the 2016 list put together, probably end of November early December when he will be bringing those forward to get the process started.

Mr. Kruszynski: Thank you, good luck to you.

Mr. Hamann: Mr. Lyons, I didn't realize you were leaving us. I do wish you the best of luck and you were outstanding when I was a councilman and any concerns you were "Johnny on the spot" whenever I called, you would check on within twenty four hours of a property to see if it was in compliance with building code so I really appreciated your hard work so good luck.

Mr. Lyons: Thank you.

Mr. McCahill: Congratulations on going home go Packers.

Motion to pass Bill No. 60-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 60-15 was passed to-wit; 9-0

**Unfinished Business:**

**New Business:**

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

Mr. O'Brien: I just wanted to report to the council, I did have office hours or an open house last week to invite people to come in and speak about the Taxpayer Protection and Transparency Ordinance that I proposed. Only one person showed up, I spoke with that person to explain the ordinance, I had no other face to face questions about it. I have had nine or ten calls and messages in support of it. I will talk more about it at the committee meetings in a couple of weeks.

Jim Bogner, 807 W. Washington Street, South Bend, I come this evening regarding property in the City of South Bend, 803 W. Washington, I believe it resides in President Morton's district. This is also known as the Kiser Mansion. I am in front of Council this evening is because of an issue related to the Historic Preservation Commission. As you may or may not know, the Historic Preservation Commission for the last fifteen years has had a façade easement on this property. During this period of time they had care, custody and control of the façade of this building. A very unusual situation, an asset to our county. On February 23, 2015, the Historic Preservation Commission, under a deed of easement, transferred or essentially gave up the façade easement on this property, care, custody and control. There were questions at the city council last meeting that they had over the issue of whether this was a valid transfer. I realize in fairness of Historic Preservation Commission they are not here this evening, but it was a transfer of an asset. The other issue I am deeply concerned about, living directly next door to this property is that once the property was allowed to be transferred from the City of South Bend to Indiana Landmarks, two of the chimney's were dismantled. That had to of been through an agreement with HPC because they had care, custody and control of the façade, again an asset to this county. Those chimney's continued to be down today. They have not been restored, Councilman Catanzarite knew the people at the time that lived there, can validate the fact that they are there. There are serious questions that relate to how the Historic Preservation Commission handled this property over the 15 years they had it. My letter is directed to President Morton but it is for all of you, it basically asks, what has happened between December 11, 2011 which was the transfer of the property from the City of South Bend to the Historic Landmarks Foundation of Indiana, also called Indiana Landmarks until this deed of easement? I don't know that it ever came in front of council, I don't know if council was ever aware of it. I don't know whether the Historic Preservation Commission ever could do it without talking with council but there were clearly were two things that happened here. An important asset in this community, a façade easement, and there are also three others, were transferred. Secondly, during the period of time that Indiana Landmarks owned the property, there was work done on the property and it was not followed through on and does not till this day. The reason why I am here is to ask council to take a look at this through their legal folks and all of you to take a look at the history of this and what Historic Preservation does. Now having lived in the neighborhood, I can tell you, if I came down to any work on my property and I went the building department to get a permit, they would look at where I lived at, they would know it was an historic property and they would ask to review this. I know of no place else we could go almost four years without some kind of plan that came trough Historic Preservation. I think my concern to this is, they may have answers to this, but I don't understand why demolition to these chimney's which needed to be done and not rebuilt and I don't understand why an asset was given away without coming to the elected officials. There may be a question you may have is well, if this happened February why am I now coming before you now. It's because many of us just realized that this occurred through other issues that are unrelated to this council and because of the nature of Historic Preservation I think they owe everyone some answers, first of all, you folks and then ultimately, me. I think it's a question in government about fairness, about are we all going to be treated equally or is there a wink a nod that we are going to somehow take of this because this is going to a higher level and then the higher level turns and sells it. This is an important property in the city, the individuals that were working on this property are having issues with Indiana Landmarks which does not relate to this, the city is conducting their own investigation but I do believe that the Council does have issues relating to this to understand how it would have been sold and how it would have been passed over without anybody knowing anything. I'd be glad to take any questions anyone may have but the documentation, which I don't expect you to look at now, will clearly show you, what we call the Freedline Easement from 83, what governed it up unto the transfer of the easement.

Mr. Morton: What is the time table of the city's investigation?

Mr. Bogner: That's a very good question, Mr. President. The city isn't conducting a thorough investigation into issues that are related to Indiana Landmarks and the current property owners that have nothing to do directly with the Historic Preservation Commission so that is why I am here asking for your help. Basically to find out what you folks know about this and what will come of this. I don't know that the city has a time table but as you know, Historic Preservation Commission is a hybrid, it's part city and part county but most of the time county comes in. I also want to say too, it's very important to be fair. They are obviously not here to discuss this. I am not accusing them of doing anything wrong other than to say, no one would be allowed to do a dismantling as they did without some sort of plan and I believe my letter says what happened during this period of time. So no, I know that the city has a time table. I

do know that Community Investment and Scott Ford has assigned someone to do a thorough investigation and go back to the city council. I was not a part of that during that particular time, asking for an investigation. This is more related to Historic Preservation and what they did with the easement.

Mr. Kruszynski: Mr. Bogner, obviously you have presented this to the Historic Preservation....

Mr. Bogner: We have through the years presented much information to the Historic Preservation Commission. We have never received answers from them from during the period of time.

Mr. Kruszynski: When's the last time you addressed them?

Mr. Bogner: The last time we addressed the Historic Preservation Commission was at the time of the sale of the property from the City of South Bend to Indiana Landmarks and we were assured at that time that Historic Preservation and Landmarks would be working in cooperation to be able to assist in stabilizing and that was one of the reasons why the chimney's were removed and as I noted in my letter here, they were done in January and February of 2012. From that point on, it basically was this is an Indiana Landmarks problem and not our problem but the façade easement was not transferred until February of 2015 which means it was an asset of the county's. I come here this evening based on the information that I want to know number one, was it a legal transfer, could they do that without going through any of the bodies and secondly, basically what had happened during the period of time when Landmarks owned the property and HPC had a façade easement on it.

Mr. Kruszynski: Have you addressed this issue with their attorney?

Mr. Bogner: That portion was addressed through the city council and I believe that the city council was also looking at this portion that relates to whether the transfer of the façade easement was legal, so yes, that portion was done, I did not do it, it was done at the last council meeting. I did not personally do it.

Mr. Kruszynski: Mr. Zappia represents the Historic Preservation. Has he gotten back to you?

Mr. Bogner: He has not gotten back to me, but it was directly related to me, I come before the council to bring this to council's attention. I also, I might add, to show that there are three other properties that façade easements continue to be on, which is at a higher level of what would normally occur under HPC rules and guidelines and that's what that information provides you with.

Mr. O'Brien: Mr. Bogner, what is your ultimate goal here, you want to see someone repair and rebuild chimneys?

Mr. Bogner: Well, I think two things. Number one, my concern is, that an asset was passed along and there was a loss of local community involvement. The easement is very clear. Secondly, I think there should be some clarification as to how something can be taken down and be left down for four years without some kind of a plan and HPC is usually very good jumping on issues that have problems. I have seen them in several areas, including houses that are up for demolition that have historic nature to it. This is a very strange situation.

Mr. O'Brien: So you don't care if the chimneys are rebuilt or not?

Mr. Bogner: Obviously we want to have the chimneys rebuilt and I would like to see the property saved; there is a third chimney that was not dismantled that is in disrepair at this time. I am wanting to know what HPC knew and when they knew it and whether they transferred any of that information to anyone of the governing bodies before they gave up the easement.

**Adjournment:** Mr. Morton stated that the meeting was adjourned 7:25 p.m.















MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
September 8, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on September 8, 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. Noland made a motion to approve the minutes of the August 11, 2015 public hearing was seconded by Mr. O'Brien, the motion was passed by a voice vote; 9-0.

Mr. Noland made a motion to return Bill No. 58-15 back to committee per the petitioner; it was seconded by Mr. Catanzarite. The motion was passed by a voice vote; 9-0.

No report from the County Auditor  
No report from the County Commissioner  
No report from Special Committees.

**First Readings:**

**BILL NO. 67-15:** 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 13460 E. MCKINLEY AND 56020 CURRANT ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT PETITIONER: RBS PROPERTIES LLC  
Assigned to the Land Use Planning Committee

**BILL NO. 68-15:** AN ORDINANCE OF ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO 79-13 WHICH ESTABLISHED THE PUBLIC SAFETY COMMUNICATIONS CONSORTIUM OF ST. JOSEPH COUNTY, AND MODIFYING SECTION 6 OF SAID ORDINANCE REGARDING THE OPERATIONS BOARD POWERS AS ESTABLISHED THEREIN Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 69-15:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF THE ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC. 6-1.1-12.1-14 ET SEQ PETITIONER: ST. JOSEPH ENERGY CENTER, LLC  
Assigned to the Land Use Planning Committee

**9. Public Hearing on the Airport Authority, Solid Waste Management, and St. Joseph County 2016 Budget:**

**BILL NO. 62-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) AIRPORT AUTHORITY**

Mike Daigle, Executive Director, St. Joseph County Airport Authority, the Airport Authority is requesting consideration of our 2016 budget. Our budget consists of three different funds, the Aviation Fund, Cumulative Building and Debt Services. The total of these funds are twenty million, five hundred and forty one thousand. In our 2016 budget, we have reflected and amount of cost of living wage increases, additional wage adjustments and also some job upgrades based on changes and responsibilities. The largest increase in these funds is in the Cumulative Building fund primarily for air service development. As you know, we are receiving bids in the next two weeks to build a federal inspection station and a general aviation facility to be able and process international flights, a first for our region.

Motion to pass Bill No. 62-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 62-15 was passed to-wit; 9-0.

**BILL NO. 63-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) SOLID WASTE**

Randy Przybysz, Executive Director, Solid Waste Management, budget proposal for 2016 has been approved by our board which you should have a copy of that resolution. Everything in this budget was kept just about the same as last year, there are no raises being proposed. Our total budget for next year is being proposed as an increase of a hundred fifty two thousand, six hundred and forty three dollars and that comes basically from two line items, our Household Hazardous Waste Program in Mishawaka, last year was just under ten thousand people with seven hundred and sixty nine thousand pounds of hazardous material going through there. We are on track this year to exceed that number. People coming and the amount of material. Another factor is, for the last six years we have been under contract with a company called ERI to take the obsolete electronics. They have taken them for free so we rode that horse now all that we can because we were notified that they were the last ones offering to do it for free, that is not going to happen anymore. Our contract is up the end of this year. We have no idea what the charges are going to be or how much material we are going to take in until it actually happens. The proposal there was to take that budget line item from a hundred thousand to two hundred thousand. The other is a fifty thousand dollars put into a capital improvement fund, we have never had that before. There is some discussion to combine our office and our HHW program in one location, more centrally located to the population in the county and also large enough to handle the kind of numbers we are taking through there now. We are land locked where we are at. That money would only be used, should we find a piece of property to do any plans and only with the approval of the board. We have no choice on the electronics; we have to do something about that program. We are anticipating having to pay we just have no idea how much.

Mr. O'Brien: How much do you estimate will be brought in from fees?

Mr. Przybysz: Our total income is about two point five million per year. This budget is two point nine five.

Mr. O'Brien: Is there enough in reserve to fund this?

Mr. Przybysz: Yes and that was discussed with the board. Some of this, because of the process now having to before the Council, there are certain line items, like for the curb side recycling program where we budget for worst case scenario because we would not know until late in the year if fuel surcharges or something needed to kick in and raise the amount we are paying out for that.

Motion to pass Bill No. 63-15 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 63-15 was passed to-wit; 9-0.

**BILL NO. 64-15: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2016**

Mr. Hamann, St. Joseph County Auditor, the budget is still a work in progress. I can say at this juncture, it is estimated to be about fifty six point two million dollars in terms of expenditures for the general fund. When you

combine all the different funds we are looking at about a total budget of a hundred and thirteen million dollars. It is still a work in progress.

Motion to pass Bill No. 64-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 64-15 was passed to-wit; 9-0.

**BILL NO. 65-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES  
(BUDGET FORM 4) ST. JOSEPH COUNTY, INDIANA**

Mr. Hamann, St. Joseph County Auditor, tax rates again are a work in progress. To give a brief overview, the Assessor's office provides the gross assessment, that then rolls over to the Auditor's office and what our office does then is it comes up with the net assessed value of the property in the county, you take away the exemptions, the abatements and deductions, we then provide that to the state and then the state will take that number, take the number, the various budgets from various tax entities and levy and calculate what those tax rates will be so that will be a few months.

Motion to pass Bill No. 65-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 65-15 was passed to-wit; 9-0.

**SALARY AMENDMENT:**

**BILL NO. 66-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015  
DEPT. 0018 PROSECUTOR**

Mr. McCahill reported that Bill No. 66-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's Office, we are here asking for an amendment to our salary amendment to reflect the changes that we appropriated in our first budget to what the APS Grant finally came in at.

Motion to pass Bill No. 66-15 was made by Mr. McCahill and seconded by Ms. Hess. Bill No. 66-15 was passed to-wit; 9-0.

**BILL NO. 49-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE FISCAL YEAR 2015-2016 DEPT. 0025 JUVENILE & PROBATE COURT**

Mr. McCahill reported that Bill No. 49-15 comes with a favorable a recommendation.

Pete Morgan, Executive Director of the St. Joseph Probate Court and Juvenile Justice Center, we are seeking a salary amendment which would allow us to apply eleven thousand, five hundred dollars in funds which were awarded under a Juvenile Accountability Block grant to the salary known as Education Coordinator in our probation user fees budget in line number 11376, the reason for seeking the amendment is this would be the person charged with carrying out the duties of the grant over and above the reason for the position otherwise.

Motion to pass Bill No. 49-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-15 was passed to-wit; 9-0.

