

MINUTES OF THE
REGULAR MEETING
OF THE
ST. JOSEPH COUNTY COUNCIL
JUNE 11, 2019

The regular meeting of the St. Joseph County Council was called to order at 6:00 p.m., on June 11, 2019 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
Ms. Diana Hess
Mr. Rafael Morton
Mr. Mark P. Telloyan
Mr. Mark A. Catanzarite
Mr. Joseph F. Canarecci
Mr. Mark Root

Present from the Auditor's office was Michael J. Hamann, Auditor and John Murphy, Chief Deputy Auditor. Council staff present was Mr. Michael Trippel, Attorney and Ms. Jennifer Prawat, Executive Secretary. Mr. Richard Pfeil was not present.

Petitions, Communications & Miscellaneous Matters:

Mr. Catanzarite: It's a little off the script, I meant to do it last month, I would like to take a moment of silence in memory of Wendy Nowicki, our late county employee who died after a courageous fight with cancer this past spring, long time paralegal in the Prosecutor's office.

Ms. Hess made a motion to approve the minutes of the May 14, 2019 meeting and was seconded by Mr. Noland the motion was passed by a voice vote; 8-0.

No report from the County Auditor
No report from the County Commissioner
No report from Council Special Committee

First Readings:

BILL NO. 39-19: AN ORDINANCE TO VACATE A PUBLIC WAY OR PUBLIC PLACE, LOCATED WHOLLY WITHIN THE UNINCORPORATED PORTION OF ST. JOSEPH COUNTY, TO-WIT;
PETITIONER: VICTORIA SHEPARD
Assigned to the Land Use Planning Committee

BILL NO. 51-19: AN ORDINANCE APPROVING THE PETITION FOR A SPECIAL USE FILED BY NAVISTAR FOR PROPERTY LOCATED AT 32104 STATE ROAD 2
PETITIONER: NAVISTAR
Assigned to the Land Use Planning Committee

BILL NO. 52-19: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE XV, LAND USAGE, CHAPTER 154, PLANNING AND ZONING OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, SECTION 154.107 TO AMEND SETBACKS IN THE R: SINGLE FAMILY DISTRICT
PETITIONER: AREA PLAN COMMISSION
Assigned to the Land Use Planning Committee

BILL NO. 53-19: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE III, ADMINISTRATION, CHAPTER 32: COUNTY ORGANIZATIONS OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, SECTION 32.02 AREA PLANNING DEPARTMENT AND AMENDING AND SUPPLEMENTING APPENDIX: SCHEDULE OF FINES AND FEES OF THE ST. JOSEPH COUNTY CODE, AS AMENDED
PETITIONER: AREA PLAN COMMISSION
Assigned to the Land Use Planning Committee

BILL NO. 54-19: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE XV, LAND USAGE, CHAPTER 154, PLANNING AND ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, SECTION 154.151 TO AMEND PERMITTED USES IN THE O: OFFICE DISTRICT AND SECTION 154.166 TO AMEND PERMITTED USES IN THE B: BUSINESS DISTRICT
PETITIONER: AREA PLAN COMMISSION
Assigned to the Land Use Planning Committee

BILL NO. 55-19: AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE XV, LAND USAGE, CHAPTER 154, PLANNING AND ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, SECTION 154.563 TO AMEND SPECIAL USE APPROVAL PROCEDURE
PETITIONER: AREA PLAN COMMISSION
Assigned to the Land Use Planning Committee

BILL NO. 56-19: AN ORDINANCE REPEALING AND REPLACING TITLE XV, LAND USAGE, CHAPTER 154, PLANNING AND ZONING, OF THE ST. JOSEPH COUNTY CODE, AS AMENDED, SECTION 154.072 HOME OCCUPATIONS AND SECTION 154.636 DEFINITIONS
PETITIONER: AREA PLAN COMMISSION
Assigned to the Land Use Planning Committee

BILL NO. 57-19: 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 17847 STATE ROAD 23 FROM R: SINGLE FAMILY DISTRICT TO O/B: OFFICE BUFFER DISTRICT
PETITIONER: DALE AND CHRISTINE DEVON
Assigned to the Land Use Planning Committee

BILL NO. 58-19: AN ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL SETTING THE TRANSFER FEE FOR COUNTY AUDITOR REAL PROPERTY ENDORSEMENT
PETITIONER: AUDITOR
Assigned to the Budget and Administration Committee

