

MINUTES OF THE  
REGULAR MEETING  
OF THE  
ST. JOSEPH COUNTY COUNCIL  
February 8, 2011

The regular meeting of the St. Joseph County Council was called to order at 7:06 p.m., on February 8, 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 Cindy Bodle, Chief Deputy Auditor.

Council staff present were Mr. Michael A. Trippel, Attorney and Ms. Joan M. Pawlowski, Executive Secretary.

**Petitions, Communications & Miscellaneous Matters:**

Mr. Noland moved to nominate Ralph J. Wolfe to be reappointed to the Alcohol & Tobacco Commission. No other nominations were heard and the motion was seconded by Mr. Hamann. The motion passed by a vote; 9-0.

Mr. Catanzarite moved and was seconded by Mr. Kruk to approve the minutes of January 4 and January 11, 2011. The motion passed by a voice vote; 9-0. No negatives were heard.

Mr. Herbster moved that Bill No. 19-06 be withdrawn at the request of the petitioner. The motion was seconded by Mr. Root and 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.

No report from any Special Committees.

**First Readings:**

**BILL NO. 6-11:** AN ORDINANCE APPROPRIATING THE SUM OF \$30,932.00 OUT OF THE ST. JOSEPH COUNTY PLAT BOOK MAINTENANCE FUND -037 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2011. (Dept. 002 - Auditor) - Assigned to the Budget & Administration Committee

**BILL NO. 7-11:** AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY MISHAWAKA SCHOOL CORPORATION, FOR THE PROPERTY LOCATED AT 16800 MADISON ROAD, SOUTH BEND, IN, THE SAME BEING PETITION NO. 02-02-11-06 FILED WITH THE AREA BOARD OF ZONING APPEALS. - Assigned to the Land Use Planning Committee

**BILL NO. 8-11:** AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY JEREMY D. BELCHER FOR THE PROPERTY LOCATED AT 59551 MIDDLEBORO STREET, SOUTH BEND, IN 46614 THE SAME BEING PETITION NO.02-02-11-09 FILED WITH THE AREA BOARD OF ZONING APPEALS. - Assigned to the Land Use Planning Committee

**BILL NO. 9-11:** AN ORDINANCE AMENDING ORDINANCE 28-03 AS PASSED BY THE ST. JOSEPH COUNTY COUNCIL REGARDING THE COUNTY MOTOR VEHICLE EXCISE SURTAX AND COUNTY WHEEL TAX. - Assigned to the Budget and Administration Committee

**BILL NO. 10-11:** AN ORDINANCE APPROPRIATING THE SUM OF \$11,099.00 OUT OF THE FAMILY COURT GRANT FUND - 115 AND \$15,720.00 OUT OF THE D.R.C.B. FEE FUND - 117 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2011. (Dept. 054 - Domestic Relations) - Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 11-11:** AN ORDINANCE APPROPRIATING THE SUM OF \$47,000.00 OUT OF THE ST. JOSEPH COUNTY CLERK RECORD PERPETUATION FUND - 083 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2011. (Dept. 001 - Clerk) - Assigned to the Budget and Administration Committee

**BILL NO. 12-11:** AN ORDINANCE APPROPRIATING THE SUM OF \$38,000.00 OUT OF THE ALTERNATIVE DISPUTE RESOLUTION FUND - 116 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2011. (Dept. 054 - Domestic Relations) - Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 13-11:** 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 10844 MCKINLEY HIGHWAY FROM "C" COMMERCIAL DISTRICT, TO "C" COMMERCIAL DISTRICT. (Petitioner: Loyd V. Weldy) - Assigned to the Land Use Planning Committee

