

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
MAY 3, 2021

The Common Council of the City of West Lafayette, Indiana, met electronically on May 3, 2021, at the hour of 6:30 p.m.

President Bunder called the meeting to order and presided.

The Pledge of Allegiance was recited.

Present: James Blanco, Jeff Brown, Peter Bunder, Nick DeBoer, Shannon Kang, Larry Leverenz, Kathy Parker, David Sanders, Gerald Thomas.

Absent: None

Also present: Mayor John Dennis, Corporation Counsel Eric Burns, Clerk Sana Booker, Director of Development Erin Easter, and City Controller Peter Gray. Other unnamed department heads who did not speak were available on the conference line.

NOTES

► This meeting was conducted electronically, without the physical attendance of any person, due to the public health emergency (COVID-19 pandemic) and per IC 5-14-1.5-3.6 and State of Indiana Executive Order 20-09, Paragraph 4.

COMMENTS FROM MAYOR DENNIS

Mayor John Dennis stated that he is attending the meeting from MARGERUM City Hall with Development Director Easter and members of the media, and they are sitting where everyone will soon meet—in the new Council Chambers. He stated that unless something horrific happens, it is his intention to return to hosting our Council meetings in person here at MARGERUM City Hall. Although it is nice to do some things from home, he thinks that we are down the road far enough now that being in person can go back to being a reality. He stated that he looks forward to seeing the Councilors. Mayor Dennis spoke about the mask mandate that he issued last year, which had a significant impact. Due to the mandate being legislated by the City [Ordinance No. 17-20 (Amended)], citizens of West Lafayette and those are influenced by the policies we create, made wearing a mask part of their lifestyle. He noted that our Police Department was the enforcement division for that mandate, and the good thing is that they have written zero tickets to date. This is because when they would make a suggestion to people to put a mask on, those directions were followed because people knew it was the rule of the land here. Mayor Dennis stated that with that understanding, and with everything going the direction it is going, and with the obvious cooperation with our citizenry and Purdue students, he is going to ask the Council to rescind the mask mandate. It will go from being a mandate to being strongly recommend by the City.

Mayor Dennis and Counsel Burns discussed that rescinding the mandate can be done tonight with a vote to suspend the rules or it can be an item on the June agenda. Counsel Burns detailed specifics of the procedural options for the Councilors. President Bunder stated that he would like to do this as part of the regular order of business next month, possibly at the Pre-Council meeting.

Councilor Sanders stated that he is fully in favor of re-examining this issue in June. However, he wants people to understand that we are actually worse off now than we were in March in terms of

having more cases in Indiana. He does believe it is likely to get better by June, but it is not just now. He stated that the Council should possibly consider not rescinding only a part of it, such as the requirement for outdoor masking. He noted that a child under the age of five died in Tippecanoe County. This is rare event, but it did happen here. Councilor Sanders stated that continued vigilance is necessary. He reiterated that he is not opposed to looking at it in June, and he may be in favor of it in June. As we increase vaccination rates, things are likely to improve.

Councilor DeBoer stated that, to add a piece of optimism, the 47906 zip code has administered more doses than we have people, at around 69,000 compared to the 67,000 that accounts for our total population. Around 30,000 of those are full vaccinated, so about 45% of West Lafayette appears to be fully vaccinated. This is above both national and State averages. He noted that this is not necessarily surprising, as we know our neighbors' vigilance and dedication to science. He thinks that over the next three or four weeks we will be in a strong position to reconsider this.

Mayor Dennis confirmed for Councilor Parker that businesses could still choose to require masks. He also explained for Councilor Kang that although this ordinance is scheduled to be reviewed in September, the Council can opt to consider an ordinance at any time.

Councilor Brown shared that he has discussed this issue with a couple of colleagues. The positions of one, a physician who oversees the inpatient program at one of the local hospitals, is that the volume of patients is currently fairly low. His colleague also pointed out that even if the mask mandate is rescinded, it does not mean that everyone will stop wearing masks. Anyone who feels they are at risk in any way would be strongly encouraged to continue wearing them. Councilor Brown stated that in his conversations, reading, and experience in practicing medicine, he does not believe the Council would be irresponsible in revisiting this Ordinance at the June meeting.

President Bunder stated that he knows there were people in his district who were very pleased that the mandate was issued and have been supportive. Mayor Dennis confirmed that they have, and although there have been people not in support of it, he generally got a lot of nice emails and comments from people he interacted with while out in the community.