Resolution(s):

BILL NO. 49-19: A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL, APPROVING THE ISSUANCE OF BONDS BY THE NEW CARLISLE-OLIVE TOWNSHIP PUBLIC LIBRARY AND APPROPRIATIONS BY THE PUBLIC LIBRARY FOR THE PROJECT RELATED THERETO, AND TAKING OTHER ACTIONS RELATED THERETO
PETITIONER: P. FACCENDA

Phil Faccenda, 100 N. Michigan Street, South Bend, the resolution before you is the approval of not to exceed one million, two hundred sixty thousand dollars of bonds, for New Carlisle-Olive Township public library. The bond will be, the proceeds of the bond are anticipated to be used primarily for roof repair as well as reconfiguration of the front entrance at the library. The library issued bonds back in 2002-2003 for the construction of the current facility, their only building and they refinanced those bonds in 2010 for a lower interest rate, they are now seeking some additional bond financing for the roof, etc. It is anticipated the debt service, their existing debt service, which is over four hundred thousand dollars a year will drop to approximately a hundred twelve thousand, hundred and thirteen thousand dollars after 2020 with the debt service that would exist with these bonds because the 2003 bonds were much higher, aggregate principal amount in order to build the facility. The final maturity on these bonds would be no later than January 15, 2035, maximum interest rate would be around 5%, they will probably end up with a

interest rate closer to somewhere in the 3% range, 3 ½% range. They are also contributing seven hundred and forty thousand dollars of equity to the project, so the project overall will be around two million dollars. Only a million, two sixty of that will be bonds, the other will be funds that they have accumulated and saved over time in anticipation of this project. I have with me tonight a couple of representatives from the library district, including Stephanie Murphy, the Executive Director of the library if you have any additional questions.

Mr. Kruszynski: Mr. Faccenda, do you say the current bond will be paid off next year or this year?

Mr. Faccenda: Next Year. So in 2020 will be the last debt service payment on the current bond.

Motion to pass Bill No. 49-19 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 49-19 was passed to-wit; 7-1 Against: Mr. Telloyan

BILL NO. 50-19: A RESOLUTION OF THE ST. JOSEPH COUNTY COUNCIL ENDORSING LOCAL CONTROL/PROFESSIONAL ADMINISTRATION OF THE SOUTH SHORE RAILROAD AND CONSIDERING RIGHTS AND REMEDIES TO PRESERVE LOCAL GOVERNANCE OF NICTD BOARD PETITIONER: MARK CATANZARITE

Mr. Canarecci: This is a resolution seeking to speak out against what I would like to consider a power grab against a board that has operated admirably for about four decades and served the constituents of the various counties represented very well, one of the frustrating points about this and there are a couple is, this shift in appointing power to the Governor has resulted in local government's capability to appoint representatives that represented their constituents well and shifted it down state, I think the way it was inserted into the final budget bill with less than a day, no public discussion speaks to the inherent nature of this being, like I said, not less then a power grab so what I would like to speak to with this resolution is the opportunity for us to review options along with other counties affected by this and see if there might be opportunities to return control to the local officials most impacted by the NICTD Board.

RESOLUTION OF ST JOSEPH COUNTY COUNCIL ENDORSING LOCAL CONTROL/PROFESSIONAL ADMINISTRATION OF THE SOUTH SHORE RAILROAD AND CONSIDERING RIGHTS AND REMEDIES TO PRESERVE LOCAL GOVERNANCE OF NICTD BOARD

WHEREAS, the Northern Indiana Commuter Transportation District (NICTD) has had a local governance structure in place for forty-two (42) years that provides for elected representatives of the County Commissions and County Councils of each of the four counties in which the South Shore Railroad operates to appoint members to NICTD's Board of Trustees, and

WHEREAS, previous changes to that governance structure have only occurred after proper public debate, deliberation and consideration including bills introduced in the Indiana legislature that provided for addition of both a representative to the board from one of the unions representing rail employees and a passenger representative, in addition to a representative from the Governor's office thereby constituting an eleven-member board, and

WHEREAS, under the able and accountable leadership of such Board, outstanding rail professionals such as former Manager Jerry Hanas (and his successor Mike Noland) and former CFO John Parsons ensured that the railroad was not only run with full transparency and accountability with regard to contracts, procurement and operations, but that the railroad developed a reputation nationally as among the best-run interurban commuter lines in the nation, and