**BILL NO. 14-11:** AN ORDINANCE APPROPRIATING THE SUM OF \$600,000.00 OUT OF THE ST. JOSEPH COUNTY COMMUNITY BASED CORRECTIONS FUND - 800 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2011. (Dept. 795 - Adult Monitoring - Community Based Corrections) {inter fund transfer} - Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 15-11:** AN ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL AMENDING TITLE IX, GENERAL REGULATIONS BY APPEALING IN ITS ENTIRETY AND REPLACING WITH A NEW SMOKING REGULATIONS CHAPTER 96.01 THROUGH 96.19 OF THE ST. JOSEPH COUNTY, INDIANA CODE. - Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 16-11:** AN ORDINANCE APPROPRIATING THE SUM OF \$180,200.00 OUT OF THE ST. JOSEPH COUNTY JUVENILE PROBATION FEES FUND - 056 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE YEAR 2011. (Dept. 025 - Juvenile & Probate Court) - Assigned to the Human Services/Criminal Justice Committee

### **Public Hearings**

**BILL NO. 140-10:** AN ORDINANCE APPROPRIATING THE SUM OF \$3,536.00 OUT OF THE ST. JOSEPH COUNTY USER FEE FUND - 058 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2011. (Dept. 005 - County Police) - Assigned to the Human Services/Criminal Justice Committee

Mr. Hamann reported that Bill No. 140-10 comes with a favorable recommendation.

Bob Boits, Chief, stated that these funds come from money collected from tickets issued.

Motion to pass Bill No. 140-10 was made by Mr. Kruk and seconded by Mr. DeVon. Bill No. 140-10 passed to-wit; 9-0.

**BILL NO. 145-10:** AN ORDINANCE APPROPRIATING THE SUM OF \$62,200.00 OUT OF THE ST. JOSEPH COUNTY PUBLIC DEFENDER FUND AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE YEAR 2011. (Circuit Court/Public Defender) - Assigned to the Human Services/Criminal Justice Committee

Mr. Hamann reported that Bill No. 145-10 comes with a favorable recommendation.

Cindy Bodle, Chief Deputy Auditor, spoke on behalf of Judge Gotsch stating how these funds will support their instruction and training, rent and to reimburse the Public Defender.

Motion to pass Bill No. 145-10 was made by Mr. Catanzarite and seconded by Mr. McCahill. Bill No. 145-10 passed to-wit; 9-0.

**BILL NO. 146-10:** AN ORDINANCE APPROPRIATING THE SUM OF \$136,000.00 OUT OF THE ST. JOSEPH COUNTY DRUG FREE FUND AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2011. (Circuit Court) - Assigned to the Human Services/Criminal Justice Committee

Mr. Hamann reported that Bill No. 146-10 comes with a favorable recommendation.

Cindy Bodle, Chief Deputy Auditor, spoke on behalf of Judge Gotsch stating that the appropriation comes from the Drug Free Fund to give various community grants.

Motion to pass Bill No. 146-10 was made by Mr. Kruk and seconded by Mr. Noland. Bill No. 146-10 passed to-wit; 9-0.

Mr. Morton announced that there would be a combined public hearing on Bill No. 2-11 and 3-11 but would be voted on separately.

**BILL NO. 2-11:** AN ORDINANCE APPROPRIATING THE SUM OF \$99,695.00 OUT OF THE ST. JOSEPH COUNTY HEALTH FUND - 005 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR, 2011. (Dept. 055 - Health) - Assigned to the Human Services/Criminal Justice Committee

**BILL NO. 3-11:** AN ORDINANCE APPROPRIATING THE SUM OF \$10,450.00 OUT OF THE ST. JOSEPH COUNTY HEALTH H1N1 FLU VIRUS FUND - 705 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2011. (Dept. 055 - Health) - Assigned to the Human Services/Criminal Justice Committee

Mr. Hamann reported that Bill No. 2-11 and 3-11 come with a favorable recommendation.

Dr. Thomas Felger, M.D., Health Officer, stated that he was here to answer any questions and had nothing to add to what was discussed in the Committee presentation.

Motion to pass Bill No. 2-11 was made by Mr. Kruk and seconded by Mr. Noland. Bill No. 2-11 passed to-wit; 9-0. Motion to pass Bill No. 3-11 was made by Mr. Catanzarite and seconded by Mr. DeVon. Bill No. 3-11 passed to-wit; 9-0.