**Public Hearing/Public Comment:**

**BILL NO. 61-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE  
HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY  
GOVERNMENT**

A. Treasurer  
General Fund

FROM: 1000-11682-000-0003	Clerk/Cashier	\$400.00
TO: 1000-32020-000-0003	Travel	400.00
		<u>TOTAL: \$400.00</u>

B. Prosecutor  
Adult Protective Service Grant

FROM: 9108-32020-000-0018	Travel	\$1,000.00
9108-22010-000-0018	Gas, Oil and Lubricants	919.00
TO: 9108-11318-000-0018	Investigator APS	\$1,000.00
9108-11319-000-0018	Director APS	31.00
9108-37100-000-0018	Auto Lease	888.00
		<u>TOTAL: \$1919.00</u>

**APPROPRIATE**

C. Auditor's Office  
Enhanced Access Fund

1154-39750-000-0002	Data Processing	\$100,000.00
1155-39750-000-0002	Data Processing	100,000.00
		<u>TOTAL: \$200,000.00</u>

D. County Engineer  
Major Moves Const. Fund

1172-43155-000-0023	McKinley AM General	\$400,000.00
		<u>TOTAL: \$400,000.00</u>

E. Roads & Highway  
Local Road & Street

1169-39150-000-0060	Other Expenses	\$27,865.00
		<u>TOTAL: \$27,865.00</u>

F. Health Dept.  
Health Ebola Grant

8126-22148-000-0055	Field Supplies	\$8,000.00
8126-39750-000-0055	Data Processing	1,000.00
8126-44010-000-0055	Equipment	13,135.00
8126-44311-000-0055	Emergency Equip.	10,000.00
		<u>TOTAL: \$32,135.00</u>

G. Health Dept.  
Health Bioterrorism Grant

8113-21030-000-0055	Office Supplies	\$2,772.00
8113-22148-000-0055	Field Supplies	3,000.00
8113-32020-000-0055	Travel	3,160.00
8113-32050-000-0055	Instruction & Training	2,840.00
8113-32203-000-0055	Cell Phones	1,800.00
8113-44010-000-0055	Equipment	2,500.00
8113-45510-000-0055	Furniture & Fixtures	10,000.00
	<b><u>TOTAL: \$26,072.00</u></b>	

H. Health Dept.  
Health HUD Grant

9103-21030-000-0055	Office Supplies	\$250.00
9103-22148-000-0055	Field Supplies	3,700.00
9103-22328-000-0055	Equipment Repairs	9,785.00
9103-32020-000-0055	Travel	300.00
9103-36010-000-0055	Repairs Bldgs. & Structure	500.00
	<b><u>TOTAL: \$14,535.00</u></b>	

G. Juvenile & Probate Court  
JABG

8125-11385-000-0025	Probation Officer I	\$11,500.00
	<b><u>TOTAL: \$11,500.00</u></b>	

Motion to pass Bill No. 61-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 61-15 was passed to-wit; 9-0

**Land Use Planning:**

**BILL NO. 45-15:** PETITION TO VACATE PUBLIC WAYS AND PUBLIC PLACES WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA PETITIONER: EDWARD W. HARDIG

Mr. Noland reported that Bill No. 45-15 comes with a favorable a recommendation.

Mr. Danch, Danch, Harner and Associates, as we mentioned to Council, council had asked us last month to see if we could meet with the adjacent property owner and come to an agreement on the use of the property between us and Westwinds, property to the south. We have done that. Mr. Masters is here this evening to speak on behalf of his clients. We have come to agreement which stipulates how the property will be laid out, that we will be providing access for Mr. Master's clients. We provided Council with a site plan that shows the proposed the development that will occur on the property, assuming the Council will approve the vacation of Huron Street. The bill this evening has been revised, the ordinance that is before the Council this evening reflects part of the agreement we have with Mr. Masters clients that if the street gets vacated, they will acquire fifty feet of the sixty feet of right of way which is adjacent to their property that was part of the stipulation. We will also back that up by doing a quick claim deed to Mr. Masters clients to show that the transfer of that property so that property would remain in the county. This process is also on a parallel track, we have already done before the Area Plan Commission for the zoning issue for this property. We did receive a favorable recommendation from the Plan Commission; they also approved variances for the development. What we would say to Council this evening, there will be a public hearing for the residents, everyone that had been notified within three hundred feet for that development, there will be a public hearing where they can address their concerns at a city council meeting, that meeting will be on September 28 that will be a public hearing.

Mr. Kruszynski: Mike, I know there was an issue with the curb height on the north side of the building....

Mr. Danch: Yes, what we have done with that as part of the agreement, when we do our part of the development, there will be a curb at the north property line for Westwinds. There will be a nice clean line.

James A. Masters, Nemeth, Feeney, Masters and Campiti, 350 Columbia, South Bend, I am here tonight on behalf of Maron LLC and its owners. At your last meeting, we presented a remonstrance to the vacation of Huron Street. I am pleased to inform you that with the cooperation of the petitioner and the cooperation of the representatives of Martins, the issues raised by that remonstrance have been resolved. The remonstrance is hereby withdrawn.

Leon Grey, 56420 Butternut Road, South Bend, I am in favor of any improvement this community can have especially on the west side.

Murray Miller, 1201 Priscilla Drive, I am also in favor of this. The west side has been in need of a new grocery store in the area. I think it's well deserved for the people on the west side to get that. I am very much in favor.

Kevin Pajakowski, 58472 Eastwood Drive, South Bend, Martin's has done a wonderful thing, when they moved in, they cleaned up the area. They kept the area clean. Without Martin's, that's the one anchor we have had in this community on our side of town.

Susan Zawadowski, 159 N. Summit Drive, South Bend, I am a current Martin's customer at that store, I am very much in favor of the vacation of Huron Street. I look forward to walking and riding my bike to Martin's. I appreciate what Martin's does for our community.

Rev. Charles Zawadowski, 159 N. Summit Drive, South Bend, I am a pastor of St. Mary's Parish on Sample Street. I echo some of the thoughts we have heard today. We always talk about how we need new things on the west side, here it is. We, as a community, partner with Martin's. We do not partner with Kroger's or Meijers. Many neighborhood organizations, government entities have benefited from Martin's charity. They have an excellent track record. They are good neighbors. I endorse and support the vacation of Huron Street.

Charles Waddell, 5134 Hazelwood Court, South Bend, I am looking forward to shopping. Martin's has a history of hiring local contractors and local workers so I think it's a big boost for our economy. I am looking forward to this.

Diana Kisminski, 56921 Hollywood Blvd., South Bend, I am in opposition of Huron Street. I hope you have had an opportunity to look over the packet of information I provided to your office. As you can see from the diagram, Martin's plans to build a drive through service for customers to purchase coffee. As we all know, traffic from a drive through can quickly back up. As a result, drivers will have to wait on Hollywood Blvd. before accessing Martin's. This will result in cars backing up in both directions. This will cause a traffic jam on Grant as drivers wait to turn into Hollywood Blvd. There is no left turn signal at Mayflower and Sample. As a result, drivers will be detoured from using the Mayflower entrance into Martin's. There are a lot of children that live on Hollywood Blvd. We are your constituents, not Martin's. We need you to represent our interests.

Eric Kisminski, 56921 Hollywood Blvd., South Bend, I am here this evening representing myself and those that signed the petition. So far all we have heard from the representatives of Martin's are stories, lies and total disrespect to the residents regarding their concerns about their project. This proposed Martin's already has three entrances. Two on Mayflower and one on Western. As I looked on the Council list of names I was proved last week and addresses I noticed that none of you live in a heavily traffic road. Put yourself in our position. In America, we live in a democracy. We the people, who will be effected the most, took a vote and we voted to close the entrance to Martin's from Hollywood, you have the petition in your position.

Louann Gondos, 565547 Hollywood Blvd., I am representing my mother in law who lives on Hollywood Blvd. I am a Martin's supporter, I am happy the store is going to be put where it is going to be put. I have to agree, you guys have to cut off access to Hurron and Hollywood Blvd. It's our neighborhood. Just protect our neighborhood streets.

Denise Lentech, 56595 S. Hollywood Blvd., my husband and I have lived here for thirty eight years; we have raised our children and now enjoy our grandchildren visiting us here. We chose this neighborhood to live out our lives in because it is peaceful and friendly. We the neighbors who live on Hollywood, Ford and Elmer beg of you to allow the quality of our lives to remain somewhat, what we envisioned it when we chose this neighborhood to live out our lives. Please vote against the entrance/exit on Hollywood.

Jeffrey Booker, 56577 Hollywood Blvd., I too know that Martin's does a lot of good for our community. I am not against Martin's building a store. The realization of the Martin's project with a rear entrance off of Hollywood Blvd. is not fair. It's not fair to the residents or the county. The city will annex this part for the Martin's project, Martin's will use the road and the county will have to maintain it. That's not fair. It will put a lot of traffic back there. We are just asking for one concession from Martin's. Close that entrance.

Patricia Cichowicz Lynch, 23665 Grant Road, South Bend, Martin's has been a great neighbor. We know they will be moving and building in between Hollywood and Mayflower and we accept that but we object to an egress on Hollywood.

Thomas J. Kowalski, 56680 Hollywood Blvd., South Bend, I am representing my mom who is 92 years old and still resides there. With the entrance to Martin's on Hollywood, we won't be able to get out of our driveway most of the time. My mom is not driving but my mom does not want it there.

Mr. Danch: We are looking at the concerns of the residents that showed up this evening. This project has gone through review both county engineering department and also city engineer for the City of South Bend. We asked them to take a look at the project as well. We do have a main access point that would be onto Mayflower Road, actually we have two on Mayflower Road and there will be one on Western. The one off of Hollywood Blvd. we don't believe will be a main entrance for any access point from that residential area. That is to allow access for residents to come in; they don't have to go out to Mayflower Road, that's one of the reasons for that. It is not a main access point. We created that strictly to allow for residents that are going to use the Martin's to get back to their homes without either going out to Western Ave. or onto Mayflower. I have not heard any concerns from either the city engineering department or the county engineering department about increase amount of traffic that would be going out onto Hollywood Blvd. but we will take a look at that. We have heard concerns though, of the rout that is being taken from Grant up to Western and then over to the church for picking up children but I don't think there's that huge increase and I believe the county engineering department is also going to be taking a look at it from a traffic standpoint as well. What we would ask Council to do is allow us to move ahead and get to the city council portion for the rezoning where these remonstrators can show up and address their concerns with the city council as well.

Mr. Kruszynski: Mike, I think you just answered it, I know three for four of the residents got up and spoke were concerned about that access onto Hollywood. But their concerns should be addressed with the city council, am I correct?

Mr. Danch: That is correct. The city engineering department will have jurisdiction, we are going through that annexation procedure to bring it into the city. The city engineering department also has a close relationship with county engineering as well. So I think between the two they will also be looking at it. We will have to submit a final site plan for approval for those departments before we build.

Mr. Catanzarite: Just for the record, Mr. Kisminski mentioned none of live near commercial. I live about a hundred feet away from a Walgreens store near Ironwood and Edison so I do know what it is like to live next to commercial property and I have a dentist and an insurance office next door to me. Having gone through that process and worked with those groups when they moved into our neighborhood after I moved there and not known they were going to be there when I moved initially, the zoning screening requirements that are in place today are a lot more stringent than they were many years ago so for me personally, it's been a positive experience living next to a commercial property and some offices and the screen that has gone up has shielded my family from what I consider to be to very highly, intensive used properties so to our satisfaction, I just want to say I do live next to commercial property and by it and it has not been a bad experience. Mr. Danch, looking at our concerns, I think you have written commitments, you would not use Hollywood for any truck delivery access, right?

Mr. Danch: It was actually designed that way. Truck traffic will not go out onto Hollywood Blvd. We did work closely with the city engineering department on that as well as Jessica (Clark) and the way it's designed, the whole site is designed for truck traffic to come off of either Western Avenue come south through our access point which is east of John Becker's shopping center or come in off of Mayflower Road. The whole design for truck turning radius is dictated by that access routing. A truck could not come down Hollywood Blvd. and make the turn into the site and one of the things we have mentioned to the residents is, Martin's has complete control over any of the vendors that delivery goods/produce to their stores so that we can prevent that from happening.

Mr. Catanzarite: Hearing the concerns from most of the Hollywood residents who would be most impacted by this, is there a design possibility of an entrance or an exit off of Hollywood that could be achieved that would make it less intensive?

Mr. Danch: We can take a look at that but it's almost going to be up to the engineering department to see if there is a way to limit how that traffic would access Hollywood Blvd. There are certain ways to do an entrance way to deliver traffic one way or another.

Mr. Catanzarite: You negotiated with Westwinds. Westwinds contends that many of their patrons currently and have for a long time always used Hollywood Blvd. to avoid Mayflower Road, is that correct? Was that conveyed to you?

Mr. Danch: I have heard that, the patrons that came out of Westwinds would like to go over toward Hollywood because it's easier that way. I also heard where there is a situation where Huron Street was a straight through, there were actually people cutting through Mayflower over to Hollywood Blvd. and racing down that so by our design, we will be able to stop that.

Mr. Catanzarite: By offsetting that.

Mr. Danch: By offsetting that and making it more difficult, we are also going to include signage, stop signs within our site.

Mr. Morton: You are saying that you are talking to the city engineer?

Mr. Danch: We have done that, yes. What I am saying is, before we can get our approval to start the project, they will have to review everything and make sure that we are in compliance as well.

Mr. Morton: Is the city engineer; is he aware of all the concerns of the residents?

Mr. Danch: They will be, I think with them showing up, they were at the Area Plan Commission meeting so I think some of those concerns were conveyed at the Area Plan Commission meeting that we had approximately two weeks ago. It will also be at the city council meeting as well.

Mr. Morton: I think it would make sense if the city engineer was made aware of these concerns before the night of the public hearing. That just makes sense.

Mr. Danch: I would be glad to inform them, I have no trouble doing that.

