

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
MINUTES  
APRIL 6, 2020

The Common Council of the City of West Lafayette, Indiana, met electronically on April 6, 2020, 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 [arrived by 6:47 p.m.], Peter Bunder, Nick DeBoer, Shannon Kang, Larry Leverenz, Kathy Parker, David Sanders, and Gerald Thomas.

Absent: Norris Wang

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.

Mayor Dennis noted that Councilor Wang is still in the hospital, but he sends his regards.

#### NOTES

► The Pre-Council meeting scheduled for April 2, 2020, was cancelled.

► 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.

#### MINUTES

Councilor DeBoer moved for acceptance of the minutes of the February 27, 2020, Pre-Council Meeting, and the March 2, 2020, Common Council Meeting. Councilor Thomas seconded the motion, and the motion passed by voice vote.

#### REPORT BY THE MAYOR

Mayor John Dennis stated that he appreciates everyone getting on board with meeting electronically, as it is completely different than what we are acclimated to doing. However, he thinks that life is going to cause us to do a lot of things that we are not accustomed to. There are a lot of people in our community who are experiencing hardships, so let us keep them in our thoughts and prayers. He stated that today he interacted with mothers who are dealing with young children who are home instead of school. The parents are missing work and doing everything they can to abide by the new rules of how we engage, how we interact, and in some cases, how we entertain. As far as how we are performing duties of city government, all of the department heads meet over the phone with him in a daily staff meeting. They review daily activities and routines. The departments heads, as well as their operations people and support staff, are keeping very busy. We are still trying to make sure that we communicate the messages that are coming down not just from the State, but also from the national boards and commissions that are governing certain styles of behavior and conduct. Mayor Dennis noted that he and Clerk Sana Booker participated in a video to promote social distancing. He explained that this is the phase we are in, and we are only just learning what the repercussions of this are going to be. We are

dealing with social issues now, but depending upon how long this tracks out, we are probably going to end up dealing with serious economic issues. He encouraged everyone to continue to get their favorite foods through a carry-out system at restaurants. He asked that if anyone needs to go shopping, continue to do so, but to follow appropriate protocols. He noted that many stores are still empowered by the Governor to stay open, and he asked that if anyone sees negligence on their part to contact his office. It is usually not an issue of unwilling; it is usually an issue of unknowing. The City of West Lafayette is still conducting business. He commended Street Commissioner Ben Anderson for his department going out every day to do the best they can to keep things up and running. There are certain circumstances where social distancing becomes difficult for us, but we are taking precautionary measures to ensure we do not compromise ourselves. The Police and Fire Departments, as always, are doing an amazing job, and their presence allows people to feel a sense of calm. The other departments are also doing a great job to make sure we continue to do what we do so well. Also important are the folks that are doing their jobs from home. There is a presumption that behind closed doors they can do what they want, but nothing could be further from the truth. He and his Administrative Assistant, Carol Houston, are getting a lot of phone calls from staff regarding ongoing business practices that either need his approval or some guidance. There is a lot going on that is helping us stay above what we are supposed to stay above and to continue to contribute to what we are supposed to be contributing to. Overall, this is sort of a weird time. There really are no certain answers to how long we are going to be going through this. The good news is that there is a lot of science that can help us make some decisions. The bad news is that there is a lot of rumor and conjecture that can cause a mild degree of panic. He stated that everyone in their leadership roles should answer any questions if they know the answer, or otherwise direct the questions to his office so we can help. If there has ever been a time to use this cliché, this really is “one team, one fight.” This is a very busy time for his office and staff, and he asked they be kept in everyone’s thoughts and prayers as well. Hopefully, as we continue down the path, we will learn more, get more definitive answers about timelines, and later get better guidelines from the medical professionals and our State support as to how we will proceed after this is over. He stated that anyone who sees the City employees while out should not hesitate to stop and say thanks.

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 March APC meeting was cancelled, including the Ordinance and Executive Committees. He has not heard about the April meeting. He noted that the APC office is operating.

PUBLIC RELATIONS: None

FINANCIAL REPORT

There was no report.

LEGAL REPORT

This report is on file.

SPECIAL REPORTS:

Joint Board Report

Councilor DeBoer noted that the April Joint Board meeting will likely be cancelled.

**UNFINISHED BUSINESS:**

**Ordinance No. 03-20** An Ordinance To Annex Certain Lands To The City Of West Lafayette (3464 Bethel Drive) (Submitted by Tyler Ochs of Ball Eggleston) [No. of Readings 2 of 2] **PUBLIC HEARING**

Councilor DeBoer read Ordinance No. 03-20 by title only.