**BILL NO. 4-11:** 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. 055 - Health) - Assigned to the Human Services/Criminal Justice Committee

Mr. Hamann reported that Bill No. 4-11 comes with a favorable recommendation.

Dr. Thomas Felger, M.D., Health Officer, again stated that he did not have much to add beyond what was discussed in the Committee presentation. He was present for questions.

Motion to pass Bill No. 4-11 was made by Mr. Catanzarite and seconded by Mr. Hamann. Bill No. 4-11 passed to-wit; 9-0.

**BILL NO. 5-11:** AN ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL AMENDING TITLE XV, LAND USAGE, CHAPTER 154, PLANNING AND ZONING OF THE ST. JOSEPH COUNTY CODE, BY AMENDING SECTIONS 154.290 THROUGH 154.302 FLOODPLAIN REGULATIONS, ST. JOSEPH COUNTY, INDIANA. (Petitioner: Area Plan Commission) - Assigned to the Land Use Planning Committee

Mr. DeVon reported that Bill No. 5-11 comes with a favorable recommendation.

Christa Nader, Area Plan, explained how in September a new Floodplain Regulations Ordinance and maps were presented and passed by the Council. This Ordinance is to correct typos and a change to one of the definitions.

Mr. DeVon asked if this affects not being able to obtain flood insurance? Ms. Nader stated that these maps were effective January 6 and these are really typos.

Motion to pass Bill No. 5-11 was made by Mr. No land and seconded by Mr. Root. Bill No. 5-11 passed to-wit; 9-0.

**BILL NO. 124-10: 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 THE 54400 BLOCK OF SMILAX ROAD, NEW CARLISLE, INDIANA 46552, FROM M - MANUFACTURING INDUSTRIAL DISTRICT TO M - MANUFACTURING INDUSTRIAL DISTRICT. (Petitioners: Illinois Development Company) - Assigned to the Land Use Planning Committee**

Mr. DeVon reported that Bill No. 124-10 comes without a recommendation.

Christa Nader, Area Plan, stated that this request is going from M, Manufacturing District to M, Manufacturing District because back in 1996 all rezonings were tied to a site plan. This was rezoned but no use was given for the southern portion of the site. Therefore, this use or any use gives cause for a new rezoning case. During the presentation, Ms. Nader stated that the Health Department notes that a resource recovery facility will be subject to regulations under Chapter 52, Surface and Groundwater Protection, St. Joseph County Code. These regulations will address the capacity of the facility, regulated substances, activities performed on the concrete pad, surface water drainage, providing a carbon filtration system in a retention basin and how liquid wastes are stored and released. The Area Plan Commission on December 21, 2010 gave this a favorable recommendation. There was no one present to speak for or against this petition. On the Comprehensive Plan - has been designated an "Industrial Growth Area." Infra structure is in place to support industrial uses at this location.

Stephen Studer, Attorney with Krieg & Devault, 4101 Edison Lakes Parkway, Suite 100, Mishawaka, representing the petitioner he stated how this is the largest industrial complex in the County some of which has been zoned Manufacturing for thirty plus years. This particular property has been zoned Manufacturing for fifteen plus years. It has been for sale for twelve years. The nearest home is nearly a half mile away. It is surrounded by other heavy industrial uses near rail road tracks. These tracks have 80-110 trains per day. The NICTD has fourteen trains per day. There have been two (2) public forums held with New Carlisle residents. He stated that they were aware that this was not just a land use issue. They understand the issues raised community and Council members. He stated that they has agreed to place on the Final Site Plan all of the Health Department recommendations. He went on to say that Marc Nelson, Health Department, stated that as a Geologist, that it was his professional opinion that "no impact on surface or ground water would be impacted by this operation" provided that the recommendations from the Health Department are followed. These recommendations will all be placed in the Final Site Plan and will run with the land. Mr. Studer stated that this property is subject to two (2), twice a year, surprise inspections and if anything was discovered they had the right to come back for further inspections. Four (4) acres of this site will be paved in concrete. They do not believe any air permits are necessary with the Indiana Department of Environmental Management, they will be meeting with them this week and if required, they will get them. There is no burning taking place in this processor. There is heat generated by the friction of metal against metal when these cars are shredded and that can catch some things on fire. There is no open flame or burning. Ten to fifteen percent of material that cannot be recycled will be sent to the County landfill in Wyatt. He stated that the noise, at the source, will be approximately 80 decibels. To the nearest home it will be less than 22 decibels. At the property line it would be less than 46 decibels. This is if nothing is done. They will however, be putting sound absorbing curtains around the processor and a ten (10) foot solid concrete wall before you get to the rail tracks. Smilax Road averages 153 trucks per day - U.S. 20, 755 trucks per day and this operation will add 20-30 per day.