MINUTES

Councilor DeBoer moved for acceptance of the minutes of the April 5, 2021, Common Council Meeting. Councilor Thomas seconded the motion, and the motion passed by unanimous voice vote.

REPORTS OF CITY DEPARTMENTS ON FILE IN THE CLERK'S OFFICE

There were no comments.

REPORT OF THE APC REPRESENTATIVES

Councilor Leverenz reported that the APC Executive Committee is meeting both in person and virtual this week on May 5, 2021. They will see how that works and will anticipate the regular APC meeting being in person as well.

PUBLIC RELATIONS:

Council Appointment: Traffic Commission (District 5) – Ernest Blatchley III

President Bunder thanked Councilors Blanco and Parker for finding an appointment for District 5. Councilor Blanco stated that Mr. Blatchley should be a good fit as a civil engineer and someone who commutes by bicycle.

COMMON COUNCIL MEETING MINUTES, MAY 3, 2021, CONTINUED

Councilor DeBoer moved to approve the Council appointment of Ernest Blatchley III to the Traffic Commission. Councilor Thomas seconded the motion, and the motion passed by unanimous voice vote.

FINANCIAL REPORT

Controller Gray reported that we are a little under budget at 31%, or 25% before encumbrances, while at 33% through the year. The departments are keeping spending under control.

LEGAL REPORT

This report is on file.

SPECIAL REPORTS:

Joint Board Report

Councilor DeBoer reported that the April Joint Board meeting was routine obligations of paying bills, as has been the case since the completion of the State Street Project. The Board did elect a new Chair and Vice Chair. It is the City's turn to hold the Chair position this year, and Erin Easter was elected.

UNFINISHED BUSINESS:

Ordinance No. 06-21 An Ordinance Requesting An Additional Appropriation to the 2021 Budget (Various Personal Funds) (Prepared by Controller) [No. of Readings 2 of 2] PUBLIC HEARING

Councilor DeBoer read Ordinance No. 06-21 by title only.

Councilor DeBoer moved for passage of Ordinance No. 06-21 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Controller Gray reminded the Council that this is the additional appropriation for the staff salary increase of 2% which was not part of the original budget.

Councilor DeBoer moved to enter a public hearing on Ordinance No. 06-21. Councilor Thomas seconded the motion, and it passed by unanimous voice vote.

There were no comments from the public.

Councilor DeBoer moved to close the public hearing on Ordinance No. 06-21. Councilor Thomas seconded the motion, and it passed by unanimous voice vote.

There was no further discussion.

Clerk Booker called the roll call vote:

Councilperson	Vote
Blanco	Aye
Brown	Aye
Bunder	Aye
DeBoer	Aye
Kang	Aye
Leverenz	Aye
Parker	Aye
Sanders	Aye
Thomas	Aye

Clerk Booker stated that the vote was 9 AYES and 0 NAYS.

President Bunder announced that Ordinance No. 06-21 passed on second and final reading.

NEW BUSINESS:

Ordinance No. 07-21 An Ordinance Establishing Fund #4180, The American Rescue Plan Coronavirus Local Fiscal Recovery Fund (Sponsored by Mayor Dennis) [No. of Readings 1 of 2]

Councilor DeBoer read Ordinance No. 07-21 by title only.

Councilor DeBoer moved for passage of Ordinance No. 07-21 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Mayor Dennis explained that we are required to establish an account for any of the funding for the costs incurred as a direct result of the COVID virus. He stated that there have been preliminary discussions about things the funds may be used for, but the Council will be involved in later conversations. He confirmed for Councilor DeBoer that more will be known by the second reading.

Councilor Sanders asked if it is correct that this ordinance only establishes the fund, but what it gets spent on will have to come back to Council. Mayor Dennis stated this is correct, and this is just a place to put the funds.

There was no further discussion.

Clerk Booker called the roll call vote:

<u>Councilperson</u>	<u>Vote</u>
Blanco	Aye
Brown	Aye
Bunder	Aye
DeBoer	Aye
Kang	Aye
Leverenz	Aye
Parker	Aye
Sanders	Aye
Thomas	Aye

Clerk Booker stated that the vote was 9 AYES and 0 NAYS.

President Bunder announced that Ordinance No. 07-21 passed on first reading.

