

MINUTES OF THE
REGULAR MEETING
OF THE
ST. JOSEPH COUNTY COUNCIL
August 9, 2011

The regular meeting of the St. Joseph County Council was called to order at 7:10 p.m., on August 9, 2011, by the President, Rafael Morton, in the Council Chambers, fourth floor, County-City Building, South Bend, Indiana.

Members in attendance were:

Mr. Mark Catanzarite
Mr. Dale DeVon
Mr. Michael J. Hamann
Mr. Daniel G. Herbster
Mr. Michael J. Kruk
Mr. Robert J. McCahill
Mr. Rafael Morton
Mr. Corey D. Noland
Mr. Mark Root

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

Petitions, Communications & Miscellaneous Matters:

Mr. Kruk moved to send Bill No. 77-11 & 78-11 back to Committee. His motion was seconded by Mr. Noland. The motion passed by a vote; 7-2 (Root, Herbster).

Mr. Hamann moved and was seconded by Mr. Noland to approve the minutes of July 12, 2011. The motion passed by a voice vote; 9-0. No negatives were heard.

No report from the County Auditor.

No report from the Board of Commissioners.

First Readings:

BILL NO. 90-11: AN ORDINANCE APPROPRIATING THE SUM OF \$28,000.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 0001 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2011. (Dept. 0020 - Superior Court) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 91-11: AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY, INDIANA FOR THE YEAR 2012. - Assigned to the Budget and Administration Committee

BILL NO. 92-11: AN ORDINANCE APPROPRIATING MONEYS FOR THE PURPOSE OF DEFRAYING THE EXPENSES OF THE SEVERAL DEPARTMENTS OF THE COUNTY GOVERNMENT OF ST. JOSEPH COUNTY, INDIANA, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2012, AND ENDING DECEMBER 31, 2012, INCLUDING ALL OUTSTANDING CLAIMS AND OBLIGATIONS, AND FIXING A TIME WHEN THE SAME SHALL TAKE EFFECT. - Assigned to the Budget and Administration Committee

BILL NO. 93-11: AN ORDINANCE LEVYING TAXES AND FIXING THE RATE OF TAXATION FOR THE PURPOSE OF RAISING REVENUE TO MEET THE NECESSARY EXPENSE FOR THE FISCAL YEAR ENDING DECEMBER 31, 2012, FOR THE COUNTY OF ST. JOSEPH, INDIANA. - Assigned to the Budget and Administration Committee

BILL NO. 94-11: AN ORDINANCE AMENDING ORDINANCE 101-10, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2011. (Dept. 0024 - Adult Probation) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 95-11: AN ORDINANCE APPROPRIATING THE SUM OF \$5,500.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 0001 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2011. (Dept. 0056 - Court Substance Abuse Program) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 96-11: AN ORDINANCE APPROPRIATING THE SUM OF \$22,729.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 0001 AND THE SUM OF \$1,500.00 OUT OF THE GAL/CASA PROGRAM FUND - 0070 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2011. (Dept. 0025 - Juvenile & Probate Court) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 97-11: AN ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL AMENDING TITLE III, ADMINISTRATION, CHAPTER 35.56, COUNTY WHEEL TAX, OF THE ST. JOSEPH COUNTY, INDIANA CODE. - Assigned to the Budget and Administration Committee

BILL NO. 98-11: AN ORDINANCE TRANSFERRING THE SUM OF \$6,000.00 FROM VARIOUS ACCOUNTS TO VARIOUS ACCOUNTS ALL BEING WITHIN THE 2011 BUDGET OF ST. JOSEPH COUNTY. (Dept. 0055 - Health) - Assigned to the Human Services/Criminal Justice Committee

BILL NO. 99-11: 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 52565 STATE ROAD 933 AND 52627 US 31 N, FROM C COMMERCIAL DISTRICT TO PUD PLANNED UNIT DEVELOPMENT DISTRICT. (Petitioner: Diversified Real Estate, LLC) - Assigned to the Land Use Planning Committee

BILL NO. 100-11: AN ORDINANCE APPROPRIATING THE SUM OF \$3,863.00 OUT OF THE ST. JOSEPH COUNTY COMMUNITY BASED CORRECTIONS FUND - 0800 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2011. (Petitioner: Dept. 0080 - Comm Base - D.O.C.) - Assigned to the Human Services/Criminal Justice Committee

Resolutions:

BILL NO. 89-11: A RESOLUTION DETERMINING THAT THE QUALIFICATIONS FOR AN ECONOMIC REVITALIZATION AREA HAVE BEEN MET AND CONFIRMING RESOLUTION NO. R6-11 OF ST. JOSEPH COUNTY DECLARING AN AREA OF THAT COUNTY TO BE AN ECONOMIC REVITALIZATION AREA. STRIPCO INC. CONFIRMING RESOLUTION

Tim Hernley, Barnes and Thornburg, 100 North Michigan, South Bend, representing the petitioner Jack Hiler. Stripco is seeking a Real and Personal Property Tax Abatement on a proposed new investment in manufacturing equipment. They have a record in St. Joseph County of steady growth that extends near three decades. This is a significant investment up to \$10M and should bring high paying jobs. The Council has been informed of all aspects of this project. This is a request for a ten (10) year Real and Personal Property Tax Abatement.