Mr. Hamann asked for the truck traffic to be repeated. Mr. Studer did so. He added that there are 90 trucks on Tulip Road. They will not be using Tulip Road. Mr. Hamann questioned if there any logical reason that an explosion is of concern? Mr. Studer stated that the metal against metal, there is no open flame, anything that catches fire or explosion, the County uses four inch steel walls when they explode bombs. These walls are twelve inches thick. There will be foam and water. However, there is no incident of major explosions of any type that has occurred in some 250 plants.

Mr. DeV on asked what the hours of operation were. Mr. Studer stated that they would be 8-5; 7-5, five (5) days a week.

Mr. Herbster asked if these hours were part of the commitment or what they foresee happening? Mr. Studer stated that is what they foresee happening. He stated that it takes about 20 seconds per vehicle to crush and get them ready for shipment. There will be about eighteen (18) employees immediately and up to thirty (30) over the next two (2) years. Mr. Herbster questioned mercury switches and combustible materials... are they going to be removed? Mr. Studer stated absolutely. Steel companies will audit the operation because they don't want to have any mercury switches in their steel. They are required by State Law and the steel companies to have this removed. The only thing that is not recycled is what is called fluff foam (seat cushions, plastic). Mr. Herbster questioned trucks. Mr. Studer stated that the trucks used by this operation are patented. All the materials are contained within, they are completely enclosed. Fluids are removed before any of these vehicles are crushed. This is a very clean operation. Mr. Herbster questioned vibrations coming off of this building. Mr. Studer replied that there are thirty-seven (27) dampers so that there is no vibration coming off the machine. He stated that you will hear freight trains more than this operation.

Mr. Noland asked for the range in wages for these jobs. Mr. Studer stated it was about \$9.50 per hour up to \$20-24 per hour. This family will be working at the site and have hired a controller. They are not included as part of eighteen employees. There are administrative to truck driver jobs and \$12-18 range.

Mr. Catanzarite questioned benefits. Mr. Studer stated that they are now in the process of instituting benefits for all employees. Mr. Catanzarite asked what the annual payroll might be? Mr. Studer estimated about \$500,000-600,000. He also stated that they are not asking for any Tax Abatement. Mr. Catanzarite asked where the machine was manufactured? Mr. Studer stated in St. Louis, MO. Mr. Catanzarite asked about construction jobs? Mr. Studer said that yes there would be some. He did not know the number yet. Mr. Catanzarite asked about minimum wages? Mr. Studer stated that it was his guess that they will be paid minimum wage. He could not commit to that.

Mr. Morton stated that he had a concern about the number of inspections. He said that Marc Nelson, Health Department, said that if they did more than the two (2) inspections per year. He thought that there was a minimum of two (2) per year. Then he made it sound like if they did more that would be showing favoritism or doing more than they do for everyone else. Mr. Studer explained that with the Health Department consenting to doing three (3) inspections a year under the ordinance. If something is found they can do as many inspections as needed. Mr. Nelson did not want to commit to doing one company three and the next company only two. He wanted the ordinance followed.

Mr. Catanzarite stated that Area Plan mentioned that there is sewer and water available to the site. Are you planning on using the utilities? Mr. Studer stated yes, City of South Bend sewer and New Carlisle water.

In Favor:

Andy Laurent, railroad and the petitioner. Illinois-Indiana Development Company is a sister company to the railroad.