Ordinance No. 08-21 An Ordinance Requesting An Additional Appropriation to the 2021 Budget (American Rescue Plan Funds) (Prepared by Controller) [No. of Readings 1 of 2]

Councilor DeBoer read Ordinance No. 08-21 by title only.

Councilor DeBoer moved for passage of Ordinance No. 08-21 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Controller Gray explained that while Ordinance No. 07-21 establishes the fund itself, which is needed for the U.S. Treasury to deposit the money into the City, Ordinance No. 08-21 is the

appropriation of those funds. The City is slated to receive a total of a little over \$11.1 million between two deposits, and we will get approximately half of that with the disbursement scheduled for May 11, 2021. Since we cannot spend any of that until we go through the appropriation process, this first reading is just to get that process started. He is asking for the first reading tonight, and then the second reading will be delayed until after a plan has been created for the funds with the involvement of the Council. Having the first reading now allows the information to be available to the Council and the public. Controller Gray noted that a major category must be listed, which he has under Capital; however, it will be rearranged into appropriate categories once a plan is made. There will also be a public hearing when the second reading is done.

Councilor Sanders asked if a potential use for these funds could be to create a City-wide Wi-Fi network under the allowance by the Act to make investments in broadband infrastructure. Controller Gray responded that although he believes that would be the case, he is hesitant to draw definitive lines as the State still needs to define some items with the U.S. Treasury. It is important to know that all costs must be incurred after March 11, 2021, when the Act was passed, and prior to December 31, 2024. Controller Gray stated that it is a lot of money and we want to ensure it is spent properly and wisely.

Councilor Sanders asked if it is possible to transfer money from this to the Wastewater Utility. Controller Gray responded that we cannot transfer it to any other fund, but we can spend these funds on wastewater infrastructure. The Utility would still manage a related project, but the expenditures would be coded from this Fund. This will ensure that the money that is disbursed to us goes to the expenditures that is allowed and can be easily audited.

There was no further discussion.

Clerk Booker called the roll call vote:

Councilperson	Vote
Blanco	Aye
Brown	Aye
Bunder	Aye
DeBoer	Aye
Kang	Aye
Leverenz	Aye
Parker	Aye
Sanders	Aye
Thomas	Aye

Clerk Booker stated that the vote was 9 AYES and 0 NAYS.

President Bunder announced that Ordinance No. 08-21 passed on first reading.

Ordinance No. 09-21 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (Purdue Delta Tau Delta Association, Inc.) (CBW to R3U) (Submitted by Area Plan Commission) [No. of Readings 1 of 1]

Councilor DeBoer read Ordinance No. 09-21 by title only.

Councilor DeBoer moved for passage of Ordinance No. 09-21 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Chris Shelman (Gutwein Law), representing the petitioner, stated that the Delta Tau Delta fraternity has been located along Fowler Avenue and Grant Street at Northwestern Avenue since the 1920s. The structure is a Tudor Revival style. He explained that approximately five years ago, the land the fraternity is located on was rezoned to CBW [as part of the New Chauncey Neighborhood Plan, Ordinance No. 24-15]. Admittedly, the fraternity was not paying attention to the area zoning process that occurred at that time, and they did not recognize the long-term ramifications of that rezone. He explained that they are before the Council because there are only a handful of zones in Tippecanoe County ordinance that permit the fraternity use, including Agricultural and multi-family zones such as R3U. The CBW zone does not permit the fraternity use by right, so it is ultimately designed to phase that use out. The fraternity has a great structure in great condition, and they want to be able to maintain that and rebuild should there ever be any loss at that site. This rezone to R3U is the least dense and is most conforming for the current configuration, and it was chosen with guidance from the APC and City staffs. Mr. Shelman noted that the fraternity has no plans to vacate the site, but he believes that ultimately any development at that site would be University-centric, and the R3U zone, along with the lot size and shape, would likely force it into a path of planned development approval. This rezone request is to preserve the existing use and structure for years to come.

Development Director Easter stated that there are two competing things that the City struggled with because we certainly want to stick with our own plan. The first thing is that a lot of people were involved in the process to come up with the New Chauncey Neighborhood Plan. The Plan was to preserve the character of the neighborhood while accommodating the many residents who do not always have the same interests. The APC staff, following that Plan, had recommended a denial of this rezone. However, the Commission decided to stay neutral so that this Council could have the conversation here. The second thing is that in the intervening years, we have the new Margerum City Hall in a building that was built in the same year as the fraternity. She thinks that as we look at what we have in the City to preserve, there are very few structures that are still maintained in such a fine fashion. There was a big internal conversation to understand what our position should be on this. We certainly do not want to see anything happen to this building. We would entertain other ways to preserve the structure in the future. The City staff feels that if the fraternity is willing to continue to make improvements and preserve this building, then it does no favors to make a non-conforming use less conforming when they have an opportunity to add a patio or other amenities to the structure that would keep its character.