Mr. Hiler, President, stated that this project would be of great benefit to the County. He stated that they are requesting this as an investment for the future.

Mr. De Von asked that on the \$9M for Personal Property, will this be a purchase up front or a phase in project. Mr. Hiler responded that they are buying this all up front.

Mr. Hamann questioned in the short and long term, how many jobs are you talking about? Mr. Hiler stated that in the short term, there will be six (6) maybe seven (7) new jobs. With growth they will be adding more jobs than was first promised.

Mr. Kruk stated to Mr. Hiler that at the Committee Meeting, he submitted a Public Benefit Point Total. He said that the total was 100 points according to the County Ordinance, which would give you an additional three (3) years besides the basic three (3) years for the buildings. You are asking for ten (10) years instead of the six (6). Do you have any

comments on the additional years? Mr. Hiler stated that the points don't include one of the requirements for a tax abatement is the fact that they need to... the County wants to see a return on investment made for infra structure. He stated that they are not asking for investment by the County and that might justify the extra time.

Mr. Herbster asked about their prison re-entry program and asked him to describe it. Mr. Hiler stated that was one of the things they have done. After hearing about the program, they thought it would be worthwhile for them to participate with them.

Mr. De Von asked how many total employees there are now? Mr. Hiler stated 131-132.

Mr. No land stated how for the last three (3) years he has gone through Tax Abatements and he commended Stripco's and their keeping their part of the bargain.

Mr. Catanzarite moved to offer an amendment. He stated that in Section 2A it would read for a period of six (6) years and under Section D and E it also read six (6) year. He felt that this is the best that they qualify for. This is not a big project like AM General or IN COTE. His motion was seconded by Mr. Hamann.

The motion passed by a voice vote; 6-3 (De Von, Herbster, Root)

Motion to pass Bill No. 89-11 was made by Mr. Catanzarite and seconded by Mr. Hamann.

Mr. Root questioned what the fiscal impact is of this amendment? Don't tell me that there was an amendment made and we do not know what the fiscal impact is. What is the tax change going from ten (10) years to six (6)? The petitioner has a right to know this.

Mr. Morton stated that this is information that they would be happy to provide. Mr. Root again stated that if an amendment is made, you should be able to know what the fiscal impact of that amendment is.

Mr. Catanzarite said that if it is a ten (10) abatement, it is a phase in of 10 percent. On the first year it is 100 percent and an estimation of 10 percent less each year until you get to year one (1) where it would be at 90 percent.

Mr. Root stated that there should be an estimate ball park figure and you are telling me that we don't.

Mr. Catanzarite stated that the legal counsel should know the answer. Mr. Root stated that the Council made the motion and wanted to know what it was. Mr. Catanzarite stated that he did not analyze the fiscal impact, he analyzed more the rationale of what he thought the Ordinance intended, based on the points system.

Mr. De Von said, talking about rationale, then in looking at the Ordinance there was a better economy at the time this was passed. He was not sure what kind of signal we were sending to the community and we need to open our doors a little bit more. It is a whole different market now.

Mr. Herbster stated how this illustrates the concerns that he has had with the Tax Abatement Ordinance. He stated how he remembers discussions that with an ordinance like this on the books, when businesses are looking at locations and see something like this on the books, they do not give us a second look. It is a huge "red flag" on St. Joseph County saying that we are not friendly to business. And when a local business is having a hard time, this illustrates that too.

Mr. Hamann stated that the issue with him was that if you are going to give someone an abatement, who need to look at the law. If you are going to go from six (6) year to ten (10) based on somewhat of amorphous. So if they qualify for six (6), why can't you give us eight (8)? It is more of a practical matter than a pragmatic judgement.

Mr. Herbster said that is a valid point and that is what the Council should be doing for every single Tax Abatement. Their job should be to negotiate these issues.

Mr. Hamann stated that if you want to discuss this in the future, so be it.

Mr. DeVon said that if they are going by the letter of the law, it say five (5).

Mr. Hamann replied that one (1) year was de feasible.

Mr. Catanzarite stated that there was negotiation. They came and asked for ten (10) the Ordinance calls for five (5) and given Stripco's history that is why he has suggested six (6) years.