They have owned property for about fourteen years. The property is for economic development or industrial development. Unifax and Five Star Sheets are located on property that they own. They want to bring in industry, manufacturing, warehousing and processing facilities to the railroads so that they can move their products. They have been operating the railroad since 1906 between Chicago and South Bend. Currently serving the customers that are here about three (3) times a week. He stated that they do not anticipate that increasing. The processor would increase cars used by 30 percent.

In Opposition:

Tim Vanslager, 29417 U.S. 20, New Carlisle  
Sherri Houser, 29579 Chicago Trail, NC  
Tom Pietrzak, 501 S. Bray Street, NC  
Gunter Zerbes, 5495 N. 800 E, NC  
Mary Countryman, 52959 N. Timothy, NC  
Don Myers, 31084 US 2, NC - Chief of the Chickamagwa Tribe  
Karen Myers, 31084 US 2, NC  
Lou Ann Dixon, 113 W. Ada Street, NC

Gregory Smith, 209 W. Chestnut St., NC  
Jack Daly, 217 W. Michigan St., NC  
Kim Vanslager, 29417 U.S. 20, NC  
Noah Varnak, 106, W. Michigan St., NC  
Dana Groves, 118 W. Chestnut St., NC  
Susan Jones, 2867 N. 925E, Mill Creek, IN  
Sue Baker, 29779 Edison Rd., NC  
Brian Meadows, 8333 N. 425 East, Rolling Prairie  
Becky Widnup, 29736 U.S. 20, NC  
Mal Pearce, 106 W. Michigan, NC  
Troy Picton, 29921 Edison Road, NC  
Robert Elkins, 417 E. Dunn Road, NC  
Jim Dziak, 52555 Tulip Road, NC  
Virginia Smith, 209 W. Chestnut, NC  
Ty Bancroft, 113 W. Ada, NC  
Gary Lawson, 6439 E. Division Road, Millcreek  
Rita Kopala, 66559 Ivy Road, Lakeville  
Karl Kessler, 54829 Tulip Road, NC

There is great concern for ground contamination. Vehicles will be driving over chemicals and then back out to the public roadway. The rain will then wash it off the public roads and into the ground. Decimal levels of the explosions from an Ohio Assistant Fire Chief said that they were in excess of 130 decimals. What about the asbestos in the air? Who will clean up the mess that this will be left behind? We are not comfortable with and feel that we are being slighted. This is not what New Carlisle is. Please do more research. If something goes wrong, do you think this company will step up and bankroll the clean up or are the taxpayers of St. Joe County going to have to do this? The local high school sits in between HWY 20 and HWY 2. The school busses have a difficult time because they cannot see the traffic coming up the hill. Now you are talking about adding 20-30 more trucks. They were told all the truck traffic would be coming down HWY 2. Now we are being told it is coming down HWY 20. The town streets can't handle that type of pounding. Information that has been provided to us has changed many times. How many of the employees will be hired from St. Joe County? Will the truck drivers be from St. Joe County? You (the petitioner - Schlipp) said that if the community didn't want you there, you really didn't want to be there. We in New Carlisle don't want you there. The Chief spoke regarding a democracy. He hoped that as you (the Council) sat and listened to your people, that you heard and felt your people. When the majority of the people say either yes or no to an idea, that is how it is handled. This will disrupt our quality of life. The business hours keep changing. At least Tondu gave us all the facts up front. If the Health Department gives a weeks notice before an inspection, what is stopping them from getting ready for this. This is a threat to the environment. Why do they need a larger space than they had in South Bend? Are they planning on expanding and how large will this operation become? The pictures look like this is at least a two story high building and a ten (10) foot wall will really not do anything. There will be nothing clean or pretty about this operation. The other plants are at least enclosed. There are other counties close to us that want this. Is there a plan for the unknown should an accident happen? They are talking about bringing in two hundred vehicles (200) a day. Will these vehicles stop coming? Will there be training for their employees? Mr. Schlipp made the presentations for the Rum Village proposal. In this case, Mr. Studer and Mr. Danch are doing the front. They are saying different things. IDEM does in fact say that they will need an air permit. The facts are not straight and we have not been able to be heard properly. You can table this tonight and do some more studying and consideration of the issues. We did not receive proper notification in the area of this project. We found out about the project from the newspaper. Why would you want to create another Brownfield in the area? There are 242 sites already in St. Joe County. The residents of New Carlisle feel like they have been blind sided. A comprehensive plan was done in 2007 for the New Carlisle community some of the plan reads "to attract to the existing TIF District industry that will not only have a limited impact on the natural environment and real character that defines the context of New Carlisle, but that will also provide a measurable benefit to the community. Through creating jobs that provide self sustaining wages and benefits, contributing to the community's upward trend infrastructure and achieving a desirable quality of life and adding value to the local economy." The Town Council approved a Resolution last night opposing the shredder because it is believed that many of the items just listed are questions that have not been answered. Please send back to Committee for further study. At one of the first meetings it was stated that cars would arrive already drained and crushed. Now they say that cars that have not been drained, will be drained on site. There will be fumes distribute into the air which can cause lung cancer, heart disease and pre-mature death. Indiana falls into the highest risk category for developing lung cancer according to the Center for Disease Control and Prevention. When Mr. Schlipp's Euclair shredder caught fire, smoke could be seen for fifteen (15) miles. New Carlisle has a volunteer Fire Department that is not equipt to handle this kind of hazardous materials. There will be no open flames, but when a fire appears they will