WHEREAS, this body and other governmental bodies across Northern Indiana strongly support the Double-tracking project and believe that it will bring new jobs and new economic development to our area, and

WHEREAS, the Federal Transit Administration (FTA) while considering the application of the South Shore Railroad for federal funding has signalled that it may require additional state or local funds as a match, however the application's success is far from assured, and

WHEREAS, there is absolutely no evidence to suggest the FTA requested or desired a governance change with NICTD, a governance structure that has been in place for forty-two years and met with continued approval by federal funding sources, and

WHEREAS, legislative leaders in both the Indiana House and Senate kept hidden from our region's state representatives and senators a plan to suddenly shift all control of the South Shore Railroad to the Governor's office and inserted - less than 24 hours before approval - into the state budget bill legislation that would not only dismantle the successful local governance of the railroad but put the railroad under the direction of the Indiana Department of Transportation that has no experience or success with running commuter railroads, and

WHEREAS, while any new infusion of state government funds is welcome and needed to aid the Double Tracking project, there is no legal or ethical justification for having stripped the South Shore Railroad of local control that has successfully positioned it nationally as a model of regional cooperation for four decades, and

WHEREAS, the undersigned are concerned that with INDOT having to be so focused on considerable road building and maintenance under the Next Level programs, it will be extraordinarily difficult to expect that agency to also have to administer projects like the West Lake Corridor project or Doubletracking projects that need and deserve a high degree of local input as well as the professionalism that trained rail professionals can offer, and

WHEREAS, the undersigned wish to determine if any legal remedies exist to retain the existing governance structure and local control of the South Shore as well as retain the independence of a nationally regarded interurban rail service with trained rail professionals and a locally appointed board running the organization from this region and continuing to administer this successful multi-county interurban rail service,

NOW THEREFORE BE IT RESOLVED BY THE ST JOSEPH COUNTY COUNCIL that the undersigned may explore any legal rights and remedies that may exist and may join our fellow counties that are members of NICTD legal efforts to retain local control and professional operation of the South Shore Railroad.

Mr. Catanzarite: I'd be remiss if I didn't make a couple comments on this, I thank Councilmember Canarecci for having the wherewithal to put this ordinance together in such short notice, or this resolution. Having been serving at your pleasure for sixteen years on the NICTD Board, it came as a big surprise to all of us on the board, it was shocking how the board was stripped of it's powers and replaced pretty quick fashion but more disappointing than that is that we did loose local control, we had a Commissioner and a Councilman from four counties that were appointed by their representative presidents of those boards. I was the Treasurer for many years, the Federal Transit Administration would come in and do audits, we would be grilled by the FTA in the auditing process for up to four

to six hours at times in these FTA audits, we never once got a bad grade, we always passed our audits, our annual financial audits by Crowe Horwath, nothing but impeccable reports about the railroad. Passed board member from our county who was a commissioner representative Bob Kovach who served on many boards throughout the state, throughout our community, former Indiana Senator, former Mayor of Mishawaka, former Chief of Staff to Governor O'Bannon, said it was the best board they have ever been on, the best working board and the least partisan board and we had members of both parties that served on that board, it was very disheartening when this happened, I appreciate your support tonight, if you can support it, more than anything else, it's a statement about, we are not going to go down and let our railroad be stripped away from us without a little bit of a fight, at least the statement says that, I think.

Motion to pass Bill No. 50-19 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 50-19 was passed to-wit; 5-3 Against: Mr. Telloyan, Mr. Root and Mr. Kruszynski.

Mr. Catanzarite: I also got sidetracked in the beginning, I wanted to recognize in our audience is Boy Scout Zach Taylor from Troop 572 which is Christ the King Lutheran Church in Clay Township, he's here tonight working on his communication merit badge, he and his father here in the audience, I forgot to do that in the beginning, I apologize.

Mr. Morton: Thank you for being here, appreciate it.

Salary Amendment(s):

BILL NO. 44-19: AN ORDINANCE AMENDING ORDINANCE 53-18, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2019 PETITIONER: JUVENILE JUSTICE CENTER (*COMBINED WITH BILL NO. 40-19 A*)

Mr. Kruszynski reported that Bill No. 44-19 comes with a favorable recommendation.

