

MINUTES OF THE
SPECIAL MEETING
OF THE
ST. JOSEPH COUNTY COUNCIL
March 17, 2009

The special meeting of the St. Joseph County Council was called to order at 7:03 p.m., on March 17, 2009, by the President, Rafael Morton, in the Council Chambers, fourth floor, County-City Building, South Bend, Indiana.
Members in attendance:

Mr. Mark Catanzarite	Mr. Rafael Morton
Mr. Dale DeVon	Mr. W . Randall Przybysz
Mr. Michael J. Kruk	Mr. Mark Root
Mr. Kevin J. Kubsch - Absent	Mr. Dennis R. Schafer
Mr. Heath O. Weaver	

Present from the Auditor's office was Mr. Peter H. Mullen, Auditor.

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

Public Hearing:

The Clerk, Mr. Mullen, read Bill No. 90-08 with its new caption.

BILL NO. 90-08: AN ORDINANCE OF THE ST. JOSEPH COUNTY COUNCIL REPEALING TITLE 6, CHAPTER 6.24, AS AMENDED, OF THE ST. JOSEPH COUNTY CODE AND REPLACING WITH A NEW TITLE 6, CHAPTER 6.24 ENTITLED RESPONSIBLE TAX PHASE-IN PROCEDURES & GENERAL STANDARDS.

Mr. Morton stated that on September 9, 2008 Bill No. 90-08 has First Reading and was assigned to the Rules Committee and this bill comes with a favorable recommendation.

Motion to amend was made by Mr. Kruk and seconded by M. Weaver.

Mr. Catanzarite, as the sponsor of the Bill No. 90-08:

Mr. President, honorable members of the Council, and the public who we serve. I am Mark Catanzarite, 2022 Oak Park Drive, South Bend, IN, representative of County Council District "G", and the sponsor of Bill 90-08, the ordinance which proposes to replace the existing Title 6, Chapter 6.24 of the St. Joseph County Code and replace it with a new title as described by Mr. Mullen. The decision to consider a new ordinance to more closely regulate tax abatements arose out of concerns that we need to have a consistent decision making policy when it comes to granting tax abatements. Often times, as we've considered abatements, there has been no consistency in what criteria we use to justify granting an abatement. In one recent instance, we (excluding myself and the minority of other council members) granted an abatement for an established local insurance company wanting to relocate in another portion of our County and without the promise of any significant job creation. What sense did that make? And, for those of us who have been Part of what Bill 90-08 sets out to accomplish is to set some standards as to which types of abatement projects we will consider, yet at the same time provide the flexibility necessary to look at each situation on a case-by case basis. In terms of flexibility, the proposed ordinance uses the word "may" and the expression "at its' discretion" several times. Not quite the level of rigidity as has been purported by those who oppose the ordinance.

Secondly, Bill 90-08 was drafted to provide the public more transparency as it relates to us giving away their hard earned tax dollars. As always, we have a fiduciary responsibility in how we utilize taxpayers dollars. But especially now as the public is even more scrutinizing as to how we spend their money, Bill 90-08 will have set criteria such as the "Memorandum of Agreement" or contract which is required for all tax abatements.

As the effects HEA 1001 continues to plague our budgeting process, one of the effects of Bill 90-08, if passed, will be that the fee structure will give us the ability to process and review annually applications of abated projects a no expense to our budget. All too often, once an abatement has been approved, we rarely follow up on the CF-1 form to

ensure that the project does what they said it was going to do when they applied. We take the petitioner's word for it. Many of our constituents have a negative perception about tax abatements. Maybe to a degree, their perceptions are correct, some projects fell short of what they promised when they applied for the abatement. Despite all that we do to attempt to educate them about the tax phase-in process, their still remains a negativity associated with tax abatements. By passing Bill 90-08, as amended, we have provided a well defined set of criteria to which we and future Councils' can utilize to base our decision making process on, not standards which are arbitrary. By having the input of several well respected citizen minded groups at the table when this proposed ordinance was drafted, I felt we were addressing many of the concerns that our constituents often site as to their displeasure with tax abatements, while at the same time preserving our County's ability to continue to attract business' who wish to locate here and retain those who wish to expand. The groups who joined me in this effort are the Community Forum for Economic Development, the League of Women Voters of the South Bend Area, the Michiana Group of the Sierra Club, the Northeast Neighborhood Council, the South Bend NAACP, the St. Joseph Valley Building and Construction Trades Council, the St. Joseph Valley Project, AFL-CIO Central Labor Council, and the Michiana Social Forum.