Mr. Catanzarite: I hope Martin's is very sensitive to that issue; it sounds like you are trying to address it or willing to look at it and possibly address it. I think the people have made some very thoughtful and true statements about how the impact will be on their neighborhood.

Mr. Morton: Mr. Danch, the site plan you presented tonight is amended, correct?

Mr. Danch: Correct.

Mr. Kruszynski: I have just a few comments. Some of the concerns that were addressed, I know Mr. Booker, you brought up about the traffic count or study, I have emailed our county engineer, Jessica Clark last week after I heard your concern in regards to that. She is working with MACOG to get that done before winter, we would like to see what that count is before Martin's is built, if this passes. The lady that brought up about a couple of intersections in regards to Grant and Mayflower, again, that is a city issue, the county does not have any jurisdiction over that intersection. Same thing with Western and Mayflower, if we recall at the neighborhood meeting that a few of us attended, Councilman Oliver Davis indicated that he would be looking at those traffic signals, he was going to talk to the city engineer to address that issue along with some left turning lanes, which Mike, isn't there some left turning lanes purposed on Huron?

Mr. Danch: Yes, the main entrance way we have on to Mayflower Road at the request of city engineer they asked that we provide a left turn lane onto Mayflower Road. That also has a dedicated right turn lane as well. That was part of their design when they took a look at our site plan.

Mr. Kruszynski: Also, I have spoken to Jessica in regards to the way that Hollywood is constructed and she is going to take a look at that Mr. Booker and once we get traffic counts and again, if this is passed and get traffic counts later then that issue will be addressed. I also had a meeting with Area Plan and discussed some options that could be done to Hollywood along with Jessica that if that traffic turns to get real bad, there are things we can do, we as a county can do to Hollywood, not to the access point onto Hollywood but there are things we can do down the road if starts to be a real nuisance.

Audience member: Is Martin's going to post a bond (inaudible) on that nice new road you put in? I think someone should consider that.

Mr. Kruszynski: Jeff, in dealing with the Martin's representatives for the last two months, either on the phone or in person, not with just myself but with other colleagues on the Council here, I will hold Mr. Bartles accountable for whatever goes around in that area in Martin's commitment to this store, if it's passed and the commitment they made to the other stores, I am pretty pleased at what I see. Like Councilman Cantazarite has said, he does live in a pretty heavily commercial area, I just so happen to live right off of Quince Road, we have a school there, you have fire trucks there, you have all kinds of traffic going up and down Quince so we get it on Quince also. I am also concerned of the constituents in that area that's why I will hold Mr. Bartle's accountable, I will be the first one banging on his door. I think he knows that.

Motion to pass the amendment for Bill No. 45-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Amended Bill No. 45-15 was passed by a voice vote to-wit; 9-0.

Mr. O'Brien: I wanted to acknowledge that Martin's investment is coming without any request to the county for incentives. I'm impressed with that among many other aspects of the project, the number of jobs that will be retained and additional jobs to be created as well. It's not often that investments in real estate of this nature do not come to us with a request for an incentive and I am very pleased with that and I will be supporting passage when we ultimately vote.

Ms. Hess: I also think that Martin's brings a lot to the community and am pleased with the developments I have seen and past and look forward to this one however, I will echo what Mark Catanzarite said as well, I think they should take the neighbor's concerns into consideration when they are making this development because they have lived there for a long time and to have their life disrupted or as they perceive as being disrupted needs to be given careful consideration. I know that Bobby K., that's his district, he will be as he said, knocking on Mr. Bartle's door if there is a problem and my district butts right up against that so again, I work with neighborhoods in the City of South Bend that's my day job, so I am very concerned about what neighbors think when there is development or new things are happening in their neighborhood.

Mr. Morton: Mr. Danch, I'd be interested in hearing from you as you progress with your conversation with the city engineer, hopefully there again, before the public hearing and if you would be so kind as to give me a call and let me know how that's progressing.

Mr. Danch: I will.

Motion to pass Bill No. 45-15 was made by Mr. Kruszynski and seconded by Mr. O'Brien. Bill No. 45-15 was passed to-wit; 9-0

**BILL NO. 53-15:** A RESOLUTION OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, ESTABLISHING REASONABLE ACCOMMODATION POLICIES AND PROCEDURES IN ZONING AND LAND USE DECISIONS WITHIN THE COUNTY OF ST. JOSEPH, INDIANA  
PETITIONER: MARK P. TELLOYAN

Mr. Noland reported that Bill No. 53-15 comes with a favorable a recommendation.

Mr. Telloyan: This proposed ordinance brings the county in mind with the ADA, the American Disabilities Act and Fair Housing Act. It also echo's a resolution passed earlier by our colleagues on the City of South Bend. Mark Lyons from the Building Department is here if there are any detailed questions, I was asked by Jamie Woods to present it to the Council, I would ask for its passage.

Motion to pass Bill No. 53-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Bill No. 53-15 was passed to-wit; 9-0

**BILL NO. 57-15: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION PETITIONER: AREA PLAN COMMISSION**

Mr. Noland reported that Bill No. 57-15 comes with a favorable a recommendation.

Larry Magliozzi, Executive Director of the Area Plan Commission, this is establishing new fees for the next two years, 2016-2017. It replaces a multiyear schedule that was approved back in 2009.

Motion to pass Bill No. 57-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 57-15 was passed to-wit; 9-0

**BILL NO. 60-15: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY AMERICAN STRUCTUREPOINT ON BEHALF OF NAVISTAR FOR THE PROPERTY LOCATED AT 32104 STATE ROAD 2, NEW CARLISLE THE SAME BEING PETITION NO. 08-05-15-14 FILED WITH THE AREA BOARD OF ZONING APPEALS**

Mr. Noland reported that Bill No. 60-15 comes with a favorable a recommendation.

Mark Lyons, Building Department, this was given public hearing at the August 5<sup>th</sup> at the Area Board of Zoning appeals, this is a special exception to allow an auto testing grounds. This comes to you with a unanimous favorable recommendation.

Mr. Catanzarite: Unrelated to the bill but I would just like to extend my congratulations to Mr. Lyons and thank him for his ten years of service to our county and wish you the best of luck moving forward. You brought a lot to the county in terms of helping us out in a lot of issues that have come before us.

Mr. Lyons: Thank you, I appreciate it.

Mr. Kruszynski: I'd like to echo that Mark, the little time I have had time to work with you, you have been very good but you have one last request, what about 56131 Butternut? I left you a message about a week ago.

Mr. Lyons: It's on the demo list, so it should be getting it taken care of. It will probably be the 2016 list. Chuck is just starting to get the 2016 list put together, probably end of November early December when he will be bringing those forward to get the process started.

Mr. Kruszynski: Thank you, good luck to you.

Mr. Hamann: Mr. Lyons, I didn't realize you were leaving us. I do wish you the best of luck and you were outstanding when I was a councilman and any concerns you were "Johnny on the spot" whenever I called, you would check on within twenty four hours of a property to see if it was in compliance with building code so I really appreciated your hard work so good luck.

Mr. Lyons: Thank you.

Mr. McCahill: Congratulations on going home go Packers.

Motion to pass Bill No. 60-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 60-15 was passed to-wit; 9-0

**Unfinished Business:**

**New Business:**

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

Mr. O'Brien: I just wanted to report to the council, I did have office hours or an open house last week to invite people to come in and speak about the Taxpayer Protection and Transparency Ordinance that I proposed. Only one person showed up, I spoke with that person to explain the ordinance, I had no other face to face questions about it. I have had nine or ten calls and messages in support of it. I will talk more about it at the committee meetings in a couple of weeks.

Jim Bogner, 807 W. Washington Street, South Bend, I come this evening regarding property in the City of South Bend, 803 W. Washington, I believe it resides in President Morton's district. This is also known as the Kiser Mansion. I am in front of Council this evening is because of an issue related to the Historic Preservation Commission. As you may or may not know, the Historic Preservation Commission for the last fifteen years has had a façade easement on this property. During this period of time they had care, custody and control of the façade of this building. A very unusual situation, an asset to our county. On February 23, 2015, the Historic Preservation Commission, under a deed of easement, transferred or essentially gave up the façade easement on this property, care, custody and control. There were questions at the city council last meeting that they had over the issue of whether this was a valid transfer. I realize in fairness of Historic Preservation Commission they are not here this evening, but it was a transfer of an asset. The other issue I am deeply concerned about, living directly next door to this property is that once the property was allowed to be transferred from the City of South Bend to Indiana Landmarks, two of the chimney's were dismantled. That had to of been through an agreement with HPC because they had care, custody and control of the façade, again an asset to this county. Those chimney's continued to be down today. They have not been restored, Councilman Catanzarite knew the people at the time that lived there, can validate the fact that they are there. There are serious questions that relate to how the Historic Preservation Commission handled this property over the 15 years they had it. My letter is directed to President Morton but it is for all of you, it basically asks, what has happened between December 11, 2011 which was the transfer of the property from the City of South Bend to the Historic Landmarks Foundation of Indiana, also called Indiana Landmarks until this deed of easement? I don't know that it ever came in front of council, I don't know if council was ever aware of it. I don't know whether the Historic Preservation Commission ever could do it without talking with council but there were clearly were two things that happened here. An important asset in this community, a façade easement, and there are also three others, were transferred. Secondly, during the period of time that Indiana Landmarks owned the property, there was work done on the property and it was not followed through on and does not till this day. The reason why I am here is to ask council to take a look at this through their legal folks and all of you to take a look at the history of this and what Historic Preservation does. Now having lived in the neighborhood, I can tell you, if I came down to any work on my property and I went the building department to get a permit, they would look at where I lived at, they would know it was an historic property and they would ask to review this. I know of no place else we could go almost four years without some kind of plan that came trough Historic Preservation. I think my concern to this is, they may have answers to this, but I don't understand why demolition to these chimney's which needed to be done and not rebuilt and I don't understand why an asset was given away without coming to the elected officials. There may be a question you may have is well, if this happened February why am I now coming before you now. It's because many of us just realized that this occurred through other issues that are unrelated to this council and because of the nature of Historic Preservation I think they owe everyone some answers, first of all, you folks and then ultimately, me. I think it's a question in government about fairness, about are we all going to be treated equally or is there a wink a nod that we are going to somehow take of this because this is going to a higher level and then the higher level turns and sells it. This is an important property in the city, the individuals that were working on this property are having issues with Indiana Landmarks which does not relate to this, the city is conducting their own investigation but I do believe that the Council does have issues relating to this to understand how it would have been sold and how it would have been passed over without anybody knowing anything. I'd be glad to take any questions anyone may have but the documentation, which I don't expect you to look at now, will clearly show you, what we call the Freedline Easement from 83, what governed it up unto the transfer of the easement.

Mr. Morton: What is the time table of the city's investigation?

Mr. Bogner: That's a very good question, Mr. President. The city isn't conducting a thorough investigation into issues that are related to Indiana Landmarks and the current property owners that have nothing to do directly with the Historic Preservation Commission so that is why I am here asking for your help. Basically to find out what you folks know about this and what will come of this. I don't know that the city has a time table but as you know, Historic Preservation Commission is a hybrid, it's part city and part county but most of the time county comes in. I also want to say too, it's very important to be fair. They are obviously not here to discuss this. I am not accusing them of doing anything wrong other than to say, no one would be allowed to do a dismantling as they did without some sort of plan and I believe my letter says what happened during this period of time. So no, I know that the city has a time table. I

do know that Community Investment and Scott Ford has assigned someone to do a thorough investigation and go back to the city council. I was not a part of that during that particular time, asking for an investigation. This is more related to Historic Preservation and what they did with the easement.

Mr. Kruszynski: Mr. Bogner, obviously you have presented this to the Historic Preservation....

Mr. Bogner: We have through the years presented much information to the Historic Preservation Commission. We have never received answers from them from during the period of time.

Mr. Kruszynski: When's the last time you addressed them?

Mr. Bogner: The last time we addressed the Historic Preservation Commission was at the time of the sale of the property from the City of South Bend to Indiana Landmarks and we were assured at that time that Historic Preservation and Landmarks would be working in cooperation to be able to assist in stabilizing and that was one of the reasons why the chimney's were removed and as I noted in my letter here, they were done in January and February of 2012. From that point on, it basically was this is an Indiana Landmarks problem and not our problem but the façade easement was not transferred until February of 2015 which means it was an asset of the county's. I come here this evening based on the information that I want to know number one, was it a legal transfer, could they do that without going through any of the bodies and secondly, basically what had happened during the period of time when Landmarks owned the property and HPC had a façade easement on it.

Mr. Kruszynski: Have you addressed this issue with their attorney?

Mr. Bogner: That portion was addressed through the city council and I believe that the city council was also looking at this portion that relates to whether the transfer of the façade easement was legal, so yes, that portion was done, I did not do it, it was done at the last council meeting. I did not personally do it.

Mr. Kruszynski: Mr. Zappia represents the Historic Preservation. Has he gotten back to you?

Mr. Bogner: He has not gotten back to me, but it was directly related to me, I come before the council to bring this to council's attention. I also, I might add, to show that there are three other properties that façade easements continue to be on, which is at a higher level of what would normally occur under HPC rules and guidelines and that's what that information provides you with.

Mr. O'Brien: Mr. Bogner, what is your ultimate goal here, you want to see someone repair and rebuild chimneys?

Mr. Bogner: Well, I think two things. Number one, my concern is, that an asset was passed along and there was a loss of local community involvement. The easement is very clear. Secondly, I think there should be some clarification as to how something can be taken down and be left down for four years without some kind of a plan and HPC is usually very good jumping on issues that have problems. I have seen them in several areas, including houses that are up for demolition that have historic nature to it. This is a very strange situation.

Mr. O'Brien: So you don't care if the chimneys are rebuilt or not?

Mr. Bogner: Obviously we want to have the chimneys rebuilt and I would like to see the property saved; there is a third chimney that was not dismantled that is in disrepair at this time. I am wanting to know what HPC knew and when they knew it and whether they transferred any of that information to anyone of the governing bodies before they gave up the easement.