Dr. Brunzman, 1000 St. Michigan St., this is an attempt to move funds to establish a compliance and quality control coordinator for the Juvenile Justice Center, four days to be focused on detention operations.

Motion to pass Bill No. 44-19 was made by Mr. Noland and seconded by Mr. Canarecci. Bill No. 44-19 was passed to-wit; 8-0

BILL NO. 45-19: AN ORDINANCE AMENDING ORDINANCE 53-18, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2019 PETITIONER: JUVENILE JUSTICE CENTER (*COMBINED WITH BILL NO.40-19 K*)

Mr. Kruszynski reported that Bill No. 45-19 comes with a favorable recommendation.

Dr. Brunzman: This goes along with the above bill, this is the transfer, probation user funds to supplement the salary for this coordinator position.

Motion to pass Bill No. 45-19 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 45-19 was passed to-wit; 8-0

BILL NO. 46-19: AN ORDINANCE AMENDING ORDINANCE 53-18, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2019 PETITIONER: HEALTH (*COMBINED WITH BILL NO. 40-19 D*)

Mr. Kruszynski reported that Bill No. 46-19 comes with a favorable recommendation.

Mark Fox, Department of Health, this is a request to use money that's on account in the County Wide Lead Initiative for purposes of hiring an additional environmental Health Specialist to perform lead inspection and clearance.

Mr. Noland: In our conversation, we talked about how it was time consuming to go out, get the samples and bring the samples in and all that, is it possible or even legal to have people bring in samples?

Dr. Fox: There are a number of aspects to it, the inspection in the home includes using the XRF which measures, basically, it's used on painted surfaces to check for the presence of lead so, I suppose they could bring in paint chip samples but there is a specific process that's approved through the EPA on how those samples are collected and processed so it would be difficult to ask homeowners to try and do that.

Mr. Noland: I get it, just a thought.

Motion to pass Bill No. 46-19 was made by Mr. Catanzarite and seconded by Ms. Hess. Bill No. 46-19 was passed to-wit; 8-0

BILL NO. 42-19: AN ORDINANCE AMENDING ORDINANCE 53-18, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2019 PETITIONER: PROSECUTOR (*COMBINED WITH BILL NO. 40-19 G*)

Mr. Kruszynski reported that Bill No. 42-19 comes with a favorable recommendation.

Bob Risenhoover, Prosecutors Office, this is a request to provide appropriation for a STOP grant of one hundred and eight six thousand, one forty-six and a companion salary.

Motion to pass Bill No. 42-19 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 42-19 was passed to-wit; 8-0

BILL NO. 43-19: AN ORDINANCE AMENDING ORDINANCE 53-18, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2019 PETITIONER: PROSECUTOR (*COMBINED WITH BILL NO. 40-19 I*)

Mr. Kruszynski reported that Bill No. 43-19 comes with a favorable recommendation.

Bob Risenhoover, Prosecutors Office, this is an appropriation for one hundred and eighty-three thousand, six hundred and eight three dollars for a VOCA grant.

Motion to pass Bill No. 43-19 was made by Ms. Hess and seconded by Mr. Canarecci. Bill No. 43-19 was passed to-wit; 8-0

BILL NO. 47-19: AN ORDINANCE AMENDING ORDINANCE 53-18, THE SAME BEING AN ORDINANCE ESTABLISHING SALARIES AND FIXING THE NUMBERS OF EMPLOYEES OF ST. JOSEPH COUNTY FOR THE YEAR 2019 PETITIONER: HEALTH (*COMBINED WITH BILL NO. 40-19 M*)

Mr. Kruszynski reported that Bill No. 47-19 comes with a favorable recommendation.

Dr. Fox, Health Department, this relates to four different grants received from external entities, two from the state department of health, the first is the related to the overdose response plan in St. Joseph County.

Mr. Morton: Dr. Fox, I have a question, would it be fair to say, I know we have talked in the past about creating partners as far as the lead initiative and the infant mortality and all the other issues that you guys are facing, would it be fair to say that's kind of coming along, if you will, or....

Dr. Fox: I do think we have made some progress, there are very clear partners related especially to infant mortality, both health systems support that initiative in substantial ways, the lead initiative I think, is making progress, so we have had some support from the State Department of Health and in different ways, we have had some support from certainly both of the health systems, we are also trying to engage other provider groups and payer groups, so the donation from the Select Health Network is modest but it's nice recognition for the efforts.

