

MINUTES OF THE
REGULAR MEETING
OF THE
ST. JOSEPH COUNTY COUNCIL
January 11, 2011

The regular meeting of the St. Joseph County Council was called to order at 7:01 p.m., on January 11, 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 - Absent
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. Catanzarite called for a short moment of silence for Jim Reinholtz, past Councilman, who passed away and for the victims of the shooting in Arizona.

Motion to reappoint the following was made by Mr. Hamann:

Virginia Calvin - Park & Recreation Board
Beehler Keiser - Water Resources Advisory Board

This motion was seconded by Mr. Noland. There were no other nominations and the motion passed by a voice vote; 8-0. No negatives were heard.

Mr. Catanzarite moved and was seconded by Mr. Kruk to approve the minutes of December 7, 2010. The motion passed by a voice vote; 8-0. 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. 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

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

BILL NO. 1-11: 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 THE NORTHWEST CORNER OF US 20 AND QUINCE ROAD, FROM "R" SINGLE-FAMILY DISTRICT, TO "C" COMMERCIAL DISTRICT. (Petitioner: Fairway, LLC) - Assigned to the Land Use Planning Committee

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

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

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

Resolutions:

Mr. Morton requested that he abstain from voting on Bill No. 144-10 due to possible conflict of interest. Mr. Kruk moved and was seconded by Mr. Hamann. The motion passed by a voice vote; 8-0. No negatives were heard.

BILL NO. 144-10: A RESOLUTION DETERMINING THAT THE QUALIFICATIONS FOR AN ECONOMIC REVITALIZATION AREA HAVE BEEN MET AND CONFIRMING RESOLUTION NO. R8-10 OF THE ST. JOSEPH COUNTY COUNCIL DECLARING AN AREA OF THAT COUNTY TO BE AN ECONOMIC REVITALIZATION AREA. Generations Drive, LLC - Confirming Resolution

Mr. Chip Lewis, Esq., 211 West Washington Street, SB, represented the petitioner and gave a presentation along with Mr. Jeff Guy, the station manager. He stated that this project would be located in the former NITA building and used as offices and broadcasting facilities for news, broadcast and sales operations of WBND - ABC-57, WCWW - CW-25, WMYS 69 - MyNetwork TV and other programming streams serving the South Bend and St. Joseph County market. This will be owned and leased to the stations by Generations Drive, LLC. There will be a period of internal renovations going on to be completed and be operating in approximately two (2) months, at which time the facility will initially house approximately 47 - 55 employees engaged in news production and other programming and advertising sales, broadcast and related operations including activities creating and producing the news and other programming content.

The purpose of the tax abatement is to provide incentive for additional investment by the property owner from approximately \$2,250,000 to possibly \$2,750,000 in real property improvements and equipment in an area of the County which has proven to be undesirable for normal development and occupancy. The equipment to be purchased will qualify a new information technology equipment, as required by I.C. 6-1.1-12.1-1(14).

The expected employment at the project will be from 47 - 55 employees, which will represent an increase of up to 35 employees beyond those currently employed by the stations.

The property in question has become undesirable for normal development and occupancy because of lack of development, cessation of growth or other factors which have impaired values and prevent a normal development of the property, as evidenced by the following factors: (1) the building located on the property has been vacant for five (5) years, (2) the building located on the property has been on the market without a buyer since 2006, (3) the immediate area in the location of the parcels includes many undeveloped lots, despite being available for development for over thirty (30) years, and (4) the property is located immediately adjacent to the Indiana Toll Road, which places limitations on the property's development.

The equipment to be acquired for the project will be telecommunication equipment, computers and computer software, which qualify as new information technology equipment and has never before been used by its owner for any purpose in Indiana.

Dan Herbster stated that in the proposal it states that the valuation of the real property before rehabilitation is \$2.9 million and then later states that after rehabilitation the value would be \$1.6 million and estimate of the market value is \$2.2 million. He stated that he needed clarification. Mr. Lewis stated that the current evaluation of \$2.9 million is under appeal with the Assessor since the property was purchased for \$1.5 million.