**Adjournment:** Mr. Morton stated that the meeting was adjourned 7:25 p.m.















MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
September 8, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on September 8, 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. Noland made a motion to approve the minutes of the August 11, 2015 public hearing was seconded by Mr. O'Brien, the motion was passed by a voice vote; 9-0.

Mr. Noland made a motion to return Bill No. 58-15 back to committee per the petitioner; it was seconded by Mr. Catanzarite. The motion was passed by a voice vote; 9-0.

No report from the County Auditor  
No report from the County Commissioner  
No report from Special Committees.

**First Readings:**

**BILL NO. 67-15:** 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 13460 E. MCKINLEY AND 56020 CURRANT ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT PETITIONER: RBS PROPERTIES LLC  
Assigned to the Land Use Planning Committee

**BILL NO. 68-15:** AN ORDINANCE OF ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO 79-13 WHICH ESTABLISHED THE PUBLIC SAFETY COMMUNICATIONS CONSORTIUM OF ST. JOSEPH COUNTY, AND MODIFYING SECTION 6 OF SAID ORDINANCE REGARDING THE OPERATIONS BOARD POWERS AS ESTABLISHED THEREIN Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 69-15:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF THE ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC. 6-1.1-12.1-14 ET SEQ PETITIONER: ST. JOSEPH ENERGY CENTER, LLC  
Assigned to the Land Use Planning Committee

**9. Public Hearing on the Airport Authority, Solid Waste Management, and St. Joseph County 2016 Budget:**

**BILL NO. 62-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) AIRPORT AUTHORITY**

Mike Daigle, Executive Director, St. Joseph County Airport Authority, the Airport Authority is requesting consideration of our 2016 budget. Our budget consists of three different funds, the Aviation Fund, Cumulative Building and Debt Services. The total of these funds are twenty million, five hundred and forty one thousand. In our 2016 budget, we have reflected and amount of cost of living wage increases, additional wage adjustments and also some job upgrades based on changes and responsibilities. The largest increase in these funds is in the Cumulative Building fund primarily for air service development. As you know, we are receiving bids in the next two weeks to build a federal inspection station and a general aviation facility to be able and process international flights, a first for our region.

Motion to pass Bill No. 62-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 62-15 was passed to-wit; 9-0.

**BILL NO. 63-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) SOLID WASTE**

Randy Przybysz, Executive Director, Solid Waste Management, budget proposal for 2016 has been approved by our board which you should have a copy of that resolution. Everything in this budget was kept just about the same as last year, there are no raises being proposed. Our total budget for next year is being proposed as an increase of a hundred fifty two thousand, six hundred and forty three dollars and that comes basically from two line items, our Household Hazardous Waste Program in Mishawaka, last year was just under ten thousand people with seven hundred and sixty nine thousand pounds of hazardous material going through there. We are on track this year to exceed that number. People coming and the amount of material. Another factor is, for the last six years we have been under contract with a company called ERI to take the obsolete electronics. They have taken them for free so we rode that horse now all that we can because we were notified that they were the last ones offering to do it for free, that is not going to happen anymore. Our contract is up the end of this year. We have no idea what the charges are going to be or how much material we are going to take in until it actually happens. The proposal there was to take that budget line item from a hundred thousand to two hundred thousand. The other is a fifty thousand dollars put into a capital improvement fund, we have never had that before. There is some discussion to combine our office and our HHW program in one location, more centrally located to the population in the county and also large enough to handle the kind of numbers we are taking through there now. We are land locked where we are at. That money would only be used, should we find a piece of property to do any plans and only with the approval of the board. We have no choice on the electronics; we have to do something about that program. We are anticipating having to pay we just have no idea how much.

Mr. O'Brien: How much do you estimate will be brought in from fees?

Mr. Przybysz: Our total income is about two point five million per year. This budget is two point nine five.

Mr. O'Brien: Is there enough in reserve to fund this?

Mr. Przybysz: Yes and that was discussed with the board. Some of this, because of the process now having to before the Council, there are certain line items, like for the curb side recycling program where we budget for worst case scenario because we would not know until late in the year if fuel surcharges or something needed to kick in and raise the amount we are paying out for that.

Motion to pass Bill No. 63-15 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 63-15 was passed to-wit; 9-0.

**BILL NO. 64-15: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2016**

Mr. Hamann, St. Joseph County Auditor, the budget is still a work in progress. I can say at this juncture, it is estimated to be about fifty six point two million dollars in terms of expenditures for the general fund. When you

combine all the different funds we are looking at about a total budget of a hundred and thirteen million dollars. It is still a work in progress.

Motion to pass Bill No. 64-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 64-15 was passed to-wit; 9-0.

**BILL NO. 65-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES  
(BUDGET FORM 4) ST. JOSEPH COUNTY, INDIANA**

Mr. Hamann, St. Joseph County Auditor, tax rates again are a work in progress. To give a brief overview, the Assessor's office provides the gross assessment, that then rolls over to the Auditor's office and what our office does then is it comes up with the net assessed value of the property in the county, you take away the exemptions, the abatements and deductions, we then provide that to the state and then the state will take that number, take the number, the various budgets from various tax entities and levy and calculate what those tax rates will be so that will be a few months.

Motion to pass Bill No. 65-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 65-15 was passed to-wit; 9-0.

**SALARY AMENDMENT:**

**BILL NO. 66-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015  
DEPT. 0018 PROSECUTOR**

Mr. McCahill reported that Bill No. 66-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's Office, we are here asking for an amendment to our salary amendment to reflect the changes that we appropriated in our first budget to what the APS Grant finally came in at.

Motion to pass Bill No. 66-15 was made by Mr. McCahill and seconded by Ms. Hess. Bill No. 66-15 was passed to-wit; 9-0.

**BILL NO. 49-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE FISCAL YEAR 2015-2016 DEPT. 0025 JUVENILE & PROBATE COURT**

Mr. McCahill reported that Bill No. 49-15 comes with a favorable a recommendation.

Pete Morgan, Executive Director of the St. Joseph Probate Court and Juvenile Justice Center, we are seeking a salary amendment which would allow us to apply eleven thousand, five hundred dollars in funds which were awarded under a Juvenile Accountability Block grant to the salary known as Education Coordinator in our probation user fees budget in line number 11376, the reason for seeking the amendment is this would be the person charged with carrying out the duties of the grant over and above the reason for the position otherwise.

Motion to pass Bill No. 49-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-15 was passed to-wit; 9-0.

**Public Hearing/Public Comment:**

**BILL NO. 61-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE  
HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY  
GOVERNMENT**

A. Treasurer  
General Fund

FROM: 1000-11682-000-0003	Clerk/Cashier	\$400.00
TO: 1000-32020-000-0003	Travel	400.00
		<u>TOTAL: \$400.00</u>

B. Prosecutor  
Adult Protective Service Grant

FROM: 9108-32020-000-0018	Travel	\$1,000.00
9108-22010-000-0018	Gas, Oil and Lubricants	919.00
TO: 9108-11318-000-0018	Investigator APS	\$1,000.00
9108-11319-000-0018	Director APS	31.00
9108-37100-000-0018	Auto Lease	888.00
		<u>TOTAL: \$1919.00</u>

**APPROPRIATE**

C. Auditor's Office  
Enhanced Access Fund

1154-39750-000-0002	Data Processing	\$100,000.00
1155-39750-000-0002	Data Processing	100,000.00
		<u>TOTAL: \$200,000.00</u>

D. County Engineer  
Major Moves Const. Fund

1172-43155-000-0023	McKinley AM General	\$400,000.00
		<u>TOTAL: \$400,000.00</u>

E. Roads & Highway  
Local Road & Street

1169-39150-000-0060	Other Expenses	\$27,865.00
		<u>TOTAL: \$27,865.00</u>

F. Health Dept.  
Health Ebola Grant

8126-22148-000-0055	Field Supplies	\$8,000.00
8126-39750-000-0055	Data Processing	1,000.00
8126-44010-000-0055	Equipment	13,135.00
8126-44311-000-0055	Emergency Equip.	10,000.00
		<u>TOTAL: \$32,135.00</u>

G. Health Dept.  
Health Bioterrorism Grant

8113-21030-000-0055	Office Supplies	\$2,772.00
8113-22148-000-0055	Field Supplies	3,000.00
8113-32020-000-0055	Travel	3,160.00
8113-32050-000-0055	Instruction & Training	2,840.00
8113-32203-000-0055	Cell Phones	1,800.00
8113-44010-000-0055	Equipment	2,500.00
8113-45510-000-0055	Furniture & Fixtures	10,000.00
	<b><u>TOTAL: \$26,072.00</u></b>	

H. Health Dept.  
Health HUD Grant

9103-21030-000-0055	Office Supplies	\$250.00
9103-22148-000-0055	Field Supplies	3,700.00
9103-22328-000-0055	Equipment Repairs	9,785.00
9103-32020-000-0055	Travel	300.00
9103-36010-000-0055	Repairs Bldgs. & Structure	500.00
	<b><u>TOTAL: \$14,535.00</u></b>	

G. Juvenile & Probate Court  
JABG

8125-11385-000-0025	Probation Officer I	\$11,500.00
	<b><u>TOTAL: \$11,500.00</u></b>	

Motion to pass Bill No. 61-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 61-15 was passed to-wit; 9-0

**Land Use Planning:**

**BILL NO. 45-15:** PETITION TO VACATE PUBLIC WAYS AND PUBLIC PLACES WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA PETITIONER: EDWARD W. HARDIG

Mr. Noland reported that Bill No. 45-15 comes with a favorable a recommendation.

Mr. Danch, Danch, Harner and Associates, as we mentioned to Council, council had asked us last month to see if we could meet with the adjacent property owner and come to an agreement on the use of the property between us and Westwinds, property to the south. We have done that. Mr. Masters is here this evening to speak on behalf of his clients. We have come to agreement which stipulates how the property will be laid out, that we will be providing access for Mr. Master's clients. We provided Council with a site plan that shows the proposed the development that will occur on the property, assuming the Council will approve the vacation of Huron Street. The bill this evening has been revised, the ordinance that is before the Council this evening reflects part of the agreement we have with Mr. Masters clients that if the street gets vacated, they will acquire fifty feet of the sixty feet of right of way which is adjacent to their property that was part of the stipulation. We will also back that up by doing a quick claim deed to Mr. Masters clients to show that the transfer of that property so that property would remain in the county. This process is also on a parallel track, we have already done before the Area Plan Commission for the zoning issue for this property. We did receive a favorable recommendation from the Plan Commission; they also approved variances for the development. What we would say to Council this evening, there will be a public hearing for the residents, everyone that had been notified within three hundred feet for that development, there will be a public hearing where they can address their concerns at a city council meeting, that meeting will be on September 28 that will be a public hearing.

Mr. Kruszynski: Mike, I know there was an issue with the curb height on the north side of the building....

Mr. Danch: Yes, what we have done with that as part of the agreement, when we do our part of the development, there will be a curb at the north property line for Westwinds. There will be a nice clean line.

James A. Masters, Nemeth, Feeney, Masters and Campiti, 350 Columbia, South Bend, I am here tonight on behalf of Maron LLC and its owners. At your last meeting, we presented a remonstrance to the vacation of Huron Street. I am pleased to inform you that with the cooperation of the petitioner and the cooperation of the representatives of Martins, the issues raised by that remonstrance have been resolved. The remonstrance is hereby withdrawn.

Leon Grey, 56420 Butternut Road, South Bend, I am in favor of any improvement this community can have especially on the west side.

Murray Miller, 1201 Priscilla Drive, I am also in favor of this. The west side has been in need of a new grocery store in the area. I think it's well deserved for the people on the west side to get that. I am very much in favor.

Kevin Pajakowski, 58472 Eastwood Drive, South Bend, Martin's has done a wonderful thing, when they moved in, they cleaned up the area. They kept the area clean. Without Martin's, that's the one anchor we have had in this community on our side of town.

Susan Zawadowski, 159 N. Summit Drive, South Bend, I am a current Martin's customer at that store, I am very much in favor of the vacation of Huron Street. I look forward to walking and riding my bike to Martin's. I appreciate what Martin's does for our community.

Rev. Charles Zawadowski, 159 N. Summit Drive, South Bend, I am a pastor of St. Mary's Parish on Sample Street. I echo some of the thoughts we have heard today. We always talk about how we need new things on the west side, here it is. We, as a community, partner with Martin's. We do not partner with Kroger's or Meijers. Many neighborhood organizations, government entities have benefited from Martin's charity. They have an excellent track record. They are good neighbors. I endorse and support the vacation of Huron Street.

Charles Waddell, 5134 Hazelwood Court, South Bend, I am looking forward to shopping. Martin's has a history of hiring local contractors and local workers so I think it's a big boost for our economy. I am looking forward to this.

Diana Kisminski, 56921 Hollywood Blvd., South Bend, I am in opposition of Huron Street. I hope you have had an opportunity to look over the packet of information I provided to your office. As you can see from the diagram, Martin's plans to build a drive through service for customers to purchase coffee. As we all know, traffic from a drive through can quickly back up. As a result, drivers will have to wait on Hollywood Blvd. before accessing Martin's. This will result in cars backing up in both directions. This will cause a traffic jam on Grant as drivers wait to turn into Hollywood Blvd. There is no left turn signal at Mayflower and Sample. As a result, drivers will be detoured from using the Mayflower entrance into Martin's. There are a lot of children that live on Hollywood Blvd. We are your constituents, not Martin's. We need you to represent our interests.

Eric Kisminski, 56921 Hollywood Blvd., South Bend, I am here this evening representing myself and those that signed the petition. So far all we have heard from the representatives of Martin's are stories, lies and total disrespect to the residents regarding their concerns about their project. This proposed Martin's already has three entrances. Two on Mayflower and one on Western. As I looked on the Council list of names I was proved last week and addresses I noticed that none of you live in a heavily traffic road. Put yourself in our position. In America, we live in a democracy. We the people, who will be effected the most, took a vote and we voted to close the entrance to Martin's from Hollywood, you have the petition in your position.