After completing the ordinance in August 2008, I introduced it on September 3rd, 2008. Going through the normal course of advertising, Bill 90-08 had its' first reading at the September 9th, 2008 Council meeting. It was assigned to the rules committee on the advice of our legal counsel. At our regular committee meeting on September 23rd, 2008, Bill 90-08 was sent favorably to the full council for a vote by a 5-4 vote of all the members of the council. At the October 14th, 2008 meeting of the Council, the public hearing was not held due to a lack of a quorum when three members of the council didn't return after a recess. At the November 11th, 2008, meeting of the Council, a decision was made not to hold the public hearing and vote because one of our council members had a fire which devastated his residence and he would be unable to attend. In the mean time, discussion with the Chamber of Commerce of St. Joseph county began with a meeting with Greg Downes. After realizing that the Chamber had several concerns about the ordinance, at our December meeting I decided to hold the bill until our January 2009 meeting. Realizing we had further work to do to attempt to reach compromise, the bill was continued to be held until this special meeting. On six separate occasions, we've met with Project Future and the Chamber of Commerce and had fruitful discussion. From those discussions, we made significant changes to the proposed ordinance to accommodate many of their concerns. I'll take the time to explain the ten different changes to the ordinance from its' original version so everyone gathered here tonight has a full understanding of what changes have taken place.

1) Change the caption of the bill to the following:

This amendment replaces the phrase "tax abatement" in the bill with "responsible tax phase-in." This is in response to the viewpoint expressed by business leaders that the word "tax phase-in" would present a more positive image to the general public and to businesses that might be considering locating to St. Joseph County. It should be noted that this change is primarily for marketing purposes; the term "tax abatement" was not changed in the body of Bill 90-08 because state laws on this issue use that term.

2) Sec. 1.1(A)(19) Add the following:

except that individual members of an applicant's family are explicitly excluded from the definition of related party.

County Council member Dennis Schafer and Chamber of Commerce Executive Director Mark Dobson expressed concern that the tax delinquencies of an applicant's family member might unfairly disqualify the applicant. This amendment specifically eliminates that possibility.

3) Sec. 1.3(6) Replace the existing language with the following:

The applicant must pay all company employees at least a Poverty Wage. The Poverty Wage is defined as the wage rate that provides a full-time worker an income at the government-defined poverty level. This will be recalculated annually each year on March 1st.

Step1: Determine the Poverty Annual Income Level for a household of size three, as listed in the annual Federal Poverty Guidelines. Data for these income levels are published at <http://aspe.hhs.gov/poverty/index.shtml>.

Step 2: Divide the Poverty and Income Level by 2,080 hours, the number of hours for a full time worker each year, to get the poverty wage.

The language that the Poverty Wage until March 1, 2010 is \$8.80 per hour. This will be recalculated annually on

March 1st using the calculation described above.

4) Sec. 1.4, second paragraph. Initially the Ordinance no provision as to the size of the project that this would apply to in order to have an add-on abatement. An abatement greater than four years. Mr. Catanzarite's suggestion was to have a \$1 50,000 threshold, just like the number that is used for determining Common Construction Wage on Public Works projects. The Chamber of Commerce and Project Future had a \$1 million amount in mind.

Add the following:

This requirement to pay the prevailing wage package does not apply to construction projects of less than \$750,000 in value.

5) Sec. 1.4(1)(d)(1). Replace the existing language with the following:

Pay self-sufficiency wage levels. Pay to all company employees Self-Sufficiency Wages. A Self-Sufficiency Wage is defined as the wage rate that provides a full-time worker an income sufficient to meet basic needs without subsidies of any kind. It is calculated as follows:

Step 1: Determine the Self-Sufficiency Annual Income Level. Average the self-sufficiency annual income levels for a household of size three calculated by the Indiana Coalition for Housing and Homeless Issues for St. Joseph County at <http://www.region4workforceboard.org/calculator/selfsuffcalc.cfm>

Step 2: Divide the Self-Sufficiency Annual Income Level by 2,080 hours, the number of hours for full-time work in a year, to get the Self-Sufficiency Wage.

The Self-Sufficiency Wage until March 1, 2010 is \$12.90 per hour. The Self-Sufficiency Wage shall be recalculated annually on March 1st using the calculations described above.

6) Sec. 1.4(1)(c)(1) Reduce the number of new jobs required for public benefit points. Initially the ordinance had 150 employees you had to add to your project in order to get the maximum amount of public benefit points.

This amendment responded to a concern expressed by Council member Mark Root. He thought that small businesses would be unfairly penalized because they would not be able to create the same number of jobs as larger businesses. The categories were reduced by half: 1-25 (25 public benefit points); 26-50 jobs (25 additional public benefit points); 51-75 jobs (25 additional public benefit points) and more than 75 jobs (25 additional public benefit points).

7) Sec. 5(B)(2) Add the following:

In the case of exceptional developments that create significant employment and tax revenues, such as I/N Tek, I/N Kote and the AM General H2 project, the County Council may consider a personal property tax abatement of up to ten (10) years.

The Chamber of Commerce and Project Future paper, "The Proposed St. Joseph County Tax Abatement Ordinance," states that bill 90-08 doesn't allow for the possibility that large companies, such as I/N Tek, I/N Kote and the AM General H2 project, would need a 10-year personal property abatement. This amendment allows for that possibility.