be using water and foam to put the fire out. Do they have the ability to purify that amount of water? What is catching on fire is the fluff. That water will go into the ground, South Bend sewer system, etc. At the meeting at the Fire Station, we were told that they would be recycling other items; wash machines, dryers and refrigerators. This site plan is very basic and the retention ponds are not showing. Asked that they use green building methods. Haven't heard anything with regards to Freon collection, brake linings and asbestos that will be released into the air. This will be cheap labor coming to work there from South Bend.

Mr. Kruk asked if he attend any of the meetings to address these questions regarding Freon? Mr. Picton stated that he attended almost all the meetings. He stated that he just thought of this question tonight. He stated that he was concerned for the children.

The notification that we received, we were told, was what was required by law. There was only a small sign posted about this meeting. The 300 feet surrounding notification went to businesses. This has added to the frustration of this community. This picture on the wall does not show the subdivision very well. There are a lot of nice homes. The machine is huge and a ten (10) foot wall won't make much of a difference. There will be 350 pound hammers in this machine. The South Shore ties up the Tuilp Road crossing where people get made that they break through the gates now. The train can sit there for three (3) hours. What is going to happen to the air bags? These bags contain sodium azide. This is a toxic material and can kill people.

Mr. Kruk questioned whether this chemical was discussed at any of the meetings? Ms. Smith stated that she attended most of the meetings and never heard anything on air bags and how they were going to recycle them. Mr. Kruk asked if she raised these questions? Ms. Smith stated that they were only given two (2) minutes at the last meeting and she did not raise that question. Mr. Brancroft stated that he would drive to Missouri, film the operation and bring it back for the Council to review if you choose to table this petition. There has been only one (1) pro comment from the Railroad. The rest of the citizens are all opposing this project. You (Council) should be representing these people and simply not let this project happen. Comparing the sound of this machinery to a ticking watch is simply absolutely appalling. There are 242 Brownfields CAFO, AJ Wright, Granger sewer and water, Studebaker's last building was knocked down last year... these are big mistakes and let the mess from these projects lay around time after time. Destroying the aquifer will be another mess. This is about money and money isn't everything. Mr. Kessler has been out of work for two (2) years and seven (7) months and hopes that the project moves forward and he get a job.

Petitioner Rebuttal: Stephen Studer stated that they do not keep changing their minds. He stated how they have met and answered phone calls and met with the Town Council. He stated that Freon must be removed, by law, before they can accept them. He agreed that if they need an air permit, they will obtain it. At the meeting on Saturday, we stated that if they could bring a site of 26 acres with a rail on it, they would be happy to discuss it. We have tried to answer every question. They expect most the vehicles to come down the bi-pass to US 20 to Smilax Road. He stated that they would tell their drivers to come down 2 and come over to Smilax Road. He stated that they cannot control that. We cannot control what goes through town. It is a US Highway.