Louann Gondos, 565547 Hollywood Blvd., I am representing my mother in law who lives on Hollywood Blvd. I am a Martin's supporter, I am happy the store is going to be put where it is going to be put. I have to agree, you guys have to cut off access to Hurron and Hollywood Blvd. It's our neighborhood. Just protect our neighborhood streets.

Denise Lentech, 56595 S. Hollywood Blvd., my husband and I have lived here for thirty eight years; we have raised our children and now enjoy our grandchildren visiting us here. We chose this neighborhood to live out our lives in because it is peaceful and friendly. We the neighbors who live on Hollywood, Ford and Elmer beg of you to allow the quality of our lives to remain somewhat, what we envisioned it when we chose this neighborhood to live out our lives. Please vote against the entrance/exit on Hollywood.

Jeffrey Booker, 56577 Hollywood Blvd., I too know that Martin's does a lot of good for our community. I am not against Martin's building a store. The realization of the Martin's project with a rear entrance off of Hollywood Blvd. is not fair. It's not fair to the residents or the county. The city will annex this part for the Martin's project, Martin's will use the road and the county will have to maintain it. That's not fair. It will put a lot of traffic back there. We are just asking for one concession from Martin's. Close that entrance.

Patricia Cichowicz Lynch, 23665 Grant Road, South Bend, Martin's has been a great neighbor. We know they will be moving and building in between Hollywood and Mayflower and we accept that but we object to an egress on Hollywood.

Thomas J. Kowalski, 56680 Hollywood Blvd., South Bend, I am representing my mom who is 92 years old and still resides there. With the entrance to Martin's on Hollywood, we won't be able to get out of our driveway most of the time. My mom is not driving but my mom does not want it there.

Mr. Danch: We are looking at the concerns of the residents that showed up this evening. This project has gone through review both county engineering department and also city engineer for the City of South Bend. We asked them to take a look at the project as well. We do have a main access point that would be onto Mayflower Road, actually we have two on Mayflower Road and there will be one on Western. The one off of Hollywood Blvd. we don't believe will be a main entrance for any access point from that residential area. That is to allow access for residents to come in; they don't have to go out to Mayflower Road, that's one of the reasons for that. It is not a main access point. We created that strictly to allow for residents that are going to use the Martin's to get back to their homes without either going out to Western Ave. or onto Mayflower. I have not heard any concerns from either the city engineering department or the county engineering department about increase amount of traffic that would be going out onto Hollywood Blvd. but we will take a look at that. We have heard concerns though, of the rout that is being taken from Grant up to Western and then over to the church for picking up children but I don't think there's that huge increase and I believe the county engineering department is also going to be taking a look at it from a traffic standpoint as well. What we would ask Council to do is allow us to move ahead and get to the city council portion for the rezoning where these remonstrators can show up and address their concerns with the city council as well.

Mr. Kruszynski: Mike, I think you just answered it, I know three for four of the residents got up and spoke were concerned about that access onto Hollywood. But their concerns should be addressed with the city council, am I correct?

Mr. Danch: That is correct. The city engineering department will have jurisdiction, we are going through that annexation procedure to bring it into the city. The city engineering department also has a close relationship with county engineering as well. So I think between the two they will also be looking at it. We will have to submit a final site plan for approval for those departments before we build.

Mr. Catanzarite: Just for the record, Mr. Kisminski mentioned none of live near commercial. I live about a hundred feet away from a Walgreens store near Ironwood and Edison so I do know what it is like to live next to commercial property and I have a dentist and an insurance office next door to me. Having gone through that process and worked with those groups when they moved into our neighborhood after I moved there and not known they were going to be there when I moved initially, the zoning screening requirements that are in place today are a lot more stringent than they were many years ago so for me personally, it's been a positive experience living next to a commercial property and some offices and the screen that has gone up has shielded my family from what I consider to be to very highly, intensive used properties so to our satisfaction, I just want to say I do live next to commercial property and by it and it has not been a bad experience. Mr. Danch, looking at our concerns, I think you have written commitments, you would not use Hollywood for any truck delivery access, right?

Mr. Danch: It was actually designed that way. Truck traffic will not go out onto Hollywood Blvd. We did work closely with the city engineering department on that as well as Jessica (Clark) and the way it's designed, the whole site is designed for truck traffic to come off of either Western Avenue come south through our access point which is east of John Becker's shopping center or come in off of Mayflower Road. The whole design for truck turning radius is dictated by that access routing. A truck could not come down Hollywood Blvd. and make the turn into the site and one of the things we have mentioned to the residents is, Martin's has complete control over any of the vendors that delivery goods/produce to their stores so that we can prevent that from happening.

Mr. Catanzarite: Hearing the concerns from most of the Hollywood residents who would be most impacted by this, is there a design possibility of an entrance or an exit off of Hollywood that could be achieved that would make it less intensive?

Mr. Danch: We can take a look at that but it's almost going to be up to the engineering department to see if there is a way to limit how that traffic would access Hollywood Blvd. There are certain ways to do an entrance way to deliver traffic one way or another.

Mr. Catanzarite: You negotiated with Westwinds. Westwinds contends that many of their patrons currently and have for a long time always used Hollywood Blvd. to avoid Mayflower Road, is that correct? Was that conveyed to you?

Mr. Danch: I have heard that, the patrons that came out of Westwinds would like to go over toward Hollywood because it's easier that way. I also heard where there is a situation where Huron Street was a straight through, there were actually people cutting through Mayflower over to Hollywood Blvd. and racing down that so by our design, we will be able to stop that.

Mr. Catanzarite: By offsetting that.

Mr. Danch: By offsetting that and making it more difficult, we are also going to include signage, stop signs within our site.

Mr. Morton: You are saying that you are talking to the city engineer?

Mr. Danch: We have done that, yes. What I am saying is, before we can get our approval to start the project, they will have to review everything and make sure that we are in compliance as well.

Mr. Morton: Is the city engineer; is he aware of all the concerns of the residents?

Mr. Danch: They will be, I think with them showing up, they were at the Area Plan Commission meeting so I think some of those concerns were conveyed at the Area Plan Commission meeting that we had approximately two weeks ago. It will also be at the city council meeting as well.

Mr. Morton: I think it would make sense if the city engineer was made aware of these concerns before the night of the public hearing. That just makes sense.

Mr. Danch: I would be glad to inform them, I have no trouble doing that.

Mr. Catanzarite: I hope Martin's is very sensitive to that issue; it sounds like you are trying to address it or willing to look at it and possibly address it. I think the people have made some very thoughtful and true statements about how the impact will be on their neighborhood.

Mr. Morton: Mr. Danch, the site plan you presented tonight is amended, correct?

Mr. Danch: Correct.

Mr. Kruszynski: I have just a few comments. Some of the concerns that were addressed, I know Mr. Booker, you brought up about the traffic count or study, I have emailed our county engineer, Jessica Clark last week after I heard your concern in regards to that. She is working with MACOG to get that done before winter, we would like to see what that count is before Martin's is built, if this passes. The lady that brought up about a couple of intersections in regards to Grant and Mayflower, again, that is a city issue, the county does not have any jurisdiction over that intersection. Same thing with Western and Mayflower, if we recall at the neighborhood meeting that a few of us attended, Councilman Oliver Davis indicated that he would be looking at those traffic signals, he was going to talk to the city engineer to address that issue along with some left turning lanes, which Mike, isn't there some left turning lanes purposed on Huron?

Mr. Danch: Yes, the main entrance way we have on to Mayflower Road at the request of city engineer they asked that we provide a left turn lane onto Mayflower Road. That also has a dedicated right turn lane as well. That was part of their design when they took a look at our site plan.

Mr. Kruszynski: Also, I have spoken to Jessica in regards to the way that Hollywood is constructed and she is going to take a look at that Mr. Booker and once we get traffic counts and again, if this is passed and get traffic counts later then that issue will be addressed. I also had a meeting with Area Plan and discussed some options that could be done to Hollywood along with Jessica that if that traffic turns to get real bad, there are things we can do, we as a county can do to Hollywood, not to the access point onto Hollywood but there are things we can do down the road if starts to be a real nuisance.

Audience member: Is Martin's going to post a bond (inaudible) on that nice new road you put in? I think someone should consider that.

Mr. Kruszynski: Jeff, in dealing with the Martin's representatives for the last two months, either on the phone or in person, not with just myself but with other colleagues on the Council here, I will hold Mr. Bartles accountable for whatever goes around in that area in Martin's commitment to this store, if it's passed and the commitment they made to the other stores, I am pretty pleased at what I see. Like Councilman Cantazarite has said, he does live in a pretty heavily commercial area, I just so happen to live right off of Quince Road, we have a school there, you have fire trucks there, you have all kinds of traffic going up and down Quince so we get it on Quince also. I am also concerned of the constituents in that area that's why I will hold Mr. Bartle's accountable, I will be the first one banging on his door. I think he knows that.

Motion to pass the amendment for Bill No. 45-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Amended Bill No. 45-15 was passed by a voice vote to-wit; 9-0.

Mr. O'Brien: I wanted to acknowledge that Martin's investment is coming without any request to the county for incentives. I'm impressed with that among many other aspects of the project, the number of jobs that will be retained and additional jobs to be created as well. It's not often that investments in real estate of this nature do not come to us with a request for an incentive and I am very pleased with that and I will be supporting passage when we ultimately vote.

Ms. Hess: I also think that Martin's brings a lot to the community and am pleased with the developments I have seen and past and look forward to this one however, I will echo what Mark Catanzarite said as well, I think they should take the neighbor's concerns into consideration when they are making this development because they have lived there for a long time and to have their life disrupted or as they perceive as being disrupted needs to be given careful consideration. I know that Bobby K., that's his district, he will be as he said, knocking on Mr. Bartle's door if there is a problem and my district butts right up against that so again, I work with neighborhoods in the City of South Bend that's my day job, so I am very concerned about what neighbors think when there is development or new things are happening in their neighborhood.

Mr. Morton: Mr. Danch, I'd be interested in hearing from you as you progress with your conversation with the city engineer, hopefully there again, before the public hearing and if you would be so kind as to give me a call and let me know how that's progressing.

Mr. Danch: I will.

Motion to pass Bill No. 45-15 was made by Mr. Kruszynski and seconded by Mr. O'Brien. Bill No. 45-15 was passed to-wit; 9-0

**BILL NO. 53-15:** A RESOLUTION OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, ESTABLISHING REASONABLE ACCOMMODATION POLICIES AND PROCEDURES IN ZONING AND LAND USE DECISIONS WITHIN THE COUNTY OF ST. JOSEPH, INDIANA  
PETITIONER: MARK P. TELLOYAN

Mr. Noland reported that Bill No. 53-15 comes with a favorable a recommendation.

Mr. Telloyan: This proposed ordinance brings the county in mind with the ADA, the American Disabilities Act and Fair Housing Act. It also echo's a resolution passed earlier by our colleagues on the City of South Bend. Mark Lyons from the Building Department is here if there are any detailed questions, I was asked by Jamie Woods to present it to the Council, I would ask for its passage.

Motion to pass Bill No. 53-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Bill No. 53-15 was passed to-wit; 9-0

**BILL NO. 57-15: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION PETITIONER: AREA PLAN COMMISSION**

Mr. Noland reported that Bill No. 57-15 comes with a favorable a recommendation.

Larry Magliozzi, Executive Director of the Area Plan Commission, this is establishing new fees for the next two years, 2016-2017. It replaces a multiyear schedule that was approved back in 2009.

Motion to pass Bill No. 57-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 57-15 was passed to-wit; 9-0

**BILL NO. 60-15: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY AMERICAN STRUCTUREPOINT ON BEHALF OF NAVISTAR FOR THE PROPERTY LOCATED AT 32104 STATE ROAD 2, NEW CARLISLE THE SAME BEING PETITION NO. 08-05-15-14 FILED WITH THE AREA BOARD OF ZONING APPEALS**

Mr. Noland reported that Bill No. 60-15 comes with a favorable a recommendation.

Mark Lyons, Building Department, this was given public hearing at the August 5<sup>th</sup> at the Area Board of Zoning appeals, this is a special exception to allow an auto testing grounds. This comes to you with a unanimous favorable recommendation.

Mr. Catanzarite: Unrelated to the bill but I would just like to extend my congratulations to Mr. Lyons and thank him for his ten years of service to our county and wish you the best of luck moving forward. You brought a lot to the county in terms of helping us out in a lot of issues that have come before us.

Mr. Lyons: Thank you, I appreciate it.

Mr. Kruszynski: I'd like to echo that Mark, the little time I have had time to work with you, you have been very good but you have one last request, what about 56131 Butternut? I left you a message about a week ago.

Mr. Lyons: It's on the demo list, so it should be getting it taken care of. It will probably be the 2016 list. Chuck is just starting to get the 2016 list put together, probably end of November early December when he will be bringing those forward to get the process started.

Mr. Kruszynski: Thank you, good luck to you.

Mr. Hamann: Mr. Lyons, I didn't realize you were leaving us. I do wish you the best of luck and you were outstanding when I was a councilman and any concerns you were "Johnny on the spot" whenever I called, you would check on within twenty four hours of a property to see if it was in compliance with building code so I really appreciated your hard work so good luck.

Mr. Lyons: Thank you.

Mr. McCahill: Congratulations on going home go Packers.

Motion to pass Bill No. 60-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 60-15 was passed to-wit; 9-0

**Unfinished Business:**

**New Business:**

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

Mr. O'Brien: I just wanted to report to the council, I did have office hours or an open house last week to invite people to come in and speak about the Taxpayer Protection and Transparency Ordinance that I proposed. Only one person showed up, I spoke with that person to explain the ordinance, I had no other face to face questions about it. I have had nine or ten calls and messages in support of it. I will talk more about it at the committee meetings in a couple of weeks.