8) Sec. 1.4(1)(a) Add the following, to create Sec. 1.4(1)(a)(4)

4. *Promote green technology.* Develop a business whose primary function is the manufacture, distribution or installation of renewable energy products and materials, including solar, wind and/or geothermal. [fifty (50) public benefit points]

This amendment was developed in response to a recommendation made by Mark Dobson, Executive Director of the Chamber of Commerce.

9) Sec. 1.4(1)(d)(2) Add the following:

The mean hourly wage rate for all occupations for the South Bend-Mishawaka Metropolitan Statistical Area until March 1, 2010 is \$17.37 per hour. The mean hourly wage rate shall be determined annually on March 1st by referencing the source listed above.

10) Sec. 6(b) Replace the existing language with the following:

B. Schedule of fees. A check made payable to the St. Joseph County Auditor in the amount applicable must be submitted with the application. An annual processing fee will also be assessed as a part of the annual review required for approved projects. These fees are set forth below.

<u>Investment</u>	<u>Fee</u>
Real Property	\$400.00
Personal Property	\$400.00
Annual Processing Fee	\$250.00

In Favor:

Marty Wolfson, 809 Park Avenue, SB - Coalition for Responsible Tax Abatement
Tony Flora, 202 E. Angela, SB - AFLCIO
Steve Francis, 54174 Juday Lake, SB - Sierra Club
Trina Robinson, 914 LWW, SB - NAACP
Marguerite Taylor, 714 E. Corby Blvd., SB - Northeast Neighborhood Council
Lisa Plencner, 212 E. South Street, SB - League of Women Voters
Linda Wolfsn, 809 Park Avenue, SB - Community Forum for Economic Development
Kathleen Petiljean, 421 LWW, M
Debbie Ray, 3903 Irish Hills Dr., SB
Christine Flordalis, 1705 Wall St., SB - Sierra Club
Kimber Sorenson-Brugh, 504 White Oak Dr., M
Tracy Grimm, 202 S. Filbert St., New Carlisle - New Carlisle Comprehensive Planning Committee
Jack Daly, 217 W. Michigan, New Carlisle
Jean Hanrahan, 826 N. St. Louis, SB
Judith Rubleske, 515 S. Meade St., SB
Bill Eagan, 3402 Scarlet Maple, SB
Greg Jones, 53384 Olive Rd., SB - St. Joseph Valley Projects
Dawn Chapla, 925 Widener Lane, SB
Cheryl Ashe, 1830 Langley, SB
Jim Kaczmarek, 415 Harris, SB
Rita Kopala, 66559 Ivy Rd., Lakeville

Some say the bill is too flexible. There are only three requirements in the whole bill; pay poverty wage of \$8.80 hr., maintain Affirmative Action Program and abatements longer than three years and projects greater than \$750,000 construction workers would be paid the prevailing wage. The Council has the option to override the point system and determine non-compliance penalties. This bill has the same structure as South Bend's Tax Abatement Ordinance. This Ordinance sends a strong message that St. Joseph County is concerned about the quality of life of its residences and will support businesses that do that. As union people, this ordinance does what we do everyday. There is no sound economic development without community standards and support. This ordinance will set guidelines including wages, which is commonplace. This has strong environmental provisions that will hold business accountable. A study was done that stated that job quality standards do not adversely affect business climates. Subsidies with standards have a positive impact on their regions development efforts.

Mr. DeVon addressed Mr. Francis stating that maybe one or two abatements come before the County a year. They are looking for a five to ten year abatement. If you take a \$2 million project and get abated, their tax savings of that phase-in would be about \$150,000. With the new tax codes it's about a three percent tax of about \$60,000 they would be paying without an abatement. Under this Ordinance, it would cost them about \$50,000 more to build with this Tax Abatement in place. Mr. DeVon stated that Mr. Francis told him at that time, and you are the economic expert, that those numbers are not good. Mr. DeVon said that those numbers are still there today as they were last November. Why would business come and ask for a Tax Abatement if it is going to cost them more? Mr. Francis stated that the numbers are off the cuff numbers. The amendments that have been made are in response to this concern. Projects under \$750,000 are exempt from the Common Construction Wage. Mr. DeVon stated that we all want to see St. Joseph County grow. In the last six years there has been only one business that has come from outside the County. We want to create an inviting environment.

The NAACP is in favor because it is the right things for the community and particularly for its Affirmative Action

component. This bill provides a strong accountability. The Northeast Neighborhood Council voted in December to support this bill.

Mr. Root questioned Ms. Taylor by asking if any portion of the Northeast Neighborhood Council was located in the unincorporated portion of St. Joseph County? Her response was no.

The League of Women Voters supports programs and policies to prevent and reduce poverty and promote self-sufficiency for individuals and families. We support that anyone receiving an abatement should pay at least a poverty wage and benefits. The more benefits a business brings to the community the more Tax Abatement incentives it will receive.