Mr. Morton: I guess that was my next statement, I noticed that, and I don't mean it in a negative way at all but, I will use your terminology, modest, but modest is better than nothing and I am asking this, basically based upon conversations we have had in the past and the reluctance to do that was based upon some perceived, internal lack of support, do you feel like that changed....

Dr. Fox: I feel like we are turning the corner. I think this is a first gift from Select Health Network which is, it's actually a grant they make as part of their recognition of Dr.'s Days so instead of buying bagels and donuts and putting it in doctors lounges, they pick an initiative within their network to support with that amount of money each year, I certainly hope that's not the last of the support we will see from Select Health Network or from other entities.

Motion to pass Bill No. 47-19 was made by Mr. Catanzarite and seconded by Mr. Noland. Bill No. 47-19 was passed to-wit; 8-0

Public Hearing/Public Comment:

BILL NO. 40-19: AN ORDINANCE APPROPRIATING AND TRANSFERRING MONEYS FOR THE PURPOSE HEREIN SPECIFIED FOR THE SEVERAL DEPARTMENTS HEREIN LISTED OF ST. JOSEPH COUNTY GOVERNMENT

TRANSFERS:

A. St. Joseph Probate Court/JJC
General Fund

FROM: 1000-11385-000-0025	Probation Officer 1	\$25,685.10
TO: 1000-11986-000-0049	Compliance/ Quality Assurance Coordinator	\$25,685.10
		<u>TOTAL: \$25,685.10</u>

B. St. Joseph Probate Court
Project Income

FROM: 9130-36015-019-0797	Contractual Services	\$11,300.00
TO: 9129-36015-019-0797	Contractual Services	\$11,300.00
		<u>TOTAL: \$11,300.00</u>

C. St. Joseph Probate Court
Discretionary Grant

FROM: 9148-32020-000-0025	Travel	\$1,857.90
TO: 9148-43033-000-0025	Unity Garden Material	\$1,857.90
		<u>TOTAL: \$1,857.90</u>

D. Health

County Wide Lead Initiative

FROM: 4940-31059-000-0055	Lead Program	\$66,014.00
TO: 4940-11164-000-0055	Environment Health Specialist	\$41,500.00
4940-14800-000-0055	FICA	3,175.00
4940-14810-000-0055	PERF	4,648.00
4940-14840-000-0055	Group Insurance	16,691.00
		<u>TOTAL: \$66,014.00</u>

E. Prosecutor
General Fund
FROM: 1000-32200-000-0018 Telephone \$14,682.00
TO: 1000-11070-000-0018 Chief Deputy \$14,682.00
TOTAL: \$14,682.00

F. Child Support
General Fund
FROM: 1000-37100-000-0048 Auto Lease \$1,836.00
1000-11070-000-0048 Chief Deputy 38,068.00
TO: 1000-37100-000-0018 Auto Lease \$1,836.00
1000-11070-000-0018 Chief Deputy 38,068.00
TOTAL: \$39,904.00

APPROPRIATE:

G. Prosecutor
STOP Grant
8106-11101-000-0018 Deputy \$74,624.00
8106-11351-000-0018 Para Legal 36,188.00
8106-11121-000-0018 Victim Advocate 42,334.00
8106-31070-000-0018 Other Contractual Services 33,000.00
TOTAL: \$186,146.00

H. Infrastructure, Planning and Growth
General Fund
1000-42050-000-0021 Elevator Refurbishment \$750,000.00
TOTAL: \$750,000.00

I. Prosecutor
VOCA Grant
8117-11121-000-0018 Victim Advocate \$111,040.00
8117-11317-000-0018 Director Victim Services 71,160.00
8117-32020-000-0018 Travel 1,483.00
TOTAL: \$183,683.00

J. Prosecutor
VOCA Grant
8106-11121-000-0018 Victim Advocate \$33,000.00
TOTAL: \$33,000.00

K. St. Joseph Probate Court
Probation User Fees
2050-11986-000-0025 Compliance/Quality Assurance Coordinator \$3,930.22
TOTAL: \$3,930.22

L. St. Joseph Probate Court
GAL/CASA Program
1213-32051-000-0025 Promotion \$11,000.00
TOTAL: \$11,000.00

M. Health

Health Overdose Response Plan

8140-11957-000-0055	Interns Part Time	\$3,456.00
8140-31070-000-0055	Other Contractual Services	5,000.00
8140-32020-000-0055	Travel	\$7,500.00
8140-33368-000-0055	Public Info & Education	14,574.00
8140-44010-000-0055	Equipment	1,000.00
		<u>TOTAL: \$31,530.00</u>