Jim Bogner, 807 W. Washington Street, South Bend, I come this evening regarding property in the City of South Bend, 803 W. Washington, I believe it resides in President Morton's district. This is also known as the Kiser Mansion. I am in front of Council this evening is because of an issue related to the Historic Preservation Commission. As you may or may not know, the Historic Preservation Commission for the last fifteen years has had a façade easement on this property. During this period of time they had care, custody and control of the façade of this building. A very unusual situation, an asset to our county. On February 23, 2015, the Historic Preservation Commission, under a deed of easement, transferred or essentially gave up the façade easement on this property, care, custody and control. There were questions at the city council last meeting that they had over the issue of whether this was a valid transfer. I realize in fairness of Historic Preservation Commission they are not here this evening, but it was a transfer of an asset. The other issue I am deeply concerned about, living directly next door to this property is that once the property was allowed to be transferred from the City of South Bend to Indiana Landmarks, two of the chimney's were dismantled. That had to of been through an agreement with HPC because they had care, custody and control of the façade, again an asset to this county. Those chimney's continued to be down today. They have not been restored, Councilman Catanzarite knew the people at the time that lived there, can validate the fact that they are there. There are serious questions that relate to how the Historic Preservation Commission handled this property over the 15 years they had it. My letter is directed to President Morton but it is for all of you, it basically asks, what has happened between December 11, 2011 which was the transfer of the property from the City of South Bend to the Historic Landmarks Foundation of Indiana, also called Indiana Landmarks until this deed of easement? I don't know that it ever came in front of council, I don't know if council was ever aware of it. I don't know whether the Historic Preservation Commission ever could do it without talking with council but there were clearly were two things that happened here. An important asset in this community, a façade easement, and there are also three others, were transferred. Secondly, during the period of time that Indiana Landmarks owned the property, there was work done on the property and it was not followed through on and does not till this day. The reason why I am here is to ask council to take a look at this through their legal folks and all of you to take a look at the history of this and what Historic Preservation does. Now having lived in the neighborhood, I can tell you, if I came down to any work on my property and I went the building department to get a permit, they would look at where I lived at, they would know it was an historic property and they would ask to review this. I know of no place else we could go almost four years without some kind of plan that came trough Historic Preservation. I think my concern to this is, they may have answers to this, but I don't understand why demolition to these chimney's which needed to be done and not rebuilt and I don't understand why an asset was given away without coming to the elected officials. There may be a question you may have is well, if this happened February why am I now coming before you now. It's because many of us just realized that this occurred through other issues that are unrelated to this council and because of the nature of Historic Preservation I think they owe everyone some answers, first of all, you folks and then ultimately, me. I think it's a question in government about fairness, about are we all going to be treated equally or is there a wink a nod that we are going to somehow take of this because this is going to a higher level and then the higher level turns and sells it. This is an important property in the city, the individuals that were working on this property are having issues with Indiana Landmarks which does not relate to this, the city is conducting their own investigation but I do believe that the Council does have issues relating to this to understand how it would have been sold and how it would have been passed over without anybody knowing anything. I'd be glad to take any questions anyone may have but the documentation, which I don't expect you to look at now, will clearly show you, what we call the Freedline Easement from 83, what governed it up unto the transfer of the easement.

Mr. Morton: What is the time table of the city's investigation?

Mr. Bogner: That's a very good question, Mr. President. The city isn't conducting a thorough investigation into issues that are related to Indiana Landmarks and the current property owners that have nothing to do directly with the Historic Preservation Commission so that is why I am here asking for your help. Basically to find out what you folks know about this and what will come of this. I don't know that the city has a time table but as you know, Historic Preservation Commission is a hybrid, it's part city and part county but most of the time county comes in. I also want to say too, it's very important to be fair. They are obviously not here to discuss this. I am not accusing them of doing anything wrong other than to say, no one would be allowed to do a dismantling as they did without some sort of plan and I believe my letter says what happened during this period of time. So no, I know that the city has a time table. I

do know that Community Investment and Scott Ford has assigned someone to do a thorough investigation and go back to the city council. I was not a part of that during that particular time, asking for an investigation. This is more related to Historic Preservation and what they did with the easement.

Mr. Kruszynski: Mr. Bogner, obviously you have presented this to the Historic Preservation....

Mr. Bogner: We have through the years presented much information to the Historic Preservation Commission. We have never received answers from them from during the period of time.

Mr. Kruszynski: When's the last time you addressed them?

Mr. Bogner: The last time we addressed the Historic Preservation Commission was at the time of the sale of the property from the City of South Bend to Indiana Landmarks and we were assured at that time that Historic Preservation and Landmarks would be working in cooperation to be able to assist in stabilizing and that was one of the reasons why the chimney's were removed and as I noted in my letter here, they were done in January and February of 2012. From that point on, it basically was this is an Indiana Landmarks problem and not our problem but the façade easement was not transferred until February of 2015 which means it was an asset of the county's. I come here this evening based on the information that I want to know number one, was it a legal transfer, could they do that without going through any of the bodies and secondly, basically what had happened during the period of time when Landmarks owned the property and HPC had a façade easement on it.

Mr. Kruszynski: Have you addressed this issue with their attorney?

Mr. Bogner: That portion was addressed through the city council and I believe that the city council was also looking at this portion that relates to whether the transfer of the façade easement was legal, so yes, that portion was done, I did not do it, it was done at the last council meeting. I did not personally do it.

Mr. Kruszynski: Mr. Zappia represents the Historic Preservation. Has he gotten back to you?

Mr. Bogner: He has not gotten back to me, but it was directly related to me, I come before the council to bring this to council's attention. I also, I might add, to show that there are three other properties that façade easements continue to be on, which is at a higher level of what would normally occur under HPC rules and guidelines and that's what that information provides you with.

Mr. O'Brien: Mr. Bogner, what is your ultimate goal here, you want to see someone repair and rebuild chimneys?

Mr. Bogner: Well, I think two things. Number one, my concern is, that an asset was passed along and there was a loss of local community involvement. The easement is very clear. Secondly, I think there should be some clarification as to how something can be taken down and be left down for four years without some kind of a plan and HPC is usually very good jumping on issues that have problems. I have seen them in several areas, including houses that are up for demolition that have historic nature to it. This is a very strange situation.

Mr. O'Brien: So you don't care if the chimneys are rebuilt or not?

Mr. Bogner: Obviously we want to have the chimneys rebuilt and I would like to see the property saved; there is a third chimney that was not dismantled that is in disrepair at this time. I am wanting to know what HPC knew and when they knew it and whether they transferred any of that information to anyone of the governing bodies before they gave up the easement.

**Adjournment:** Mr. Morton stated that the meeting was adjourned 7:25 p.m.















MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
September 8, 2015

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on September 8, 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. Noland made a motion to approve the minutes of the August 11, 2015 public hearing was seconded by Mr. O'Brien, the motion was passed by a voice vote; 9-0.

Mr. Noland made a motion to return Bill No. 58-15 back to committee per the petitioner; it was seconded by Mr. Catanzarite. The motion was passed by a voice vote; 9-0.

No report from the County Auditor  
No report from the County Commissioner  
No report from Special Committees.

**First Readings:**

**BILL NO. 67-15:** 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 13460 E. MCKINLEY AND 56020 CURRANT ROAD, FROM C COMMERCIAL DISTRICT TO C COMMERCIAL DISTRICT PETITIONER: RBS PROPERTIES LLC  
Assigned to the Land Use Planning Committee

**BILL NO. 68-15:** AN ORDINANCE OF ST. JOSEPH COUNTY COUNCIL AMENDING ORDINANCE NO 79-13 WHICH ESTABLISHED THE PUBLIC SAFETY COMMUNICATIONS CONSORTIUM OF ST. JOSEPH COUNTY, AND MODIFYING SECTION 6 OF SAID ORDINANCE REGARDING THE OPERATIONS BOARD POWERS AS ESTABLISHED THEREIN Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 69-15:** A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL DECLARING A PORTION OF THE ST. JOSEPH COUNTY AN ECONOMIC REVITALIZATION AREA, PURSUANT TO IC. 6-1.1-12.1-14 ET SEQ PETITIONER: ST. JOSEPH ENERGY CENTER, LLC  
Assigned to the Land Use Planning Committee

**9. Public Hearing on the Airport Authority, Solid Waste Management, and St. Joseph County 2016 Budget:**

**BILL NO. 62-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) AIRPORT AUTHORITY**

Mike Daigle, Executive Director, St. Joseph County Airport Authority, the Airport Authority is requesting consideration of our 2016 budget. Our budget consists of three different funds, the Aviation Fund, Cumulative Building and Debt Services. The total of these funds are twenty million, five hundred and forty one thousand. In our 2016 budget, we have reflected and amount of cost of living wage increases, additional wage adjustments and also some job upgrades based on changes and responsibilities. The largest increase in these funds is in the Cumulative Building fund primarily for air service development. As you know, we are receiving bids in the next two weeks to build a federal inspection station and a general aviation facility to be able and process international flights, a first for our region.

Motion to pass Bill No. 62-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 62-15 was passed to-wit; 9-0.

**BILL NO. 63-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES (BUDGET FORM 4) SOLID WASTE**

Randy Przybysz, Executive Director, Solid Waste Management, budget proposal for 2016 has been approved by our board which you should have a copy of that resolution. Everything in this budget was kept just about the same as last year, there are no raises being proposed. Our total budget for next year is being proposed as an increase of a hundred fifty two thousand, six hundred and forty three dollars and that comes basically from two line items, our Household Hazardous Waste Program in Mishawaka, last year was just under ten thousand people with seven hundred and sixty nine thousand pounds of hazardous material going through there. We are on track this year to exceed that number. People coming and the amount of material. Another factor is, for the last six years we have been under contract with a company called ERI to take the obsolete electronics. They have taken them for free so we rode that horse now all that we can because we were notified that they were the last ones offering to do it for free, that is not going to happen anymore. Our contract is up the end of this year. We have no idea what the charges are going to be or how much material we are going to take in until it actually happens. The proposal there was to take that budget line item from a hundred thousand to two hundred thousand. The other is a fifty thousand dollars put into a capital improvement fund, we have never had that before. There is some discussion to combine our office and our HHW program in one location, more centrally located to the population in the county and also large enough to handle the kind of numbers we are taking through there now. We are land locked where we are at. That money would only be used, should we find a piece of property to do any plans and only with the approval of the board. We have no choice on the electronics; we have to do something about that program. We are anticipating having to pay we just have no idea how much.

Mr. O'Brien: How much do you estimate will be brought in from fees?

Mr. Przybysz: Our total income is about two point five million per year. This budget is two point nine five.

Mr. O'Brien: Is there enough in reserve to fund this?

Mr. Przybysz: Yes and that was discussed with the board. Some of this, because of the process now having to before the Council, there are certain line items, like for the curb side recycling program where we budget for worst case scenario because we would not know until late in the year if fuel surcharges or something needed to kick in and raise the amount we are paying out for that.

Motion to pass Bill No. 63-15 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 63-15 was passed to-wit; 9-0.

**BILL NO. 64-15: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2016**

Mr. Hamann, St. Joseph County Auditor, the budget is still a work in progress. I can say at this juncture, it is estimated to be about fifty six point two million dollars in terms of expenditures for the general fund. When you

combine all the different funds we are looking at about a total budget of a hundred and thirteen million dollars. It is still a work in progress.

Motion to pass Bill No. 64-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 64-15 was passed to-wit; 9-0.

**BILL NO. 65-15: ORDINANCE FOR APPROPRIATIONS AND TAX RATES  
(BUDGET FORM 4) ST. JOSEPH COUNTY, INDIANA**

Mr. Hamann, St. Joseph County Auditor, tax rates again are a work in progress. To give a brief overview, the Assessor's office provides the gross assessment, that then rolls over to the Auditor's office and what our office does then is it comes up with the net assessed value of the property in the county, you take away the exemptions, the abatements and deductions, we then provide that to the state and then the state will take that number, take the number, the various budgets from various tax entities and levy and calculate what those tax rates will be so that will be a few months.

Motion to pass Bill No. 65-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 65-15 was passed to-wit; 9-0.

**SALARY AMENDMENT:**

**BILL NO. 66-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2015  
DEPT. 0018 PROSECUTOR**

Mr. McCahill reported that Bill No. 66-15 comes with a favorable a recommendation.

Bob Risenhoover, Prosecutor's Office, we are here asking for an amendment to our salary amendment to reflect the changes that we appropriated in our first budget to what the APS Grant finally came in at.

Motion to pass Bill No. 66-15 was made by Mr. McCahill and seconded by Ms. Hess. Bill No. 66-15 was passed to-wit; 9-0.

**BILL NO. 49-15: AN ORDINANCE AMENDING ORDINANCE 50-14, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBER OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE FISCAL YEAR 2015-2016 DEPT. 0025 JUVENILE & PROBATE COURT**

Mr. McCahill reported that Bill No. 49-15 comes with a favorable a recommendation.

Pete Morgan, Executive Director of the St. Joseph Probate Court and Juvenile Justice Center, we are seeking a salary amendment which would allow us to apply eleven thousand, five hundred dollars in funds which were awarded under a Juvenile Accountability Block grant to the salary known as Education Coordinator in our probation user fees budget in line number 11376, the reason for seeking the amendment is this would be the person charged with carrying out the duties of the grant over and above the reason for the position otherwise.

Motion to pass Bill No. 49-15 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-15 was passed to-wit; 9-0.