Councilor DeBoer expressed that he would be interested in hearing President Bunder's opinion since this building is in his district and he was very involved in the area Land Use Plan. President Bunder asked Councilor Leverenz to first speak about his view from the APC.

Councilor Leverenz stated that the APC voted unanimously to recommend this rezone. He thinks that after discussion, when you look at the zoning map, there are a couple of things that come up. The first is the historic significance of the building. The second is that there are two properties on the east side of Grant Street including the fraternity, and some members of the APC feel that both are out of place. It should not have happened with that Plan, but it did. Therefore, we are now going through this process, which he feels is legitimate. He does not feel the fraternity is looking to do anything out of line or detrimental to the City. This rezone makes sense. He added that with the sorority across the street, this will make a nice entrance to the City as people go toward the University. He stated that the full APC was in favor of granting the rezone.

COMMON COUNCIL MEETING MINUTES, MAY 3, 2021, CONTINUED

Mr. Shelman stated that we are sort of playing with blocks that do not fit into the right hole. The New Chauncey Plan was to look at what might be appropriate there if this did not exist. However, there is no current zone that encompasses both uses. The thought would be that this zone would cover the existing use without the detriment of a future development. It would also have the least broad impact on the City. Adding a use to the CBW zone would have broad implications and open more areas to fraternities. This would have the least impact on other properties and keep this isolated on its own block.

President Bunder stated that he does not have any objections to this rezone, and it was an R3 lot before the Land Use Plan. He explained that in the horse trading that went along with the development of the Plan, which included concerns from business owners, apartment owners, citizens, and students, the Plan would allow for business zoning in certain areas on the edge of New Chauncey. There was speculation at that time about how long fraternities and sororities may stay in the Purdue urban core and the possibility that this property may become available for purchase. As part of the negotiations, it was determined that the lot could be business use. President Bunder stated that he thinks that City wins with this rezone as not much can not be done on R3. He stated that it is an attractive building on an important corner, and he would rather it be the fraternity than a commercial venture.

There was no further discussion.

Clerk Booker called the roll call vote:

Councilperson	Vote
Blanco	Aye
Brown	Aye
Bunder	Aye
DeBoer	Aye
Kang	Aye
Leverenz	Aye
Parker	Aye
Sanders	Aye
Thomas	Aye

Clerk Booker stated that the vote was 9 AYES and 0 NAYS.

President Bunder announced that Ordinance No. 09-21 passed on first and only reading.

Resolution No. 07-21 Resolution Of The Common Council Of The City Of West Lafayette, Indiana Authorizing The Redevelopment Commission To Exercise The City's Power Of Eminent Domain (Yeager Road Project) (Submitted by Corporation Counsel) [No. of Readings 1 of 1]

Councilor DeBoer read Resolution No. 07-21 by title only.

Councilor DeBoer moved for passage of Resolution No. 07-21 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Counsel Burns explained that the power of eminent domain is held by all governmental units in the State. The Council holds that power in West Lafayette. Eminent domain means that if the government needs to do a project for the public good, then the City may take real estate and pay for that real estate. It could lead to the courtroom to determine whether it is a public purpose,

how much the property is worth, and what should be paid to the property owner. The worth is based on appraised value. Counsel Burns stated that the Redevelopment Commission (RDC) does not hold the power of eminent domain. Therefore, as we did with the State Street Project, it is necessary for this Yeager Road Project, which is being funded by the RDC, to have the possibility of eminent domain being used in the courtroom, if necessary. There is a listing of properties at the end of this Resolution that are along Yeager Road. The project will include widening the road and enhancing trails. It is clearly a public purpose. He explained that it is sometimes necessary to file an eminent domain procedure because the takings that are happening here are very small, and it is hard to get a corporation's attention when the owner is not local. A lawsuit will penetrate a corporation's attention. He believes that three of the properties listed on the Resolution are likely to need court action, but we have already settled with several other properties. Council Burns stated that this Resolution will give the RDC, and himself on their behalf, the power to use eminent domain in court if necessary. He confirmed for President Bunder that areas are small; he believes that the largest is approximately 0.3 acres.