Councilor DeBoer moved for passage of Ordinance No. 03-20 on second reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Tyler Ochs (Ball Eggleston), representing the petitioner, reminded everyone that the Council did pass the Fiscal Plan [Resolution No. 03-20] for this annexation last month. He also noted for the public that this annexation is for 3464 Bethel Drive, which is in the northwest part of the City. It is contiguous with the area, meeting statute requirements.

Councilor DeBoer moved to open a public hearing on Ordinance No. 03-20. Councilor Thomas seconded the motion, and the motion passed by voice vote.

Director of Development Easter explained the procedure through WebEx that will allow members of the public to speak. She noted that Councilor Blanco was able to connect to the call by this time [6:47 p.m.].

There were no comments.

Councilor DeBoer moved to close the public hearing on Ordinance No. 03-20. Councilor Thomas seconded the motion, and the motion passed by voice vote.

There was no further discussion.

Clerk Booker called the roll call vote:

<b><u>Councilperson</u></b>	<b><u>Vote</u></b>
Blanco	Aye
Bunder	Aye
DeBoer	Aye
Kang	Aye
Leverenz	Aye
Parker	Aye
Sanders	Aye
Thomas	Aye
Wang	Absent

Clerk Booker stated that the vote was 8 AYES and 0 NAYS.

President Bunder announced that Ordinance No. 03-20 passed on second and final reading.

**Ordinance No. 06-20** An Ordinance To Annex Certain Lands To The City Of West Lafayette (3464 Bethel Drive) (Submitted by Tyler Ochs of Ball Eggleston) [No. of Readings 2 of 2] **PUBLIC HEARING**

Councilor DeBoer read Ordinance No. 06-20 by title only.

COMMON COUNCIL MEETING MINUTES, APRIL 6, 2020, CONTINUED

Councilor DeBoer moved for passage of Ordinance No. 06-20 on second reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

City Controller Gray reminded everyone that this ordinance is to appropriate funds from the new Public Safety Local Income Tax (LIT). This will allow \$500,000 to each the Police Department and the Fire Department.

Councilor DeBoer moved to open a public hearing on Ordinance No. 06-20. Councilor Thomas seconded the motion, and the motion passed by voice vote.

Director Easter again briefly explained the procedure through WebEx that will allow members of the public to speak.

Zachary Baiel (124 Connolly Street) said, "Thank you so much. In regard to Ordinance No. 06-20, in particular, I know we had brought it up previous in regard to – is the public going to be able to track and find out how these local income tax funds have been spent? There has not been any great detail outside [inaudible] –"

Director Easter asked if Mr. Baiel was still there and then stated that we would see if we could get him back on the phone.

Sheila Rosenthal (2856 Ashland Street) said, "I just have a question about what kind of information will be shared with the public and how that will be shared. I guess related, are we going to use the same system in the future if we need to not have in-person meetings, or are other systems being considered?"

Mayor Dennis said, "I can respond to that. For the time being, Sheila, that is the way we are going to proceed. If we have further technology that [inaudible] then we will look at that option, but in the interim, we are under strict orders from the State to be cautious about the number of people we have in meeting social distancing and things of that nature. Hopefully, it is very temporary. Hopefully, best case scenario, this is it, but if we have to continue this is the best system we have in place so far."

Ms. Rosenthal said, "Okay."

There were no further comments,

Councilor DeBoer moved to close the public hearing on Ordinance No. 06-20. Councilor Thomas seconded the motion, and the motion passed by voice vote.

Councilor Sanders stated that it is a valid question as to what these appropriations going to be used for, and he asked if we have any particular ideas about how the funds will be used and documented.

Mayor Dennis stated that a lot of the funds will be used for the big items that most law enforcement and firefighting professionals need, which is staffing and equipment. There is potential down the road for the possibility of it being used for facilities.

Councilor DeBoer noted that he asked this question at last month's meeting, and some of the finer details from the Police and Fire Chiefs are on the record for that meeting.

There was no further discussion.

COMMON COUNCIL MEETING MINUTES, APRIL 6, 2020, CONTINUED

Clerk Booker called the roll call vote:

<b>Councilperson</b>	<b>Vote</b>
Blanco	Aye
Bunder	Aye
DeBoer	Aye
Kang	Aye
Leverenz	Aye
Parker	Aye
Sanders	Aye
Thomas	Aye
Wang	Absent

Clerk Booker stated that the vote was 8 AYES and 0 NAYS.

President Bunder announced that Ordinance No. 06-20 passed on second and final reading.