**Public Hearing/Public Comment:**

**BILL NO. 61-15: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE  
HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY  
GOVERNMENT**

A. Treasurer  
General Fund

FROM: 1000-11682-000-0003	Clerk/Cashier	\$400.00
TO: 1000-32020-000-0003	Travel	400.00
		<u>TOTAL: \$400.00</u>

B. Prosecutor  
Adult Protective Service Grant

FROM: 9108-32020-000-0018	Travel	\$1,000.00
9108-22010-000-0018	Gas, Oil and Lubricants	919.00
TO: 9108-11318-000-0018	Investigator APS	\$1,000.00
9108-11319-000-0018	Director APS	31.00
9108-37100-000-0018	Auto Lease	888.00
		<u>TOTAL: \$1919.00</u>

**APPROPRIATE**

C. Auditor's Office  
Enhanced Access Fund

1154-39750-000-0002	Data Processing	\$100,000.00
1155-39750-000-0002	Data Processing	100,000.00
		<u>TOTAL: \$200,000.00</u>

D. County Engineer  
Major Moves Const. Fund

1172-43155-000-0023	McKinley AM General	\$400,000.00
		<u>TOTAL: \$400,000.00</u>

E. Roads & Highway  
Local Road & Street

1169-39150-000-0060	Other Expenses	\$27,865.00
		<u>TOTAL: \$27,865.00</u>

F. Health Dept.  
Health Ebola Grant

8126-22148-000-0055	Field Supplies	\$8,000.00
8126-39750-000-0055	Data Processing	1,000.00
8126-44010-000-0055	Equipment	13,135.00
8126-44311-000-0055	Emergency Equip.	10,000.00
		<u>TOTAL: \$32,135.00</u>

G. Health Dept.  
Health Bioterrorism Grant

8113-21030-000-0055	Office Supplies	\$2,772.00
8113-22148-000-0055	Field Supplies	3,000.00
8113-32020-000-0055	Travel	3,160.00
8113-32050-000-0055	Instruction & Training	2,840.00
8113-32203-000-0055	Cell Phones	1,800.00
8113-44010-000-0055	Equipment	2,500.00
8113-45510-000-0055	Furniture & Fixtures	10,000.00
	<b><u>TOTAL: \$26,072.00</u></b>	

H. Health Dept.  
Health HUD Grant

9103-21030-000-0055	Office Supplies	\$250.00
9103-22148-000-0055	Field Supplies	3,700.00
9103-22328-000-0055	Equipment Repairs	9,785.00
9103-32020-000-0055	Travel	300.00
9103-36010-000-0055	Repairs Bldgs. & Structure	500.00
	<b><u>TOTAL: \$14,535.00</u></b>	

G. Juvenile & Probate Court  
JABG

8125-11385-000-0025	Probation Officer I	\$11,500.00
	<b><u>TOTAL: \$11,500.00</u></b>	

Motion to pass Bill No. 61-15 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 61-15 was passed to-wit; 9-0

**Land Use Planning:**

**BILL NO. 45-15:** PETITION TO VACATE PUBLIC WAYS AND PUBLIC PLACES WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, INDIANA PETITIONER: EDWARD W. HARDIG

Mr. Noland reported that Bill No. 45-15 comes with a favorable a recommendation.

Mr. Danch, Danch, Harner and Associates, as we mentioned to Council, council had asked us last month to see if we could meet with the adjacent property owner and come to an agreement on the use of the property between us and Westwinds, property to the south. We have done that. Mr. Masters is here this evening to speak on behalf of his clients. We have come to agreement which stipulates how the property will be laid out, that we will be providing access for Mr. Master's clients. We provided Council with a site plan that shows the proposed the development that will occur on the property, assuming the Council will approve the vacation of Huron Street. The bill this evening has been revised, the ordinance that is before the Council this evening reflects part of the agreement we have with Mr. Masters clients that if the street gets vacated, they will acquire fifty feet of the sixty feet of right of way which is adjacent to their property that was part of the stipulation. We will also back that up by doing a quick claim deed to Mr. Masters clients to show that the transfer of that property so that property would remain in the county. This process is also on a parallel track, we have already done before the Area Plan Commission for the zoning issue for this property. We did receive a favorable recommendation from the Plan Commission; they also approved variances for the development. What we would say to Council this evening, there will be a public hearing for the residents, everyone that had been notified within three hundred feet for that development, there will be a public hearing where they can address their concerns at a city council meeting, that meeting will be on September 28 that will be a public hearing.

Mr. Kruszynski: Mike, I know there was an issue with the curb height on the north side of the building....

Mr. Danch: Yes, what we have done with that as part of the agreement, when we do our part of the development, there will be a curb at the north property line for Westwinds. There will be a nice clean line.

James A. Masters, Nemeth, Feeney, Masters and Campiti, 350 Columbia, South Bend, I am here tonight on behalf of Maron LLC and its owners. At your last meeting, we presented a remonstrance to the vacation of Huron Street. I am pleased to inform you that with the cooperation of the petitioner and the cooperation of the representatives of Martins, the issues raised by that remonstrance have been resolved. The remonstrance is hereby withdrawn.

Leon Grey, 56420 Butternut Road, South Bend, I am in favor of any improvement this community can have especially on the west side.

Murray Miller, 1201 Priscilla Drive, I am also in favor of this. The west side has been in need of a new grocery store in the area. I think it's well deserved for the people on the west side to get that. I am very much in favor.

Kevin Pajakowski, 58472 Eastwood Drive, South Bend, Martin's has done a wonderful thing, when they moved in, they cleaned up the area. They kept the area clean. Without Martin's, that's the one anchor we have had in this community on our side of town.

Susan Zawadowski, 159 N. Summit Drive, South Bend, I am a current Martin's customer at that store, I am very much in favor of the vacation of Huron Street. I look forward to walking and riding my bike to Martin's. I appreciate what Martin's does for our community.

Rev. Charles Zawadowski, 159 N. Summit Drive, South Bend, I am a pastor of St. Mary's Parish on Sample Street. I echo some of the thoughts we have heard today. We always talk about how we need new things on the west side, here it is. We, as a community, partner with Martin's. We do not partner with Kroger's or Meijers. Many neighborhood organizations, government entities have benefited from Martin's charity. They have an excellent track record. They are good neighbors. I endorse and support the vacation of Huron Street.

Charles Waddell, 5134 Hazelwood Court, South Bend, I am looking forward to shopping. Martin's has a history of hiring local contractors and local workers so I think it's a big boost for our economy. I am looking forward to this.

Diana Kisminski, 56921 Hollywood Blvd., South Bend, I am in opposition of Huron Street. I hope you have had an opportunity to look over the packet of information I provided to your office. As you can see from the diagram, Martin's plans to build a drive through service for customers to purchase coffee. As we all know, traffic from a drive through can quickly back up. As a result, drivers will have to wait on Hollywood Blvd. before accessing Martin's. This will result in cars backing up in both directions. This will cause a traffic jam on Grant as drivers wait to turn into Hollywood Blvd. There is no left turn signal at Mayflower and Sample. As a result, drivers will be detoured from using the Mayflower entrance into Martin's. There are a lot of children that live on Hollywood Blvd. We are your constituents, not Martin's. We need you to represent our interests.

Eric Kisminski, 56921 Hollywood Blvd., South Bend, I am here this evening representing myself and those that signed the petition. So far all we have heard from the representatives of Martin's are stories, lies and total disrespect to the residents regarding their concerns about their project. This proposed Martin's already has three entrances. Two on Mayflower and one on Western. As I looked on the Council list of names I was proved last week and addresses I noticed that none of you live in a heavily traffic road. Put yourself in our position. In America, we live in a democracy. We the people, who will be effected the most, took a vote and we voted to close the entrance to Martin's from Hollywood, you have the petition in your position.

Louann Gondos, 565547 Hollywood Blvd., I am representing my mother in law who lives on Hollywood Blvd. I am a Martin's supporter, I am happy the store is going to be put where it is going to be put. I have to agree, you guys have to cut off access to Hurron and Hollywood Blvd. It's our neighborhood. Just protect our neighborhood streets.

Denise Lentech, 56595 S. Hollywood Blvd., my husband and I have lived here for thirty eight years; we have raised our children and now enjoy our grandchildren visiting us here. We chose this neighborhood to live out our lives in because it is peaceful and friendly. We the neighbors who live on Hollywood, Ford and Elmer beg of you to allow the quality of our lives to remain somewhat, what we envisioned it when we chose this neighborhood to live out our lives. Please vote against the entrance/exit on Hollywood.

Jeffrey Booker, 56577 Hollywood Blvd., I too know that Martin's does a lot of good for our community. I am not against Martin's building a store. The realization of the Martin's project with a rear entrance off of Hollywood Blvd. is not fair. It's not fair to the residents or the county. The city will annex this part for the Martin's project, Martin's will use the road and the county will have to maintain it. That's not fair. It will put a lot of traffic back there. We are just asking for one concession from Martin's. Close that entrance.

Patricia Cichowicz Lynch, 23665 Grant Road, South Bend, Martin's has been a great neighbor. We know they will be moving and building in between Hollywood and Mayflower and we accept that but we object to an egress on Hollywood.

Thomas J. Kowalski, 56680 Hollywood Blvd., South Bend, I am representing my mom who is 92 years old and still resides there. With the entrance to Martin's on Hollywood, we won't be able to get out of our driveway most of the time. My mom is not driving but my mom does not want it there.

Mr. Danch: We are looking at the concerns of the residents that showed up this evening. This project has gone through review both county engineering department and also city engineer for the City of South Bend. We asked them to take a look at the project as well. We do have a main access point that would be onto Mayflower Road, actually we have two on Mayflower Road and there will be one on Western. The one off of Hollywood Blvd. we don't believe will be a main entrance for any access point from that residential area. That is to allow access for residents to come in; they don't have to go out to Mayflower Road, that's one of the reasons for that. It is not a main access point. We created that strictly to allow for residents that are going to use the Martin's to get back to their homes without either going out to Western Ave. or onto Mayflower. I have not heard any concerns from either the city engineering department or the county engineering department about increase amount of traffic that would be going out onto Hollywood Blvd. but we will take a look at that. We have heard concerns though, of the rout that is being taken from Grant up to Western and then over to the church for picking up children but I don't think there's that huge increase and I believe the county engineering department is also going to be taking a look at it from a traffic standpoint as well. What we would ask Council to do is allow us to move ahead and get to the city council portion for the rezoning where these remonstrators can show up and address their concerns with the city council as well.

Mr. Kruszynski: Mike, I think you just answered it, I know three for four of the residents got up and spoke were concerned about that access onto Hollywood. But their concerns should be addressed with the city council, am I correct?

Mr. Danch: That is correct. The city engineering department will have jurisdiction, we are going through that annexation procedure to bring it into the city. The city engineering department also has a close relationship with county engineering as well. So I think between the two they will also be looking at it. We will have to submit a final site plan for approval for those departments before we build.

Mr. Catanzarite: Just for the record, Mr. Kisminski mentioned none of live near commercial. I live about a hundred feet away from a Walgreens store near Ironwood and Edison so I do know what it is like to live next to commercial property and I have a dentist and an insurance office next door to me. Having gone through that process and worked with those groups when they moved into our neighborhood after I moved there and not known they were going to be there when I moved initially, the zoning screening requirements that are in place today are a lot more stringent than they were many years ago so for me personally, it's been a positive experience living next to a commercial property and some offices and the screen that has gone up has shielded my family from what I consider to be to very highly, intensive used properties so to our satisfaction, I just want to say I do live next to commercial property and by it and it has not been a bad experience. Mr. Danch, looking at our concerns, I think you have written commitments, you would not use Hollywood for any truck delivery access, right?

Mr. Danch: It was actually designed that way. Truck traffic will not go out onto Hollywood Blvd. We did work closely with the city engineering department on that as well as Jessica (Clark) and the way it's designed, the whole site is designed for truck traffic to come off of either Western Avenue come south through our access point which is east of John Becker's shopping center or come in off of Mayflower Road. The whole design for truck turning radius is dictated by that access routing. A truck could not come down Hollywood Blvd. and make the turn into the site and one of the things we have mentioned to the residents is, Martin's has complete control over any of the vendors that delivery goods/produce to their stores so that we can prevent that from happening.

Mr. Catanzarite: Hearing the concerns from most of the Hollywood residents who would be most impacted by this, is there a design possibility of an entrance or an exit off of Hollywood that could be achieved that would make it less intensive?

Mr. Danch: We can take a look at that but it's almost going to be up to the engineering department to see if there is a way to limit how that traffic would access Hollywood Blvd. There are certain ways to do an entrance way to deliver traffic one way or another.

Mr. Catanzarite: You negotiated with Westwinds. Westwinds contends that many of their patrons currently and have for a long time always used Hollywood Blvd. to avoid Mayflower Road, is that correct? Was that conveyed to you?

Mr. Danch: I have heard that, the patrons that came out of Westwinds would like to go over toward Hollywood because it's easier that way. I also heard where there is a situation where Huron Street was a straight through, there were actually people cutting through Mayflower over to Hollywood Blvd. and racing down that so by our design, we will be able to stop that.

Mr. Catanzarite: By offsetting that.

Mr. Danch: By offsetting that and making it more difficult, we are also going to include signage, stop signs within our site.

Mr. Morton: You are saying that you are talking to the city engineer?

Mr. Danch: We have done that, yes. What I am saying is, before we can get our approval to start the project, they will have to review everything and make sure that we are in compliance as well.

Mr. Morton: Is the city engineer; is he aware of all the concerns of the residents?

Mr. Danch: They will be, I think with them showing up, they were at the Area Plan Commission meeting so I think some of those concerns were conveyed at the Area Plan Commission meeting that we had approximately two weeks ago. It will also be at the city council meeting as well.

Mr. Morton: I think it would make sense if the city engineer was made aware of these concerns before the night of the public hearing. That just makes sense.

Mr. Danch: I would be glad to inform them, I have no trouble doing that.

Mr. Catanzarite: I hope Martin's is very sensitive to that issue; it sounds like you are trying to address it or willing to look at it and possibly address it. I think the people have made some very thoughtful and true statements about how the impact will be on their neighborhood.

Mr. Morton: Mr. Danch, the site plan you presented tonight is amended, correct?

Mr. Danch: Correct.