Mr. Root asked what the process was that the League of Women Voters used to come up with the endorsements? Was it a vote of the entire membership? Ms. Plencner stated that it was a vote from the Board.

Opposed to the use of abatements as entitlements for businesses, however, when they are used in a responsible manner and linked to benefits to the community, provide the kind of jobs to allow residents to live self-reliant lives, then abatements are a wise use of taxpayer money. At what cost do we let new businesses come to our community and give them abatements? Tax abatements must be tied to basic community standards.

Mr. Root asked if Ms. Petiljean was a 2007 candidate for the South Bend City Council? Her response was yes. Mr. Root stated that this ordinance would not apply to your neighborhood, would it? This abatement does not cover the City of South Bend or Mishawaka. Ms. Petiljean asked if it wasn't fair for a business to pay its fair share? Mr. Root said yes it was. But, this did not apply to her neighborhood. Mr. Catanzarite asked if she lived in St. Joe County? Her response was yes. Mr. Weaver stated that the labor market for anyone who happens to open a business, even if it is in the unincorporated portion of the County, the labor market does include the City of South Bend and Mishawaka. Therefore, it affects all of us even if we don't live in the unincorporated portion of the County. Mr. Root responded if a new business coming into this community decided to locate in Mr. Weaver's district, would this Tax Abatement be applicable to that business? Mr. Weaver stated that it would not, but it would have an affect on people who live there as part of the labor force. Mr. Root stated that it would not have an affect on them and not applicable to the bill. Mr. Weaver stated that maybe we shouldn't have anyone sitting on the Council who does not live in the unincorporated portion of the County. Mr. Root asked Mr. Weaver if anyone in his district has to abide by this abatement? Mr. Weaver stated absolutely not. Mr. Schafer stated that when he came on the Council, we all had county and city people in our districts. The Councilman that lived in the city had both. The last time the County was redistricted someone saw fit to take this part of the equation. There are now county only Councilmen and city only. This should be changed and 2010 is coming up and all of us should get on this change. Mr. Morton stated that was a good point. Mr. Weaver stated that a business that operates in the County does have an affect on the residents of the cities.

Came to the meeting because of Ms. Haven's quote, "Instead of putting more teeth requiring new businesses seeking abatements to actually create jobs, this proposed ordinance puts so many requirements on them such as having to pay union scale wages for their construction that it wouldn't pay for them to come here at all. It also shuts out 85 percent of our local construction workers who are non union. Our economy will just get worse". Why would we want people here who don't think people deserve a living wage? The environment really includes all of our resources today. How these resources are used impacts the quality of our lives and determines whether or not we end up with a healthy sustainable community. They promote businesses that support green technology in manufacturing. We need to set clear standards for who we are and who we want to become. Good businesses can attract good workers with good wages and strong environmental regulations. This bill is not too restrictive or be seen as negative. This will provide accountability of how tax dollars are utilized. This bill will allow our elected officials clear and specific criteria upon which to make Tax Abatement decisions. This bill defines what a good corporate neighbor is. People want a voice in how things are done that affect their lives and livelihood. This is a win - win situation. The people and groups against this bill consider themselves the elite and their voice is suppose to be louder than the citizens. You represent all the citizens, not just the chosen few.

Mr. Morton spoke to Mr. Daly, he said that in all the discussions and meeting that he was in attendance, he stated that he did not see any type of elitists attitude on either side of the issue.

It is time for a change in how things have been done in the past. With Tax Abatements you are using one group to support another. If someone does not pay, someone else does. The gentlemen spoke with regards to residential tax abatements.

Mr. Root pointed out that residential tax abatements are not part of the County Tax Abatement process.

Please send a message that we are a competent community and ask everyone to contribute to the general welfare. Instead of being anti-business this assists this community and the leaders of organizations interested in economic development in establishing goals for energy efficiency and job creation. We hope that the companies do not just blindly fill out the Affirmative Action Forms in order to be in compliance. This bill supports working families. The drivers in our life are education, income and employment. This will drive successful families that lead to successful communities. Good employers do good things for good communities. This bill has been studied enough. It is time to pass and tweak it later. Getting rid of the Prevailing Wage does not affect the price of construction. As a union person on a pension it is better than a non-for-profit job any day of the year.

In Opposition:

Myer Blatt, 813, Berlin, SB
Greg Downes, 125 S. Esther, SB - Volunteer Board of the Chamber of Commerce
Pat McMahan, 1305 Bader, SB - Project Future
Andy Kostielney, 52860 Juniper Rd., SB
Rudy YaKyma, 51616 Villager PK W, G
Wayne Curry, 1050 Barns Ave., SB
Eric Rowe, 921 Cottage Grove Ave., SB
Barry Baumbaugh, 12032 Timberline Trace N, G
Steve Leykauf, 52396 Liberty Mills, G
Christine Murdock, 411 N, Ironwood, SB
Craig Taelman, 1212 S. Walnut, SB - Board of Directors, Home Builders
Thomas Gruber, 22159 Alpine Ridge Ct., SB - Home Builders Association - Government Relations Officer
Kelly Havens, 12032 Timberline Trace N, G
Brandyn Baumbaugh, 12032 Timberline Trace N, G
David Behr, 1809 Rockne Dr., SB - Indiana Economic Development Corporation

The meaning of free enterprise has gotten lost. The affirmative action and wages part are good and would help a lot of people. But, there are costs that would go up. Business would make up those cost by charging more for goods and services. If I was going to start a new business, I would look at Elkhart County.