**NEW BUSINESS:**

**Resolution No. 06-20** A Resolution Waiving Certain Procedures And Formalities During Disaster Emergency Pursuant To I.C. 10-14-3-17 And Authorizing The President Of The Common Council To Act For And On Behalf Of The Council If Required (Sponsored by Mayor John Dennis and Council President Peter Bunder) [No. of Readings 1 of 1]

Councilor DeBoer read Resolution No. 06-20 by title only.

Councilor DeBoer moved for passage of Resolution No. 06-20 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Mayor Dennis explained that in the event of a major catastrophic event, if the Council through all processes – whether it be electronic, physical, or telephonic – cannot meet, then this Resolution allows for Council President Peter Bunder and himself to basically serve as the Council. This would only be for the time period until the event is rectified for a meeting in some form to be held again. In the protocol of a disaster, this is a way to continue with government without having to completely shut it down.

Corporation Counsel Burns added that he is paid to be a pessimist. Two weeks ago when the President and the Governor both issues executive orders, he started thinking in the direction of asking what is the worst that can happen. It struck him that one thing that could happen, which is already contemplated specifically in the statute, is that we might get a federal grant that would have to be appropriated. Hopefully, if we would ever have to have that, it would occur very quickly. He wanted to make sure that our Council has a mechanism in place to approve that. Due to the way the coronavirus stay-at-home orders and the closures of businesses has rolled out, another possibility is that the Council would need to make certain activities fineable offenses. He wanted to ensure that the Council was not left with no ability to act. It is important to understand that because we have electronic means of meeting, electronic meetings is exactly what is contemplated. We will do electronic meetings for as long and as well as we can. He can only think of two possibilities that would create the inability for us to go forward as a Council. That would be either a total breakdown of the phone system and the web, or if Councilors are ill and a quorum is unable to serve their duties. The way this Resolution is structured is that it is only going to happen if there is no way to have a public meeting.

Councilor DeBoer stated that this Resolution appears to be specific to the COVID-19 situation, which seems to perhaps not fully contemplate what Mr. Burns just said. He asked if it is correct that this is only specific to the public health emergency that we are under now. He also asked if the Resolution contemplates the fact that we would need to attempt to have a virtual meeting before this Resolution would take effect.

Counsel Burns stated that it would be required to have a meeting, and we are now setting the template for what he believes is the way we will have meetings for a little while into the future. The State statute and Governor's orders now say that we may have a meeting exactly the way we are doing this one right now. Regarding the COVID-19, this Resolution expires as soon as the emergency health orders expire, and COVID-19 is the reason for those. The other thing about the public health emergency, is that the strength that this gives to the Council, acting through its President if necessary, is that it allows action specifically to abate or help with the emergency. That means that the President of the Council cannot just pass anything; it would have to be specifically directed to addressing the crisis. In both the manner of expiration and the purpose of the legislation, it is specific to the public health emergency.

Councilor DeBoer asked if the public emergency has been extended, and Councilor Parker responded that it was extended for two weeks.

Councilor Sanders stated that this Resolution is something that looks necessary and important. He asked if there was any consideration to have a provision for if a certain number of Councilors want to have a review of any actions taken under the Resolution.

Counsel Burns responded that there is not a provision. However, the last thing that President Bunder would want is to act without some kind of consensus. He believes President Bunder would speak to anyone on the Council he could possibly get ahold of before doing anything. It is not hard letter in the law. However, there is always a review process, which is that a quorum of Councilors can reverse something after it is passed. The courts are always a resort as well. He explained that he wanted to have a Resolution that would cover things quickly without a lot of complication in the very unlikely event that we have a complete breakdown in technology or enough Councilors who are too ill to act.

President Bunder noted that there are a variety of checks on this. Mayor Dennis would have to sign off anything before it is done. City Controller Gray would tell us when the money is coming in and how it would have to be spent. Clerk Booker would be responsible to identify who is available or not available to have a City Council meeting. Assuming the general run of city government, there are a variety of checks built in. This is essentially an *in case of fire, break glass* resolution.

Councilor DeBoer stated that he thinks that is a smart way of looking at it. He wondered, in contemplating the illness of the Councilors, if language for the Vice-President of the Council to exercise this authority should be included.

Counsel Burns stated that he is not concerned about that step as the Vice-President is, by law, the one to stand in the shoes of the President when necessary. However, there is not a third choice.

There was no further discussion.

Clerk Booker called the roll call vote:

<b>Councilperson</b>	<b>Vote</b>
Blanco	Aye
Bunder	Aye
DeBoer	Aye
Kang	Aye
Leverenz	Aye
Parker	Aye
Sanders	Aye
Thomas	Aye
Wang	Absent

Clerk Booker stated that the vote was 8 AYES and 0 NAYS.