N. Health

County Wide Lead Initiative

4940-31059-000-0055	Lead Program	\$500.00
		<u>TOTAL: \$500.00</u>

O. Health

FIMR Program

8129-36015-000-0055	Contractual Services	\$12,750.00
		<u>TOTAL: \$12,750.00</u>

P. Health

Health Lead Free by 3

8141-31070-000-0055	Other Contractual Services	\$4,000.00
8141-33368-000-0055	Public Info & Education	6,000.00
		<u>TOTAL: \$10,000.00</u>

Motion to pass Bill No. 40-19 was made by Mr. Noland and seconded by Ms. Hess. Bill No. 40-19 was passed to-wit; 8-0

Land Use:

Miscellaneous:

Unfinished Business:

New Business: Tax Abatement Recommendations: Steve Dalton

Steve Dalton, Cender and Company, offices in Merrillville, let me give you a brief summary of the last five month's worth of research and diligence put in by various members of this Council and citizen public on your abatement process. There are seven outstanding abatements, one of those companies has not completed with their building so we are not required to review their abatement this year. We will take a look at their abatement next year when they are finished with their building. Another one of those companies was not able to fill out their paperwork on time, you are not required to review paperwork you don't have so the Auditor's office will not be able to process that abatement because the documentation is not provided to you, that leaves five additional companies, let me tell you a little bit about that process, we asked those companies to submit their documentation quite a bit earlier this year, in March, there was a sub-committee formed of citizens and members of staff and the economic development team and some councilmembers, that sub-committee met twice, reviewed the documentation and then asked those companies to submit additional documents to meet the ordinance, documents that are required by your ordinance for tax abatements on an annual basis in addition to the documents that are required by the state. The state only requires one document, the CF-1, you, as your ordinance require additional documentation on top of that to meet your ordinance and many of those companies submitted those documents or gave defenses as to why they didn't need to submit those documents because in a couple cases, they predated your ordinance so you gave those abatements before you had that ordinance in effect how ever many years ago that started. The end of the process is that those five companies that submitted substantial documentation for their abatements to be processed by the Auditor and the Assessor, there were some additional conversations about legal requirements for years going forward, I think Council President Morton is asked your attorney to speak to those issues but, suffusive to say, there has been a lot of time put in this last year, we did a lot better and I think we probably have to raise the bar yet again next year, we have run into this little catch on our forty five day window so we are going to need to ask for our documents that's in a very special way so that we make sure that when they get submitted to us, they don't give the company an out

so they can get out within a forty five day window before you have had a chance to take a look at the summary of that documentation, but, all in all good work by everybody.

Mr. Morton: With that said, there have been some discussions and we have made reference to our legal counsel on what our proper protocol is as far as dealing with abatements that we are currently dealing with and also any future abatements, so with that said, Mr. Trippel.

Mr. Trippel: Pursuant to state law, if you were going to make a determination to terminate an existing abatement, you would have to give notice to the company and maybe finding initially that the abatement, that it's their own fault that the abatement is being terminated, meaning that it's not because of the business that they are in, that they are doing something that's not allowing them to comply with the statement of benefits, that's one, we would notice that out within thirty days, we would have a quasi-judicial hearing, not in this setting, possibly in this room, where we would take evidence from the county and our representatives, evidence from the company then the council would have to make a finding or a resolution at that point whether or not they are in compliance, that's the only way under state law to terminate the abatement, I outlined those procedures in my memo to the council. I would also add to that, earlier this evening I had spoken with Mr. Dalton prior to the hearing and we have some good ideas going forward next year where we might be able to make a preliminary inquiry of the abatement recipients to get information and not jeopardize our timeline we are under pursuant to state law so that we can make an earlier evaluation and be in the position to still comply with the deadlines we are under under state law which we really can't wave. I hope that answers your questions.

Mr. Noland: If you could find out for us, what, if any potential penalties might be, let's say we were to go and have that finding, went through the appeal process and we lost that, what is the....

Mr. Trippel: You are asking, is there a penalty if we had a hearing, we would we potentially be exposing ourselves to attorney fees to the recipient, if it's approved and then they can appeal that to the courts just so everybody knows the decision we make, it's not a final decision, it appealed, it will go through a court, we will determine what your risk is incase we have decided to move forward, from a legal perspective.