Mr. Weaver asked Mr. Blatt if this would affect where he lives? Mr. Blatt stated that it would not. Mr. Weaver said that he obviously feels that this ordinance will have an affect on his life. Mr. Blatt stated that was correct. Mr. Weaver then said that was a disagreement with what Mr. Root insinuated? Mr. Blatt said that he felt Mr. Weaver was incorrect. He felt that Mr. Root's point was that the abatement could only be given to someone in the incorporated portion of the County. Mr. Root pointed out that he never verbally stated an insinuation and not sure he had one. Mr. Root asked that Mr. Weaver hold his personal comments. Mr. Weaver said that stating that Mr. Root made an insinuation was not a personal comment. Mr. Root stated that he never made a comment about the labor force in Mr. Weaver's district. He stated that he asked specifically only about new businesses coming into Mr. Weaver's district and if the abatement applied to them.

The Chamber supports the concept of a tax phase-in resolution as long as it allows the Council the flexibility it will need to deal with changing economic conditions in the future. This bill is still too ridged and complex. The Council has a responsibility to get further input from a broader cross section of the County and that includes the business community. Professional input should be sought from outside the County in order to determine what affect this might have on the competitiveness and attractiveness of the County. We cannot give companies any reason not to locate or grow in our County. Please send back to Committee for further study.

Mr. Root asked when the Chamber was formally invited into the process of this ordinance? Mr. Downes stated that the first work session that they were invited to was in January. They did have individual meetings prior to that with some of the individual Councilmen. Mr. Kruk asked how the ordinance was too ridged and complex? Mr. Downes stated that it was long and the Chamber has introduced a Resolution that is only six pages. It is written in a very complex manner. The Chamber agrees with much of the context only that it is very hard to understand.

The Chamber suggested the use of a resolution. He stated that he would like to have seen something that said we need your jobs, we want your investment and come and talk to us. That is all it would have said. Everything else would be part of the negotiation process. In these times we should all be working together. There was great

dialogue but have objections to the form. There would have been better discussions if the people who deal with business expansions who could share their experiences and include not only the drafters of the ordinance but also the Chamber of Commerce, area commercial relations, area developers, regional developers, regional site selection consultants and local tax base experts such as the County Auditor and Assessor. The standards are not an issue. It is the form and approach.

Mr. Kruk asked if Mr. McMahan felt the ordinance was too complex? Mr. McMahan said that if he could write this ordinance it would have three sentences. It would say we love you, we want you here and we reward good behavior. He stated that he thought in the discussions that Davis Bacon was going to be modified to reflect the State's process for establishing construction wages as it is used most construction processes opposed to Bacon Davis language. He thought that was agreed to. Mr. Catanzarite stated that the Davis Bacon language was taken out. Mr. Kruk stated that in 2003 when the City of South Bend adopted the ordinance, was the Chamber of Project Future actively involved? Mr. McMahan stated that they were more involved with the County. Mr. Kruk read part of an article written by Terry Bland, Tribune, that stated how the City of South Bend's Tax Abatement Ordinance was welcomed by both Council Members and local businesses (2003), which was a 48 page document. Mr. Kruk and Mr. McMahan continued a discussion on the differences of the two ordinances. Mr. Root asked if there were any disadvantages to the fact that Mishawaka, South Bend and the County will have three separate and distinct ordinances? Mr. McMahan stated that said that he had asked Mishawaka and South Bend to consider the same document. It is a nightmare for him. It would be good if something could be developed that everyone could agree with. We are either in a sales job or not. Are we trying to sell the community in a positive way. Mr. Catanzarite stated that in 2005 you came and successfully got our ordinance changes with least restrictive language. Since then no one has beaten on our door to come here. As a test, last year a local company applied for an abatement who wanted to expand and they applied this ordinance to them. It took them three and one half to four hours to complete the process and answer the questions. He stated that he would have received a higher level of abatement under that ordinance. Mr. McMahan stated that we cannot change the economy and we are in an area of the country that suffers from the downturn. He stated that talking to one person or myself cannot provide enough information.