President Bunder announced that Resolution No. 06-20 passed on first and only reading.

**COMMUNICATIONS**

► Councilor Thomas stated that he had a call from a citizen who saw a group of people playing basketball at one of the schools. The citizen asked what can be done about this. He told her to call the Police as a first step because they have the authority to break up that type of group in this crisis. He asked for confirmation from Mayor Dennis that this is correct.

Mayor Dennis responded yes, and he spoke about another issue today where we removed basketball hoops from behind our office space. Both Police Chief Harris and Fire Chief Heath are well informed of the power of uniformed suggestion, and they are happy to go out and make recommendations for people to keep in compliance with the structure of conduct while we are under this order of the Governor. He noted that most of the basketball rims in the City have been taken down, but the big challenge is those that are on private property that are randomly used by other people. We are also getting phone calls about people congregating on our trails and parks. Parks Superintendent Lozano has done an amazing job of trying to make people aware that there are no-go areas. With the social distancing, conversation has become one of the more topical subjects to talk about. Our emergency staff is not offended to be asked to handle that. It is a matter of making sure people are aware that they must do the right thing.

► Councilor Kang stated that she wants to give recognition to the Purdue Student Government for their relief efforts on campus. One thing they did was to commit \$12,500.00 to the Critical Need/Emergency Student Assistance Fund. Students can apply for up to \$500.00 on a case-by-case basis. They committed \$10,000.00 to address food insecurity by providing hot meals in partnership with Basil Thai and Khana Khazana Indian Grill. They also donated \$2,500.00 to the ACE Campus Food Pantry, which has hygiene products along with food. Councilor Kang stated that we are all working together, and these were great efforts from the Purdue Student Government.

► Councilor DeBoer stated that while we go through this public health emergency, the next steps of this are obviously going to get really rough, and he fears the inability to pay rent on the part of many of his constituents. This is especially true as we move into next year, as leases have been signed by people who might not be able to afford them or be able to come back any longer. He encourages anybody in the public who is facing either a landlord who is unable to waive rent or is locked into a lease in which they are no longer able to execute to come forward to himself or anybody in this government that they feel comfortable with. This is going to get really shaky really fast for people who have the inability to pay. This is priority for him only after keeping everybody healthy in the City. This will become a real issue in the next three to six months.

Mayor Dennis noted that we have been contacted by several parents who are under the same duress. Their kids are home while still renting space in West Lafayette. It is definitely a concern.

► Councilor Sanders stated that this current crisis is not just what is happening right now. Decisions are being made that are going to affect the future of West Lafayette and the future of Purdue University. He does not think it is too early to discuss a couple of the lessons we have already learned. These are lessons that we should have known before this happened. As many know, he initially favored some of the development that occurred on State Street, but as it proceeded, he began to oppose it because he thought we were overbuilding. As he said at some meetings, the worst thing that can happen is if we have an economic downturn, then we will start to have empty apartments. This is a product of the great expansion at Purdue, about which the City was incompletely consulted, and he believes it was detrimental both to Purdue and to the City. It was unsustainable. We need to be thinking very seriously about how Purdue and we are going to go forward at this time. Things are already being put in place that will affect the occupancy of these large buildings that we have created, and we need to be thinking seriously about what the future is of the University and how that affects West Lafayette. Many of these things were, in fact, predictable. This pandemic was predictable. Many of us in the field have been predicting it for decades, and this is exactly the sort of thing we needed to be prepared for. The unsustainability of the growth in Purdue and of all these large buildings is something that a number of us in the community had already predicted. These were the expected results, not the unexpected results. He stated that he knows we need to be focused on dealing with this particular crisis, but it is not too early to begin to learn the lessons of this crisis and to act upon them.

#### ADJOURNMENT

There being no further business at this time, Councilor DeBoer moved for adjournment, and President Bunder adjourned the meeting the time being 7:20 p.m.



## Concerned about resolution 06-20

Sheila Rosenthal <[REDACTED]>

Mon 4/6/2020 3:07 PM

To Nick DeBoer <ndeboer@westlafayette.in.gov>; Peter Bunder <pbunder@westlafayette.in.gov>; Shannon S. Kang <skang@westlafayette.in.gov>; Larry Leverenz <lleverenz@westlafayette.in.gov>; Kathy C.F. Parker <kparker@westlafayette.in.gov>; Norris Wang <nwang@westlafayette.in.gov>; James S. Blanco <jblanco@westlafayette.in.gov>; David Sanders <dsanders@westlafayette.in.gov>; Gerald Thomas <gthomas@westlafayette.in.gov>; John Dennis <jdennis@westlafayette.in.gov>; clerk <clerk@westlafayette.in.gov>;