Mr. Kruszynski: I have just a few comments. Some of the concerns that were addressed, I know Mr. Booker, you brought up about the traffic count or study, I have emailed our county engineer, Jessica Clark last week after I heard your concern in regards to that. She is working with MACOG to get that done before winter, we would like to see what that count is before Martin's is built, if this passes. The lady that brought up about a couple of intersections in regards to Grant and Mayflower, again, that is a city issue, the county does not have any jurisdiction over that intersection. Same thing with Western and Mayflower, if we recall at the neighborhood meeting that a few of us attended, Councilman Oliver Davis indicated that he would be looking at those traffic signals, he was going to talk to the city engineer to address that issue along with some left turning lanes, which Mike, isn't there some left turning lanes purposed on Huron?

Mr. Danch: Yes, the main entrance way we have on to Mayflower Road at the request of city engineer they asked that we provide a left turn lane onto Mayflower Road. That also has a dedicated right turn lane as well. That was part of their design when they took a look at our site plan.

Mr. Kruszynski: Also, I have spoken to Jessica in regards to the way that Hollywood is constructed and she is going to take a look at that Mr. Booker and once we get traffic counts and again, if this is passed and get traffic counts later then that issue will be addressed. I also had a meeting with Area Plan and discussed some options that could be done to Hollywood along with Jessica that if that traffic turns to get real bad, there are things we can do, we as a county can do to Hollywood, not to the access point onto Hollywood but there are things we can do down the road if starts to be a real nuisance.

Audience member: Is Martin's going to post a bond (inaudible) on that nice new road you put in? I think someone should consider that.

Mr. Kruszynski: Jeff, in dealing with the Martin's representatives for the last two months, either on the phone or in person, not with just myself but with other colleagues on the Council here, I will hold Mr. Bartles accountable for whatever goes around in that area in Martin's commitment to this store, if it's passed and the commitment they made to the other stores, I am pretty pleased at what I see. Like Councilman Cantazarite has said, he does live in a pretty heavily commercial area, I just so happen to live right off of Quince Road, we have a school there, you have fire trucks there, you have all kinds of traffic going up and down Quince so we get it on Quince also. I am also concerned of the constituents in that area that's why I will hold Mr. Bartle's accountable, I will be the first one banging on his door. I think he knows that.

Motion to pass the amendment for Bill No. 45-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Amended Bill No. 45-15 was passed by a voice vote to-wit; 9-0.

Mr. O'Brien: I wanted to acknowledge that Martin's investment is coming without any request to the county for incentives. I'm impressed with that among many other aspects of the project, the number of jobs that will be retained and additional jobs to be created as well. It's not often that investments in real estate of this nature do not come to us with a request for an incentive and I am very pleased with that and I will be supporting passage when we ultimately vote.

Ms. Hess: I also think that Martin's brings a lot to the community and am pleased with the developments I have seen and past and look forward to this one however, I will echo what Mark Catanzarite said as well, I think they should take the neighbor's concerns into consideration when they are making this development because they have lived there for a long time and to have their life disrupted or as they perceive as being disrupted needs to be given careful consideration. I know that Bobby K., that's his district, he will be as he said, knocking on Mr. Bartle's door if there is a problem and my district butts right up against that so again, I work with neighborhoods in the City of South Bend that's my day job, so I am very concerned about what neighbors think when there is development or new things are happening in their neighborhood.

Mr. Morton: Mr. Danch, I'd be interested in hearing from you as you progress with your conversation with the city engineer, hopefully there again, before the public hearing and if you would be so kind as to give me a call and let me know how that's progressing.

Mr. Danch: I will.

Motion to pass Bill No. 45-15 was made by Mr. Kruszynski and seconded by Mr. O'Brien. Bill No. 45-15 was passed to-wit; 9-0

**BILL NO. 53-15:** A RESOLUTION OF THE COUNTY COUNCIL OF THE COUNTY OF ST. JOSEPH, INDIANA, ESTABLISHING REASONABLE ACCOMMODATION POLICIES AND PROCEDURES IN ZONING AND LAND USE DECISIONS WITHIN THE COUNTY OF ST. JOSEPH, INDIANA  
PETITIONER: MARK P. TELLOYAN

Mr. Noland reported that Bill No. 53-15 comes with a favorable a recommendation.

Mr. Telloyan: This proposed ordinance brings the county in mind with the ADA, the American Disabilities Act and Fair Housing Act. It also echo's a resolution passed earlier by our colleagues on the City of South Bend. Mark Lyons from the Building Department is here if there are any detailed questions, I was asked by Jamie Woods to present it to the Council, I would ask for its passage.

Motion to pass Bill No. 53-15 was made by Mr. Catanzarite and seconded by Mr. O'Brien. Bill No. 53-15 was passed to-wit; 9-0

**BILL NO. 57-15: AN ORDINANCE ESTABLISHING FEES TO BE COLLECTED BY THE AREA PLAN COMMISSION PETITIONER: AREA PLAN COMMISSION**

Mr. Noland reported that Bill No. 57-15 comes with a favorable a recommendation.

Larry Magliozzi, Executive Director of the Area Plan Commission, this is establishing new fees for the next two years, 2016-2017. It replaces a multiyear schedule that was approved back in 2009.

Motion to pass Bill No. 57-15 was made by Mr. Noland and seconded by Mr. Kruszynski. Bill No. 57-15 was passed to-wit; 9-0

**BILL NO. 60-15: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY AMERICAN STRUCTUREPOINT ON BEHALF OF NAVISTAR FOR THE PROPERTY LOCATED AT 32104 STATE ROAD 2, NEW CARLISLE THE SAME BEING PETITION NO. 08-05-15-14 FILED WITH THE AREA BOARD OF ZONING APPEALS**

Mr. Noland reported that Bill No. 60-15 comes with a favorable a recommendation.

Mark Lyons, Building Department, this was given public hearing at the August 5<sup>th</sup> at the Area Board of Zoning appeals, this is a special exception to allow an auto testing grounds. This comes to you with a unanimous favorable recommendation.

Mr. Catanzarite: Unrelated to the bill but I would just like to extend my congratulations to Mr. Lyons and thank him for his ten years of service to our county and wish you the best of luck moving forward. You brought a lot to the county in terms of helping us out in a lot of issues that have come before us.

Mr. Lyons: Thank you, I appreciate it.

Mr. Kruszynski: I'd like to echo that Mark, the little time I have had time to work with you, you have been very good but you have one last request, what about 56131 Butternut? I left you a message about a week ago.

Mr. Lyons: It's on the demo list, so it should be getting it taken care of. It will probably be the 2016 list. Chuck is just starting to get the 2016 list put together, probably end of November early December when he will be bringing those forward to get the process started.

Mr. Kruszynski: Thank you, good luck to you.

Mr. Hamann: Mr. Lyons, I didn't realize you were leaving us. I do wish you the best of luck and you were outstanding when I was a councilman and any concerns you were "Johnny on the spot" whenever I called, you would check on within twenty four hours of a property to see if it was in compliance with building code so I really appreciated your hard work so good luck.

Mr. Lyons: Thank you.

Mr. McCahill: Congratulations on going home go Packers.

Motion to pass Bill No. 60-15 was made by Mr. Noland and seconded by Mr. O'Brien. Bill No. 60-15 was passed to-wit; 9-0

**Unfinished Business:**

**New Business:**

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

Mr. O'Brien: I just wanted to report to the council, I did have office hours or an open house last week to invite people to come in and speak about the Taxpayer Protection and Transparency Ordinance that I proposed. Only one person showed up, I spoke with that person to explain the ordinance, I had no other face to face questions about it. I have had nine or ten calls and messages in support of it. I will talk more about it at the committee meetings in a couple of weeks.

Jim Bogner, 807 W. Washington Street, South Bend, I come this evening regarding property in the City of South Bend, 803 W. Washington, I believe it resides in President Morton's district. This is also known as the Kiser Mansion. I am in front of Council this evening is because of an issue related to the Historic Preservation Commission. As you may or may not know, the Historic Preservation Commission for the last fifteen years has had a façade easement on this property. During this period of time they had care, custody and control of the façade of this building. A very unusual situation, an asset to our county. On February 23, 2015, the Historic Preservation Commission, under a deed of easement, transferred or essentially gave up the façade easement on this property, care, custody and control. There were questions at the city council last meeting that they had over the issue of whether this was a valid transfer. I realize in fairness of Historic Preservation Commission they are not here this evening, but it was a transfer of an asset. The other issue I am deeply concerned about, living directly next door to this property is that once the property was allowed to be transferred from the City of South Bend to Indiana Landmarks, two of the chimney's were dismantled. That had to of been through an agreement with HPC because they had care, custody and control of the façade, again an asset to this county. Those chimney's continued to be down today. They have not been restored, Councilman Catanzarite knew the people at the time that lived there, can validate the fact that they are there. There are serious questions that relate to how the Historic Preservation Commission handled this property over the 15 years they had it. My letter is directed to President Morton but it is for all of you, it basically asks, what has happened between December 11, 2011 which was the transfer of the property from the City of South Bend to the Historic Landmarks Foundation of Indiana, also called Indiana Landmarks until this deed of easement? I don't know that it ever came in front of council, I don't know if council was ever aware of it. I don't know whether the Historic Preservation Commission ever could do it without talking with council but there were clearly were two things that happened here. An important asset in this community, a façade easement, and there are also three others, were transferred. Secondly, during the period of time that Indiana Landmarks owned the property, there was work done on the property and it was not followed through on and does not till this day. The reason why I am here is to ask council to take a look at this through their legal folks and all of you to take a look at the history of this and what Historic Preservation does. Now having lived in the neighborhood, I can tell you, if I came down to any work on my property and I went the building department to get a permit, they would look at where I lived at, they would know it was an historic property and they would ask to review this. I know of no place else we could go almost four years without some kind of plan that came trough Historic Preservation. I think my concern to this is, they may have answers to this, but I don't understand why demolition to these chimney's which needed to be done and not rebuilt and I don't understand why an asset was given away without coming to the elected officials. There may be a question you may have is well, if this happened February why am I now coming before you now. It's because many of us just realized that this occurred through other issues that are unrelated to this council and because of the nature of Historic Preservation I think they owe everyone some answers, first of all, you folks and then ultimately, me. I think it's a question in government about fairness, about are we all going to be treated equally or is there a wink a nod that we are going to somehow take of this because this is going to a higher level and then the higher level turns and sells it. This is an important property in the city, the individuals that were working on this property are having issues with Indiana Landmarks which does not relate to this, the city is conducting their own investigation but I do believe that the Council does have issues relating to this to understand how it would have been sold and how it would have been passed over without anybody knowing anything. I'd be glad to take any questions anyone may have but the documentation, which I don't expect you to look at now, will clearly show you, what we call the Freedline Easement from 83, what governed it up unto the transfer of the easement.

Mr. Morton: What is the time table of the city's investigation?

Mr. Bogner: That's a very good question, Mr. President. The city isn't conducting a thorough investigation into issues that are related to Indiana Landmarks and the current property owners that have nothing to do directly with the Historic Preservation Commission so that is why I am here asking for your help. Basically to find out what you folks know about this and what will come of this. I don't know that the city has a time table but as you know, Historic Preservation Commission is a hybrid, it's part city and part county but most of the time county comes in. I also want to say too, it's very important to be fair. They are obviously not here to discuss this. I am not accusing them of doing anything wrong other than to say, no one would be allowed to do a dismantling as they did without some sort of plan and I believe my letter says what happened during this period of time. So no, I know that the city has a time table. I

do know that Community Investment and Scott Ford has assigned someone to do a thorough investigation and go back to the city council. I was not a part of that during that particular time, asking for an investigation. This is more related to Historic Preservation and what they did with the easement.

Mr. Kruszynski: Mr. Bogner, obviously you have presented this to the Historic Preservation....

Mr. Bogner: We have through the years presented much information to the Historic Preservation Commission. We have never received answers from them from during the period of time.

Mr. Kruszynski: When's the last time you addressed them?

Mr. Bogner: The last time we addressed the Historic Preservation Commission was at the time of the sale of the property from the City of South Bend to Indiana Landmarks and we were assured at that time that Historic Preservation and Landmarks would be working in cooperation to be able to assist in stabilizing and that was one of the reasons why the chimney's were removed and as I noted in my letter here, they were done in January and February of 2012. From that point on, it basically was this is an Indiana Landmarks problem and not our problem but the façade easement was not transferred until February of 2015 which means it was an asset of the county's. I come here this evening based on the information that I want to know number one, was it a legal transfer, could they do that without going through any of the bodies and secondly, basically what had happened during the period of time when Landmarks owned the property and HPC had a façade easement on it.

Mr. Kruszynski: Have you addressed this issue with their attorney?

Mr. Bogner: That portion was addressed through the city council and I believe that the city council was also looking at this portion that relates to whether the transfer of the façade easement was legal, so yes, that portion was done, I did not do it, it was done at the last council meeting. I did not personally do it.

Mr. Kruszynski: Mr. Zappia represents the Historic Preservation. Has he gotten back to you?

Mr. Bogner: He has not gotten back to me, but it was directly related to me, I come before the council to bring this to council's attention. I also, I might add, to show that there are three other properties that façade easements continue to be on, which is at a higher level of what would normally occur under HPC rules and guidelines and that's what that information provides you with.

Mr. O'Brien: Mr. Bogner, what is your ultimate goal here, you want to see someone repair and rebuild chimneys?

Mr. Bogner: Well, I think two things. Number one, my concern is, that an asset was passed along and there was a loss of local community involvement. The easement is very clear. Secondly, I think there should be some clarification as to how something can be taken down and be left down for four years without some kind of a plan and HPC is usually very good jumping on issues that have problems. I have seen them in several areas, including houses that are up for demolition that have historic nature to it. This is a very strange situation.

Mr. O'Brien: So you don't care if the chimneys are rebuilt or not?

Mr. Bogner: Obviously we want to have the chimneys rebuilt and I would like to see the property saved; there is a third chimney that was not dismantled that is in disrepair at this time. I am wanting to know what HPC knew and when they knew it and whether they transferred any of that information to anyone of the governing bodies before they gave up the easement.

**Adjournment:** Mr. Morton stated that the meeting was adjourned 7:25 p.m.