Mr. DeVon stated that anything that could be done to help businesses, like Mr. Hiler, should be done. These doors need to be open to the community.

Mr. Root wanted to hear from Mr. Hernley. Mr. Hernley stated that in regard to the proposed amendment, State Law used to permit up to five (5) years for Personal Property and up to ten (10) for Real. That was in 1973. State Law has changed several times and now it can be given from one (1) to ten (10) years. This should not be reduced to a mathematical formula. This Stripco investment, the vast majority of dollars, are being invested in a new process to give steel an acid bath that involves no chemicals in order that the steel does not rust. They will still be owning and paying taxes on the equipment ten (10) years from now. The AM General project was a much larger investment in terms of dollar magnitude, but in terms of return on investment, he would have to say that Stripco's will be much greater. It is not going to be in business for a half dozen years and still be receiving an abatement on equipment that is no longer in productive use. The public benefits points standards set forth in the Ordinance do not apply to Personal Property and requested that the Council could grant six (6) years on the Real Property and ten (10) years on the Personal.

Mr. Catanzarite stated to Mr. Hernley that his position and reference to AM General and that they only made a half dozen years return on investment to the County... he stated that he respectfully disagreed with than. He spoke regarding their investment on the H2 Line but they are going to use the equipment to help run the line for the mobility taxi cab. He stated that every month they get a report from Mr. Bulot, Building Department, and it states that this County is still having Commercial growth. That Commercial and Industrial growth is happening because people are still making investments in the community and a lot of them are not asking for an abatement. He went on to discuss who would be doing the construction work and how it was stated that a firm from Elkhart County would be hired and would be using building materials that would be from cement contracting companies in St. Joe County. But, he would never say that workers from St. Joe County would be used who would be paid a wage rate that is part of the construction wage scale. That is why he feels this is a compromise.

Mr. Root stated that he respectfully disagreed with Mr. Catanzarite's assessment regarding the growth of the County. He stated that he just checked, in the last couple of days, with the Bureau of Labor Statistics with St. Joe County. Three (3) years ago when this Ordinance was passed, there were 132,000 jobs and today there are only 123,000. There are many reasons for that. But to day that we are seeing a lot of growth ... we may be seeing some commercial growth but definitely not job growth. The County has lost thousands of jobs since this Ordinance was passed.

Mr. Catanzarite stated that he felt that the job loss in St. Joe County was no higher than across the entire state of Indiana in counties that have a Tax Abatement Ordinance.

Mr. Root commented that the numbers are just not there.

Mr. Catanzarite stated that growth has not ended because a Tax Abatement Ordinance has come on board.

Mr. Herbster commented that he was troubled when the Council is inquiring too much into the business practices of those who are asking for a simple tax abatement or land use, special use and those types of things. He was not sure it was their role to micro manage peoples decisions on who they contract, etc.

Mr. Catanzarite disagreed by saying that in no way does he want to micro manage anyone's ability regarding who they want to contract with. He said that if we are going to ask a community for an abatement and support your project then you ought to at least uphold the county wage established by workers in the county. If you don't want to do that, don't come ask for an abatement.

Bill No. 89 -11 passed to-wit; 6-3 (DeVon, Herbster, Root).

Public Hearings:

BILL NO. 81-11: AN ORDINANCE APPROPRIATING THE SUM OF \$45,553.00 OUT OF THE ST. JOSEPH COUNTY PARK & REC. NON-REVERTING FUND - 0017 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2011. (Dept. 0057 - Parks & Recreation - Inter Fund Transfer) - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 81-11 comes with a favorable recommendation.

Evie Kirkwood, Director, stated that these funds are being transferred to make up the 2011 Budget. This was approved in the Budget Hearing process. This is different and separate from the ongoing transfers they have been making to adjust for the reductions in their appropriations that came about in March of 2011.

Motion to pass Bill No. 81-11 was made by Mr. Noland and seconded by Mr. Kruk. Bill No. 81-11 passed to-wit; 9-0.

BILL NO. 82-11: AN ORDINANCE APPROPRIATING THE SUM OF \$2,500.00 OUT OF THE ST. JOSEPH COUNTY GENERAL FUND - 0001 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2011. (Dept. 0018 - Prosecutor) - Assigned to the Human Services/Criminal Justice Committee

Mr. Hamann reported that Bill No. 82-11 comes with a favorable recommendation.

Bob Risenhoover, Director of Finance and Budgets, explained that these are grant funds received from the Drug Free Community Fund for use in travel and training for the prosecuting attorneys.

Motion to pass Bill No. 82-11 was made by Mr. Hamann and seconded by Mr. Catanzarite. Bill No. 82-11 passed to-wit; 9-0.