Mr. Hamann questioned the asbestos and the ten (10) foot wall not being affective if the structure is way to high. Mr. Schlipp stated that there will be an acoustic blanket will cover everything above the wall. We will be meeting with IDEM regarding air permits this week. Mr. Hamann said that if the amount of asbestos that was going into the air was unsafe, you (Mr. Schlipp) would be denied the permit. Mr. Schlipp stated that was correct and there are eight (8) shredders in the State of IN and IDEM is not new at this. Mr. Hamann went on to ask about fluff. Mr. Schlipp stated that most of that fluff is removed from the shredder (from the car). It is separated by the machine.

Mr. Herbster asked Mr. Schlipp to speak to the air bag issue. Mr. Schlipp stated that this was the first time that he has heard this. He stated that was a question for him to ask IDEM. Mr. Studer stated that the Missouri plant is not the same plant that we have. It is twice the size and much older. Mr. Herbster asked if it was closer to the Dayton, OH plant? Mr. Schlipp said very close.

Mr. Morton discussed that the South Bend site was 12 acres and this is 26 and asked that they address this. Mr. Studer stated that what attracted them to the site was that it was zoned manufacturing and has a rail spur on it. These cars can take the recycled material right to the steel plants. There was no rail access in South Bend. The plant will be on the east side of the rail spur. Everything west will remain green space. This is not in New Carlisle. This plant is two (2) miles outside of town. Mr. Morton asked them to address the fire at their Euclair plant. Mr. Schlipp stated that it was portrayed in the paper during the South Bend meetings. He stated that he did not own that shredder. The fire was started by a car inside the building.

Mr. Herbster asked if Mr. Schlipp knew the cause of the fire at the OH plant? *Secretary's note: Mr. Schlipp's response could not be understood.* He went on to say that the things that they have done to curb that, is 24 hour surveillance. *Secretary's note: he went on to say something about hot batter.*

Mr. Morton asked if they plan on 24 hour security? Mr. Schlipp stated yes.

*Mr. Catanzarite's question could not be understood.* He then asked about asbestos? Mr. Schlipp stated something about the water and foam to keep the dust down. This is an issue for IDEM. Mr. Studer stated that all vehicles that are brought on to the site are fully drained.

Mr. Catanzarite questioned where these vehicles would be coming from? Are they coming from the east? Mr. Schlipp stated that they have three (3) yards right now. One in Cicero, Euclair, MI and one in South Bend. 75-80 percent would come these sites.

Mr. Herbster asked for the difference between a preliminary and final site plan and how you are bound to it. Mike Danch, Danch, Harner and Associates, what you have been looking at is a Preliminary Site Plan. This is a concept plan to show you how the site is to be laid out based on what the client wants to do. The Final Site Plan is where the real engineering work, surveys, nail down how large the buildings will be and drainage calculations. He stated that they will have to meet County Engineering requirements. This site is not in the town of New Carlisle and all the ponds have to be sized for a 5.6 inch rainfall for a 24 hour period of time. There is a real strict requirement that any of the paved areas that has storage of vehicles on, that area has to go into that carbon lined retention area. The rest of the site (85 percent) is going to remain as open space. The retention ponds there do not have to be lined because they are grass areas. They have to worry about the paved areas (3.5 acres). On the Final Site Plan will be shown the wall, landscaping, access points, etc. what the County needs in order for approval. This is done after approval (petition) due to the cost (\$20,000-30,000).

Mr. Catanzarite asked Mr. Schlipp to speak regarding the number of employees and if they will be from St. Joseph County? Mr. Schlipp stated that they are going through Work One at this point. This is a State funded hiring organization. These employees will come from this area - Indiana. He stated that they want to hire local people. He stated that his family will be there everyday.