There is a buddy of our named Joe who works hard and is a great guy. You might even call him a saint. He is looking for work and has sent a resume out across the country. He checks his resume before sending it out and there are typos and misspellings. We tell him he's great but we are trying to help you and you might want to clean these things up. Joe said I already have it printed up and ready to go and I want to get the process going as quickly as I can. Of the 300 companies Joe sent his resume to, they have received 200 resumes. Joe's resume will be kicked out because they have to get the 200 down to 20. So how many times do you think Joe will get called in for an interview? Hopefully you guys will look out for Joe, St. Joe and help him keep the best foot forward. Mr. Kruk stated that he assumed that the reference to cleaning Joe up is in regard to the ordinance? Mr. Kostielney stated correct. Mr. Kruk asked if there were some specifics. Mr. Kostielney said that is goes back to keeping it simple. Elkhart County is considering giving abatements to existing residential properties. By putting barriers up, up front, we make it more difficult for folks to want to come in here. The changes are good and need to be made and hopefully you can keep track of them since they have not been currently kept up on. Mr. Kruk said that his understanding with Elkhart's position is that they have thrown open the doors and do anything that they will give a ten year abatement. Mr. Kostielney stated that at least they will begin the discussion.

Abatements do not burden other tax payers because they are usually creating new jobs. These new jobs will support the local income tax bracket and property tax bracket. This is not good for local business, union or non union. By not seeking to attract every business possible, what is being done is lowering the demands for the products that current business offer. You are putting posting a sign that says that St. Joseph County is closed for business. The abatement should simply say, if you come to St. Joseph County and create jobs, you get an abatement.

Mr. Kruk stated that he agreed that we should be creating jobs and reward business that do so. This ordinance does that. Mr. YaKyma said that there are other things in this ordinances that place burdens on these businesses. Mr. Kruk said that he mentioned the business that get abatements, creating jobs... he said that companies that have gotten abatements that have said that they are going to create jobs and those jobs never came to fruition. Mr. YaKyma stated that the simplest solution he would approach would be that if you promise to create jobs, and at the end of x period of time if you only create half of what you said then half of that abatement will get removed. Mr. Kruk said that he agreed and that was in the ordinance. Mr. YaKyma said fair enough, but he would shrink it down. A sixteen page ordinance is not welcoming. You should be having a meeting on how we can attract more businesses to St. Joseph County in these hard economic times. Mr. Kruk stated that a company that could save \$100,000 in taxes over a period of an abatement, do you think asking them to read a sixteen page ordinance is too cumbersome? Mr. YaKyma stated that he looks at it from an outsiders prospective and if I am doing an evaluation

of St. Joe, Marshall, Elkhart counties, and when I look at St. Joe County I have to consider a sixteen page Tax Abatement Ordinance. If another county has a two page ordinance that might lean me toward there. Mr. Kruk stated that the City of Goshen has sixteen pages. Mr. Weaver stated that we only have abatements to attract businesses. Indiana is called the cross roads of the U.S. and South Bend is in the middle of this. We have other things to attract businesses. Mr. Root said that we have a good work force also.

Times are tough. Is this the only tool that you have to attract job growth and development? This ordinance uses that you may or may not use this. Is this word "may" going to stand out? You should keep doing what you have been doing in the past for now until times get better. Graduate student opposes the ordinance not because of how it would affect him personally but on the basis of the fact of right vs. wrong. Anytime that government interferes with the abilities of two parties to make their own economic arrangements where a person is allowed to offer their labor for as low of a wage that they desire, that is wrong. In every case, every form of minimum wage is wrong. The Davis Bacon Act was devised as a way of protecting white labors in 1931 from having to compete with African Americans who offer their labor at lower rates. Tax Abatements are corporate welfare and I oppose them. For once, the Tribune is right. This is a bad bill. This bill is filled with goodies for unions and environmentalists. Others are given gifts with no strings attached; Homestead Credit, children, Renters Deductions, interest on mortgages and different type of taxes for different types of land. Do you intend to start telling all these groups how to live their lives? Or, is it you intent to punish businesses. Many business owners will be joining the rest of us at Tea Parties being held across this country in reaction to the ever increasing taxes and government interventions that go against the grain of our founding fathers. Mr. Kruk referenced Mr. Baumbaugh's last statement. Isn't that what an abatement is? Mr. Baumbaugh said that government has decided to tax the living out of all of us. If you got rid out of all property taxes, and went back to what there was before, you wouldn't be giving abatements. This would not even be an issue. Mr. Kruk stated that it has been granted to the Council the authority to grant Tax Abatements. What is being done tonight is set some guidelines. Mr. Baumbaugh how are you going to determine who you enforce this on when it says "may". This is sixteen pages of dribble. Mr. Kruk stated that it sounds like you are saying that it is not ridged enough. Mr. Baumbaugh hoped that it would be enforced.

Mr. Morton stated that the main guiding force. Mr. Baumbaugh then why is it "may" and not shall? Mr. Morton said simply because we did try to make those concessions and not be as ridged as when we first started because that is what the business community told us. Mr. Baumbaugh said that you have defeated the purpose of the bill.

The city and county are linked. The top 100 employers in this County have not many manufacturers on this list. The City of South Bend only has eleven out of a hundred. In Mishawaka there are five. The City of South Bend could teach us something. The largest manufacturer in the City of South Bend doesn't even employ 1,000 people.