BILL NO. 53-11: AN ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL AMENDING TITLE XV: LAND USAGE; CHAPTER 150: GENERAL PROVISIONS; LICENSING AND REGISTRATION REQUIREMENTS, CHAPTER 151: BUILDING CODES AND APPENDIX: SCHEDULE OF FINES AND FEES OF THE ST. JOSEPH COUNTY, INDIANA CODE. (Building Department) - Assigned to the Land Use Planning Committee

The Clerk stated that the amendment to the bill was that the entire bill was replaced with the Bill No. 53-11 as filed on July 12, 2011.

Mr. DeVon reported that Bill No. 53-11 comes with a favorable recommendation.

Motion to Amend was made by Mr. Herbster and seconded by Mr. DeVon.

Mr. Morton asked the petitioner if he agreed with the amendment? His response was yes.

Chuck Bulot, Building Commissioner, stated that on previous occasions he presented the formulas, reasons and justifications for requesting a permit fee increase. The Building Department does not use tax dollars. It is an Enterprise Fund. That means all of their expenses are paid by revenues from Building Permits and other fees. There are no profits. The Building Department is charged with the health, safety and welfare of the public when it comes to buildings that are occupied. Their primary expense is vehicles and personnel. Gas prices have risen and they have been forced to reduce their staff.

The current permit fees are \$.10 per square foot for residential new construction and additions and \$.12 per square foot for commercial new construction and additions. Commercial buildings vary in complexity and inspection process, depending on their particular type of construction and use.

By using the proposed fee increase, the permit fee for a single family home will remain the same while more complex building permit fees will increase proportionately. Construction costs relate directly to complexity. It only makes sense that the more a building costs to construct, the more complex the building. It only makes sense that the more complex the building, the more detailed and demanding the inspection process. This bill reflects a sensible, logical and fair assessment of new fees based on the realities of the market place.

The amendment passed by a voice vote; 9-0.

Motion to pass Bill No. 53-11 was made by Mr. Noland and seconded by Mr. Hamann.

Mr. De Von, Mr. Hamann and Mr. Noland thanked Mr. Bulot for the good job he is doing at the Building Department.

Bill No. 53-11 passed as amended; 9-0.

Mr. Morton announced that there would be a combined Public Hearing on Bill Nos. 83-11 and 84-11 but would be voted on separately.

BILL NO. 83-11: AN ORDINANCE AMENDING TITLE XV, LAND USAGE, CHAPTER 153, SUBDIVISIONS, BY REVISING SUB-CHAPTERS MINOR SUBDIVISIONS, SECTION 153.048, MAJOR SUBDIVISIONS, SECTION 153.063, AND SUBDIVISION REPLATS, SECTION 153.077, IN ORDER TO ADOPT THE MOST RECENT STATE STATUTES CONCERNING THE APPEAL PERIOD OF PLAT COMMITTEE DECISIONS. (Area Plan Commission) - Assigned to the Land Use Planning Committee

BILL NO. 84-11: AN ORDINANCE AMENDING TITLE XV, LAND USAGE, CHAPTER 154, PLANNING AND ZONING OF THE ST. JOSEPH COUNTY CODE, BY REVISING SUB-CHAPTER BOARD OF ZONING APPEALS, SECTION 154.558, CONDITIONS, IN ORDER TO ADOPT THE MOST RECENT STATE STATUTES CONCERNING POWERS OF BOARDS OF ZONING APPEALS. (Area Plan Commission) - Assigned to the Land Use Planning Committee

Mr. De Von reported that Bill No. 83-11 and 84-11 come with favorable recommendations.

Christa Nader, Area Plan Commission, explained how both of the bills are in response to laws passed by the State Legislature HB 1311.

Motion to pass Bill No. 83-11 was made by Mr. Catanzarite and seconded by Mr. DeVon. Bill No. 83-11 passed to-wit; 9-0.

Motion to pass Bill No. 84-11 was made by Mr. Hamann and seconded by Mr. McCahill. Bill No. 84-11 passed to-wit; 9-0.

Unfinished Business:

New Business: Mr. Catanzarite gave more clarification on the Stripco Tax Abatement. He stated that the information that Mr. Hernley (attorney) provided to the Council that the new equipment would generate \$105,000.00 a year once it came on line at 100 percent. Using simplistic math, if you take the \$10.5 per year over a ten (10) year abatement, and shorten that up by four (4) years, it would be at \$42,000.00 less savings to the petitioner.

Privilege of the floor:

Adjournment:

Mr. Morton stated that the meeting was adjourned at 8:06 p.m.

Auditor, St. Joseph County

President, St. Joseph County Council