Mr. Noland questioned if water was sprayed on this site? Mr. Schlipp stated that water and foam inductor on the equipment. This will run all the time. This keeps the shredder cool and there is no water runoff from that. Mr. Noland asked what happens to the fluff? Is it burned? Mr. Schlipp stated that it is hauled to the landfill. You can't burn this. There are laws against that.

Mr. Catanzarite asked Christa Nader from Area Plan to explain the notification process. Ms. Nader stated that property owners within 300 feet have to be notified. The Auditor's Office provides the names and addresses of the owners those properties. The signs are used county-wide and there are legal advertisements.

Mr. Herbster moved to table for further research for one month. His motion was seconded by Mr. Root.

Mr. Catanzarite asked the petitioner what affect the delay would have on him. Mr. Studer stated that it would delay the ordering of equipment. The final site plan and approval takes time. He stated that they need to finalize the purchase of the property and that is contingent upon the outcome of this hearing.

The motion failed by a vote; 6-3 (Herbster, Root, Morton).

Motion to pass Bill No. 124-10 was made by Mr. Catanzarite and seconded by Mr. Kruk. Bill No. 124-10 - passed to-wit; 7-2 (Herbster, Morton).

**BILL NO. 138-10: 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 51070 BITTERSWEET ROAD, GRANGER, IN 46530, FROM BUSINESS DISTRICT, TO COMMERCIAL DISTRICT. (Petitioner: Amalia Vegh) - Assigned to the Land Use Planning Committee**

The Clerk read the amendment stating that there was a new legal description.

Motion to amend was made by Mr. Catanzarite and seconded by Mr. Noland.

Mr. DeVon reported that Bill No. 138-10 comes with a favorable recommendation.

Christa Nader, Area Plan, their original variance request for a pawn shop was denied by the Area Board of Zoning Appeals. This property comes with a favorable recommendation for Commercial use from the Area Plan Commission.

Brett Konarski, Whiteman Petrie, 412 S. Lafayette Blvd., South Bend, was available for any questions. He stated that the building has been vacant for the last three (3) years. They are changing the use to a jewelry store.

Mr. DeVon asked if the petitioner was purchasing the building? Mr. Konarski stated that the petitioner owns the building. Mr. DeVon asked if they will be selling old and new jewelry? Mr. Konarski stated that it will be both. Mr. DeVon questioned if they will be buying jewelry? It's now a pawnshop, but you will be dealing with jewelry only. Mr. Konarski seemed to reply jewelry only.

The amendment passed by a voice vote; 9-0. No negatives were heard.

Motion to pass Bill No. 138-10 was made by Mr. DeVon and seconded by Mr. Hamann. Bill No. 138-10 passed as amended; 9-0.

**BILL NO. 141-10: 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 THE SOUTHWEST CORNER OF ADAMS ROAD AND BITTERSWEET COMMONS BLVD EAST, FROM R SINGLE FAMILY DISTRICT, O/B OFFICE/BUFFER DISTRICT AND C COMMERCIAL DISTRICT, TO COMMERCIAL DISTRICT. (Petitioner: Area Plan Commission) - Assigned to the Land Use Planning Committee**

Mr. DeVon reported that Bill No. 141-10 comes with a favorable recommendation.

Christa Nader, Area Plan, reported that this was a map correction initiated by the Area Plan Commission. In 1988 the whole Bittersweet Commons Development was rezoned from R Residential to C Commercial District. In 2002 the properties to the east were rezoned from R Residential to O Office District. The map was valid from 1989-2005, the C Commercial zoning and the O Office zoning touch. When the new map was approved, an error came to light that R Residential appears between them. This comes with a favorable recommendation from the Area Plan Commission to fix this mapping error.

Motion to pass Bill No. 141-10 was made by Mr. Root and seconded by Mr. McCahill. Bill No. 141-10 passed to-wit; 9-0.

**Unfinished Business:**

**New Business:**

**Privilege of the floor:**

**Adjournment:**

Mr. Morton stated that the meeting was adjourned at 9:32 p.m.

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Auditor, St. Joseph County

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President, St. Joseph County Council