Mr. Kruk stated that to clear up the issue, we are giving the abatement just on the rehabilitation of the property, which is about \$300,000? Mr. Lewis stated about \$280,000.

Mr. Herbster asked if this was for all property taxes indefinitely at this location? Mr. Lewis stated that it was for three (3) years for the cost of rehabilitation. He asked if there was a TIF District involved? Mr. Lewis stated that he was not aware of this being part of a TIF District.

In Favor:

David Brenner, 1400 E. Angela Blvd., SB

The property oversight board is in support of this Resolution.

In Opposition:

Don Reinke, 4016 N. Main Street, SB

This is a company that is already located in the County and the property taxes that are abated are going to have to be paid by the rest of the taxpayers.

Motion to pass Bill No. 144-10 was made by Mr. Hamann and seconded by Mr. Noland. Bill No. 144-10 passed to-wit; 7-0 with 1 abstention (Morton).

Public Hearings:

BILL NO. 134-10: AN ORDINANCE APPROPRIATING THE SUM OF \$15,000.00 OUT OF THE ST. JOSEPH COUNTY - COUNTY HEALTH FUND - 005; \$50,000.00 OUT OF HEALTH S.T.D. FUND - 405; \$87,615.00 OUT OF HEALTH LOCAL HLTH SERVICES GRT FUND - 505; \$10,000.00 OUT OF THE HEALTH BIOTERRORISM GRANT FUND - 510; \$68,021.00 OUT OF HEALTH LEAD ELIMINATION GRANT FUND - 515 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. 134-10 comes with a favorable recommendation.

The Clerk read the amendment stating that in the caption the amount of \$68,021.00 is changed to \$84,048.00 and in the body under the appropriation for Fund 515 the line items will now read: 11159 - \$26,537.00, 11175 - \$25,741.00, 11718 - \$4,000.00, 11728 - \$2,672.00, 11738 - \$9,531.00, 33238 will remain the same at \$3,433.00 and 33368 - \$12,134.00 for a grand total of \$84,048.00.

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

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

Nick Molchan, Health Administrator, explained that this appropriation was for six (6) of their grants for the year. He explained the proposed activities for these grants and their sources.

Clarification Question:

Don Reinke, 4016 N. Main Street, SB

Asked how these appropriations work? Mr. Molchan explained how the grant funds are deposited into the Health Fund and then the funds are disbursed from this fund to various accounts.

The motion to amend passed by a voice vote; 8-0. No negatives were heard.

Motion to pass Bill No. 134-10 was made by Mr. Kruk and seconded by Mr. Catanzarite. Bill No. 134-10 passed as amended; 8-0.

Mr. Morton announced that there would be a combined public hearing on Bill No. 136-10 and 137-10 but would be voted on separately.

BILL NO. 136-10: AN ORDINANCE APPROPRIATING THE SUM OF \$2,600,000.00 OUT OF THE ST. JOSEPH COUNTY LOCAL HWY. USER TAX PROJECTS FUND - 012 AND \$4,050,000.00 OUT OF THE LOCAL MAJOR MOVES CONSTRUCTION FUND - 112 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2011. (Dept. 023 - County Engineer) - Assigned to the Engineering and Transportation Committee

BILL NO. 137-10: AN ORDINANCE APPROPRIATING THE SUM OF \$1,350,000.00 OUT OF THE ST. JOSEPH COUNTY LOCAL ROADS & STREETS FUND - 026 AND INTO VARIOUS ACCOUNTS FOR THE PURPOSES HEREIN SPECIFIED FOR THE CURRENT YEAR 2011. (Dept. 060 - Roads and Highways) - Assigned to the Engineering and Transportation Committee

Mr. Catanzarite reported that Bill No. 136-10 and 137 come with a favorable recommendation.

Jessica Clark, Engineer, and Roger Mathia, Highway Commissioner, stated that these were annual requests for 2011 as well as capital improvement paving programs, construction, right-of-way acquisitions and design services. They are estimating maintenance programs of working on approximately 68 miles. However, the monies that they are requesting are not sufficient to fund that entire program. They will either need to cut back or look to consider an additional appropriation from C.E.D.I.T. funds.