Mr. Kruk said that he agreed with Mr. Leykauf when he talked about the number of manufactures in St. Joseph County. Elkhart County is heavily manufacturing and right now their unemployment is 18.2 percent and St. Joe is a little over nine percent. Michigan is highly manufacturing and right now has the highest unemployment rate in the country. So, my question to you is, what is your point? Mr. Leykauf stated that his point was that all jobs are not created equal. You can take the county of Elkhart and take four RV manufacturers and eliminate them overnight and you have other manufacturers that have high wage jobs. Those jobs offset the low dollar jobs in this county. The numbers are misleading. You cannot support a family with retail jobs. Mr. Kruk said that if he checked the list he would see that the largest employers in St. Joseph County are not retail jobs. There are a lot of non-profits but there are some good paying jobs. I don't think that is a fair assessment. He stated how they have worked with various groups and eight out of the ten amendments came from these groups. Mr. Leykauf stated that we just don't have a friendly manufacturing county and we haven't for years, since Studebaker went out of business in 1962.

This area was the father of the sit down strike. I have seen more businesses leave the area than stay. The Home Builders passed a Resolution asking you to be in opposition to the ordinance before you. The Home Builders have over 300 corporate members and they employ thousands. If one new business fails to come to this county because of this ordinance, you are taking away jobs from local home builders. Mr. Kruk stated that he did receive the letter from the Home Builders and they did say that thought tax abatements should be made on a project by project basis. Where do they think that's not being done? Mr. Taelman stated that you are right. The person who signed this letter is out of town and he stated that he would let Tom Gruber answer that question. Mr. Gruber stated that the letter was signed by the current President of the Board of Directors. By project based means simply that the decision should be in the Council's hands like any proposal or request for tax abatement. The Home Builders just think that a project could come along that could be different than anyone has seen before and might not fit into the box that the ordinance is creating. Tax abatement is about economic development. This community need jobs and an increased tax base. Last year 282 new homes were build in St. Joseph County, this includes the two cities. There were 511 the

year before which is a decrease of 43.9 percent in 2008. The last ten years the average has been 700-750 homes. We would like to see a job creator not a destroyer. Mrs. Havens said that Dr. Wolfson said that if we are not bringing any businesses now, how can this ordinance hurt us? Shouldn't we be asking ourselves why we aren't bringing any new business in now? The reason is that our taxes are too high and we keep telling companies how to run their businesses. Eighty-five percent of all local workers do not fall under the prevailing wage and lose out under this bill. Mrs. Havens quoted a variety of statistics. *Secretary's note: Mrs. Havens was so close to the microphone that she became very hard to understand.* Mrs. Havens gave amounts of money that were donated to the various Councilmen from unions. She stated that a yes vote tonight was a vote for a special interest, unions.

Mr. Przybysz asked if she had figures of donations for candidates from the Home Builders Association or the Chamber of Commerce? Mrs. Havens responded, no. Mr. Przybysz stated that he did receive funds from the Home Builders.

Mr. Kruk stated that he wanted to get some facts clear. He said the Mrs. Havens has made a statement that union construction works are 15 percent of the construction workforce of St. Joseph County and that there are 1,000 new construction workers in the County. Mrs. Havens stated that there were 7,200 total construction workers and 15 percent of that would be between 1,000. Mr. Kruk asked where she was getting the 1,000 figure or the 15 percent figure? Mrs. Havens stated from the Bureau of Labor Statistics and these figures are based on nationwide. Mr. Kruk said that in the literature that Mrs. Havens was passing out she was implying that it's in the County. Mrs. Havens stated that the national average would hold for the County. Mrs. Havens asked if he had the numbers. Mr. Kruk set the record straight by saying that he did not know what percentage of the union construction workers are in St. Joe County. He stated that he did know that the Building Trades is comprised of approximately 5,000 members. Of the 5,000, based on his local union and they are the second largest of the Building Trades in the County, approximately 60 percent of their members live in the County. Assuming that, if you take 60 percent of 5,000 that leaves 3,000 members that live in St. Joe County. Using Mrs. Havens statistics, if that represents 15 percent, then 100 percent would be 20,000. Considering that St. Joe County has approximately 270,000 people would you factor out half of those as being children, that leaves approximately 135,000 as adults. If factor out the women because most construction workers are men and say half of the 135,000 that are left are women, that leaves approximately 62,000. What were saying is 20,000 workers out of 62,000 in this County is a construction worker. That would be one out of three men. Mr. Kruk stated that's absurd. Using the other reference that was reported by the Tribune back in September or October, it said one percent. Again, if 3,000 is one percent that's saying 100 percent of the construction workers in the County represents 300,000 workers. We only have 270,000 workers in the County. That means every man, woman and child in this County is a construction worker, plus there is 30,000 running around somewhere that we haven't counted. Ms. Havens stated that we do know how many construction workers there are in this County, that statistic came out of the census and that was 7,200. So if you think 3,000 are union, then you'll still under 50 percent. Why create an ordinance for the minority? Mr. Kruk stated that everyone who calls themselves a construction worker will not be doing these kinds of construction jobs. These will be done by commercial contractors. The most recent survey that was done by Work Force Development under the current Governor, the numbers overwhelming represent union paid wages in this County. The Davis Bacon language was taken out. We were hoping to get a uniformed bill passed in the Cities of South Bend and Mishawaka. Go look at the County Building Permits and look at how many commercial projects are under \$750,000. There are a lot of them. *Secretary's note: Mrs. Havens could not be understood.* The conversation continued about using shops that pay the Prevailing Wage. Mr. Kruk said that if the project is over \$750,000 the ordinance states this is what you pay the workers.