President Bunder stated that the core thing to understand is that this is similar to State Street and is not very dramatic.

There was no further discussion.

Clerk Booker called the roll call vote:

Councilperson	Vote
Blanco	Aye
Brown	Aye
Bunder	Aye
DeBoer	Aye
Kang	Aye
Leverenz	Aye
Parker	Aye
Sanders	Aye
Thomas	Aye

Clerk Booker stated that the vote was 9 AYES and 0 NAYS.

President Bunder announced that Resolution No. 07-21 passed on first and only reading.

Resolution No. 08-21 A Resolution Amending The West Lafayette Community Development Block Grant 2019 One-Year Annual Action Plan (Part 3) (CARES Act) (Submitted by Department of Development) [No. of Readings 1 of 1]

President Bunder read Resolution No. 08-21 by title only.

President Bunder moved for passage of Resolution No. 08-21 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Brown.

Director Easter explained that all CARES Act funds were allocated for CDBG dollars in 2019, so this is a continuation from then. This is three additional appropriations of funds that we received from the federal government. There was a waiver that allowed 100% of these funds to be used on non-profit organizations, which is highly unusual for CDBG dollars that are typically capped at 15%. Our goal, and the goal set out by Council, was to get those dollars out as quickly as possible

COMMON COUNCIL MEETING MINUTES, MAY 3, 2021, CONTINUED

to the neediest places. We have already appropriated quite a few funds. The three additional appropriations listed, which will take care of the remaining balance of the COVID CARES Act dollars, are HomesteadCS to help stabilize housing and mortgage relief at \$136,000.00; a program through West Lafayette Community School Corporation for counseling services for students dealing with anything related to COVID-19 for three years for \$134,500.00; and Food Finders Food Bank, which used up their previous funds, for \$13,418.00. Director Easter confirmed for President Bunder that this will be the completion of the CARES Act dollars.

There was no further discussion.

Clerk Booker called the roll call vote:

Councilperson	Vote
Blanco	Aye
Brown	Aye
Bunder	Aye
DeBoer	Aye
Kang	Aye
Leverenz	Aye
Parker	Aye
Sanders	Aye
Thomas	Aye

Clerk Booker stated that the vote was 9 AYES and 0 NAYS.

President Bunder announced that Resolution No. 08-21 passed on first and only reading.

REPORT BY THE MAYOR

Mayor John Dennis stated that it is the season for everyone to get out and about. We have an outstanding Wellness Center to take advantage of for anyone so inclined. He asked that anyone who takes advantage of our outdoor recreational opportunities to please be kind—if you see trash, pick it up. People enjoy our parks, but sometimes they can get loved to death. Every little bit helps.

COMMUNICATIONS

- ▶ Councilor Kang reported that the Go Greener Garden Award has gone to its first commercial business, which is Town & Gown Bistro on River Road. They have done a lot with pots and planters on the patio, and it adds beautiful scenery to travelers coming into our City. The press release with photos will be on the June Council agenda.
- ▶ President Bunder reported that the census information is available for at least larger political entities. He reminded the Councilors that as the year unfolds, they will need to establish a redistricting committee. He expressed appreciation to Councilor DeBoer and former Councilor Steve Dietrich for their work on the last redistricting.

CITIZEN COMMENTS

- ▶ There were no emails received by the Clerk email address regarding this meeting.

ADJOURNMENT

There being no further business at this time, Councilor DeBoer moved for adjournment, and President Bunder adjourned the meeting the time being 7:33 p.m.



**WEST
LAFAYETTE**
OFFICE OF THE CLERK

Memorandum of Open Door Law Compliance

Meeting Body: City Council
Meeting Date: May 3, 2021
Time: 6:30 p.m.

Members/City Officials Present in Person: None

Members/City Officials Present Virtually: James Blanco, Jeff Brown, Peter Bunder, Nick DeBoer, Shannon Kang, Larry Leverenz, Kathy Parker, David Sanders, Gerald Thomas, Mayor John Dennis, Clerk Sana Booker, Corporation Counsel Eric Burns

Members/City Officials Absent: None

Electronic Means of Communication Used for Members and Public: Webex

Respectfully submitted,

Sana G. Booker, City Clerk
Secretary of the Common Council

Date: May 6, 2021