Mr. Root asked if the \$4,050,000.00 coming out of Major Moves was the amount that was agreed upon as part of the Ten-year Plan? Ms. Clark stated that they have been following the appropriation request very closely with the Ten-year Plan. However, there are some adjustments from year to year depending on project costs. This \$4 million is an increase due to requesting additional appropriation for the maintenance programs since the LRSA and LOHUT funds have been decreased this year. The typical appropriations in the past were between \$3-3.5 million per year.

Mr. Catanzarite asked about the Oak Park Subdivision which is slated for resurfacing and rehabilitation. Is this part of what has been taking place there currently? Ms. Clark stated that is a different neighborhood that they did do a slurry seal improvement in the Oak Mount Park.

Mr. Hamann congratulated her on the great job that was done in Wedgewood area. The people are very happy there.

Motion to pass Bill No. 136-10 was made by Mr. Noland and seconded by Mr. Hamann. Bill No. 136-10 passed to-wit; 7-1 (Kruk).

Motion to pass Bill No. 137-10 was made by Mr. Kruk and seconded by Mr. Catanzarite. Bill No. 137-10 passed to-wit; 8-0.

BILL NO. 133-10: AN ORDINANCE APPROVING THE PETITION FOR SPECIAL USE FILED BY GENERATIONS DRIVE, LLC FOR THE PROPERTY LOCATED AT 53550 GENERATIONS DRIVE, SOUTH BEND, IN 46635 THE SAME BEING PETITION NO. 12-01-10-12 FILED WITH THE AREA BOARD OF ZONING APPEALS. - Assigned to the Land Use Planning Committee

Mr. Morton requested that he abstain from voting on Bill No. 144-10 due to possible conflict of interest. Mr. Noland

moved and was seconded by Mr. Hamann. The motion passed by a voice vote; 8-0. No negatives were heard.

Mr. Morton reported that Bill No. 133-10 comes with a favorable recommendation.

Mark Lyons, Building Department, stated that this petition comes with a favorable recommendation. The request for this tower was heard at the Area Board of Zoning Appeals on December 1, 2010.

Mr. Chip Lewis, Esq., 211 West Washington Street, SB, represented the petitioner and gave a presentation along with Mr. Jeff Guy, the station manager. He explained that this was the same presentation as for the Resolution for Tax Abatement, Bill No. 144-10 as reported above. The County requires a Special Use for a tower if it's within 500 feet of a residential use. They have also requested a variance for certain fencing, paving and screening around such a tower. The Ordinance requires board on board fencing 6-10 feet high and the petitioner is requesting board on board fencing six (6) feet high. The Ordinance requires certain kinds of landscaping and the petitioner is requesting to avoid that requirement based on the fact that the tower is located adjacent to the building. *Secretary's note: these variance requests were all requested by the Area Board of Zoning Appeals.*

In Favor:

David Brenner, 1400 E. Angela Blvd., SB

The property oversight board is in support of this Special Use.

Motion to pass Bill No. 133-10 was made by Mr. Kruk and seconded by Mr. No land. Bill No. 133-10 passed to-wit; 7-0-1 Abstention (Morton).

Unfinished Business:

On December 15, 2010 the Board of Commissioners vetoed the following Ordinance by a vote of 3-0. There will now be Council discussion and a vote to sustain or override the Commissioners veto.

BILL NO. 123-10 - ORDINANCE NO. 128-10: AN ORDINANCE TRANSFERRING THE SUM OF \$2,920.00 FROM VARIOUS ACCOUNTS TO VARIOUS ACCOUNTS ALL BEING WITHIN THE 2010 BUDGET OF ST. JOSEPH COUNTY

Motion to sustain the Commissioners veto was made by Mr. Root and seconded by Mr. Kruk. The motion passed; 8-0 and Bill No. 123-10 - Ordinance No. 128-10 remained vetoed by the Commissioners.

New Business:

Privilege of the floor:

Adjournment:

Mr. Morton stated that the meeting was adjourned at 7:40 p.m.

Auditor, St. Joseph County

President, St. Joseph County Council