Mr. Weaver stated that heard the commercial on the radio that was put out and remember hearing the 85-15 percent statistic over the air and thought that was untrue.

Mr. Przybysz wanted to clarify for Mr. Downes that he was not referring to the Chamber itself, but to Chamber members. *(This was regarding donations.)*

This is a microscopic issue regarding Affirmative Action. Any type of Affirmative Action is discriminatory on a basis of factors that cannot be shown to have any merit based significance. If you can do a job is a merit thing not a race of gender. Race does not exist genetically, it exists only as long as we let it exist. They should not have to do something that is wrong by nature in order to get a tax abatement.

Mr. Morton cited an example of discrimination that he was dealing with at the present time with a reputable company. They are using wives as a minority in order to fill the obligation of minority. Mr. Weaver stated that in the ordinance it states that you have to be qualified. Therefore, it is merit based. Mr. Kruk and Mr. Morton continued with a conversation regarding discrimination and Affirmative Action.

The town of Walkerton has a Tax Abatement of only three or four pages long and a simple resolution. They were extremely business friendly and it has paid off. The business of economic development is getting extremely competitive. Professional site consultants look for reasons to eliminate communities.

The amendment passed by a voice vote; 8-0. No negatives were heard.

Mr. Root moved to send Bill No. 90-08 back to Committee. The motion was seconded by Mr. Schafer.

Mr. De Von mentioned that the Stripco abatement that was given out a couple of months ago and if he was going to do his expansion today he would not be doing the project if this was in place. It would have been too costly for him. He stated that he does not want to miss out on any growth for St. Joe County in any way.

The motion failed by a vote; 3-5 (Against: Weaver, Kruk, Przybysz, Catanzarite, Morton)

Motion to pass was made by Mr. Kruk and seconded by Mr. Przybysz.

Mr. Kruk stated that he has been on the Council for five years and of all the abatements that have come before him he thought all but one of them have come seeking a ten year abatement. The one that asked for less did so because they thought they would not be granted one at all. We do not have any guidelines to grant any abatements and would like a company who wants a ten year abatement to show us what you are going to do for the community to earn this. If it is not a good ordinance, he stated that they would come back and look at it.

Mr. Schafer explained how people have said that if we give an abatement to a company and they don't do right that we pay the taxes. If you don't have a company come here in the first place, there won't be any taxes coming in. One of the problems he has with the abatement is the public transportation portion. We do not have public transportation all over the County. Why didn't we say that 100 percent of the employees have to live in the County.

Mr. Kruk stated that he would agree, but it is not realistic. All the companies would be eliminated.

Mr. Root had questions with the site selection and evaluation. He felt that the Council has not done a good job on either side in our recent history. Some of this ordinance is an attempt for us to do a better job.

Mr. Morton made a comment about accountability and the lack of abatements coming our way as opposed to their counterparts. Mr. Root stated that if there are bigger problems in another entity, then why didn't this bill start there? On the site selection side the language is obtuse and complex. Mr. Root felt that even this ordinance has not done enough to put in measures of enforcement. There should be more "shall" than "may". Mr. Morton stated that using "may" will not scare away potential businesses. Mr. Root felt that there should have been more use of "shall" on the enforcement side of the ordinance and that is what the public expected of the Council. Mr. Morton stated that all nine of the Council Members as a group look at that first abatement when it comes. Mr. Kruk stated that he wanted a bit of wiggle room in order to take into account the economy and how it might affect what a company states they will do in an abatement. Mr. Root continued by saying that he felt that the site selection side of the ordinance was too complex and confusing. Mr. Catanzarite stated that he is not promoting someone coming to the county, getting an abatement and paying the poverty wage. He felt this was an enticement to a company. Mr. Root stated that he understood the moral implications and what was trying to be done. He wanted to remind everyone that this is a college - university. These students are not going to be long term employees, but are we hurting the job market when they are one of the biggest pools in the county. He agreed with the poverty wage but on the other hand pointed out how the college student will work for less. Will this limit these students from finding jobs.

Bill No. 90-08 passed, as amended, 5-3 (Schafer, Root, DeVon).

Motion to adjourn was heard at 10:23 p.m.