**External**

Good afternoon,

I am writing to relate my concern about resolution 06-20. I am sorry I did not address this issue sooner or in more detail. I agree with Zachary Baiel in the need for accountability and recording of the public comments and for our city to try virtual meetings. Thank you. Regards, Sheila Rosenthal

## Nichole Foster

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**From:** Zachary Baiel <[REDACTED]>  
**Sent:** Monday, April 6, 2020 4:41 PM  
**To:** Nick DeBoer; Peter Bunder; Shannon S. Kang; Larry Leverenz; Kathy C.F. Parker; Norris Wang; James S. Blanco; David Sanders; Gerald Thomas; John Dennis; clerk  
**Subject:** Re: Public Comment: Resolution No. 06-20

### External

Good afternoon again everyone,

After some discussions with other members of the Community, I would also like to recommend an additional item to the amendment:

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Common Council for the City of West Lafayette, Indiana, that each action taken under this resolution will expire after the expiration of the declared public health emergency or any subsequent declared national emergency related to COVID-19 has been declared.

This new item would then ensure for these matters to be taken up by the full Council and that every member of the Council is on record, with their vote, in regards to the actions taken under this resolution.

The full amendment:

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Common Council for the City of West Lafayette, Indiana, that prior to exercising the provisions of this resolution, the City Council must exhaust all options to conduct its business in a virtual manner.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Common Council for the City of West Lafayette, Indiana, that after exhausting all options to conduct a virtual meeting and unable to obtain a quorum, the provisions may then be exercised.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Common Council for the City of West Lafayette, Indiana, that any actions exercising the provisions of this resolution must be documented in the same manner that they would have been documented prior to its passing and made available to the Public, via the City's web site within 24-hours.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Common Council for the City of West Lafayette, Indiana, that each action taken under this resolution will expire after the expiration of the declared public health emergency or any subsequent declared national emergency related to COVID-19 has been declared.

Thank you again. Stay healthy. Stay safe.

Take care,

--

Zachary Baiel

On Mon, Apr 6, 2020 at 2:41 PM Zachary Baiel <[REDACTED]> wrote:

Good afternoon Council Members, Mayor, and Clerk,

How are you all today? I just called the Clerk's office and left a voicemail to get clarity about how the virtual meeting proceedings were going to take place.

I have updated my amendment request below.

A general question about the Public comments and their inclusion in the record:

Will everyone's e-mails with comments and questions about the various meetings, including tonight City Council, also be entered and included in the official record of proceedings? If no, why not?

In regards to Resolution 06-20 that is being considered this evening. Two questions that need to be answered are *Why* and *How*.

**Why are we passing this resolution when we have not even attempted to conduct virtual meetings?**

**How will the maximum amount of transparency and accountability be assured to the Public that the City Council, the Mayor, and the Clerk represent?**

The first question is to help again understanding of why we are taking these drastic measures, as if we will be unable to tackle the virtual meeting problem.

The second question is of critical importance since two provisions are consolidating an absolute power between three individuals, two elected and one appointed, and removes fiscal oversight of the Administrative body and the Fiscal Body (our City Council in this case).

I have a modest proposal for an amendment that has been expanded from my April 2nd communication:

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Common Council for the City of West Lafayette, Indiana, that prior to exercising the provisions of this resolution, the City Council must exhaust all options to conduct its business in a virtual manner.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Common Council for the City of West Lafayette, Indiana, that after exhausting all options to conduct a virtual meeting and unable to obtain a quorum, the provisions may then be exercised.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Common Council for the City of West Lafayette, Indiana, that any actions exercising the provisions of this resolution must be documented in the same manner that they would have been documented prior to its passing and made available to the Public, via the City's web site within 24-hours.

This amendment accomplishes three things:

1. Places a burden on the City to attempt to conduct its business in a virtual, quasi-Public manner. The City Council is a Public body that is attempting to do the Public's work.
2. States that if a quorum cannot be reached in a virtual setting, then you can go forward with the provisions in this resolution, but with a virtual, quasi-Public meeting recording of the proceedings. The Public needs to have the business conducted on its behalf as visible as possible.
3. Ensures that all of the same paperwork, documentation, and historical record is executed, despite completing this same work in the regular fashion. The Public needs to be able to follow a reconstruction.

We all know this is a crisis. However, that doesn't mean we should scrap our democratic principles for the sake of ease and expedience.

Thank you for considering and I look forward to tonight's meeting.

Stay safe. Stay healthy. Stay democratic.

Take care,

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Zachary Baier