Privilege of the floor: Limit of 3 minutes to items not on agenda

Kathryn Osborn, 517 River Av. South Bend, I am reading a statement by Jennifer Betz, 23150 Roosevelt Road, she would like to speak in strong opposition to the renewal of the shredder's tax abatement. Tax abatements can be revoked when a company refuses to hold it's end of the deal and SMS Shredding has proven it's a delinquent corporate citizen.

Marty Wolfson, 809 Park Av. South Bend, I was a member of the committee that reviewed the tax abatements with an idea, did they qualify for the continuance or not. I saw the item on the agenda, I didn't see the council take any action, I didn't see the council ask for public input on these questions. I have some viewpoints on a number of the abatements. Perhaps someone could explain this to me?

Mr. Trippel: If I am being asked, my answer would be, it's really not a subjective evaluation, you may want it to be but there are objective criteria that the counsel is required to follow in order to terminate an abatement.

Mr. Wolfson: Is the counsel is intending to make a decision about that, whether they use objective or subjective criteria or whatever criteria they use.

Mr. Morton: Mr. Wolfson, we talked earlier today and to be quite frank with you, this is the first, because we don't have the number of abatements that the city of South Bend does. My point is, we have been dealing with the seven that we have on our plate at this point and my understanding, and I would be remiss if I didn't say that, my understanding was that one of the main purposes of this sub-committee, if you will, I am not saying to omit what we have on the table but, basically, establish proper protocol moving forward for possible abatements to come, to get back to your question, we are going to follow the proper procedures that have been lined out by our legal counsel on moving forward, this has been an education for myself, because when I would see in the paper following some of the cities bigger establishments that they were trying to revoke, I did not know the proper, procedurally what they

had to follow, so now that we know that it's not a public hearing, it's not a matter of council saying well we want to revoke this based upon that, yes or no and it's gone, it doesn't work like that, with that said, we are going to continue to follow the proper procedure to move forward if in fact we decide to revoke.

Mr. Wolfson: My question is, how are you going to make that decision to revoke or not revoke?

Mr. Morton: We are going to make that decision based upon continued discussion with council and our legal counsel.

Mr. Wolfson: At a county council meeting? When?

Mr. Morton: That hasn't been determined sir.

Mr. Hamann: I think what Professor Wolfson is asking of the five that are in play, have you decided that you are not going to take action, two weeks ago.....

Mr. Morton: I know what he's saying, what I am saying is, we have been at the same meetings, correct me if I am wrong. My understanding is that out of the seven, not seventeen, not seventy, out of seven, there are two in question, ok? Am I right?

Mr. Wolfson: Absolutely.

Mr. Morton: Those two in question what I am trying to tell you is that we are going to continue to discuss and that will be part of this sub-committee also, the continued discussion based upon following what we have to do, from a legal perspective.

Mr. Wolfson: I would not want you to act illegally.

Mr. Morton: I wouldn't either sir.

Mr. Wolfson: I am confused as to how the council will do that, I mean it's not, the presentation was made tonight with the expectation that would be some discussion about....

Mr. Morton: My understanding is, correct me if I am wrong, the company that the young lady referred to, my understanding is, because of their lack of submission of proper paperwork, then we are going to procedure through the Auditor's office not to renew the abatement.

Mr. Hamann: Is it not renewed or is that they lose it for one year?

Mr. Morton: One year.

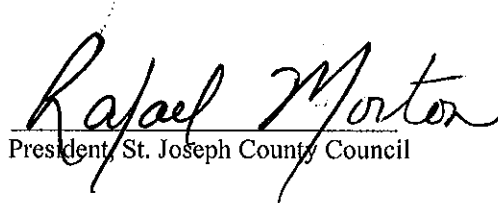
Mr. Catanzarite: Can you remind us what a poverty wage is.

Mr. Wolfson: The wage rate that provides a full-time work, an income that the government define poverty level, this is for a family of three, they work fifty-two weeks a year at that wage rate and have a family of three they would be at a poverty level. Ten dollars and twenty-five cents an hour. Twenty-one thousand.

Adjournment: Mr. Morton stated that the meeting was adjourned 6:57 p.m.



Auditor, St. Joseph County



President, St. Joseph County Council