

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
OCTOBER 5, 2020

The Common Council of the City of West Lafayette, Indiana, met electronically on October 5, 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, Peter Bunder, Nick DeBoer, Shannon Kang, Larry Leverenz, Kathy Parker, David Sanders, Gerald Thomas, and Norris Wang.

Absent: None

Also present: Mayor John Dennis, Corporation Counsel Eric Burns, Clerk Sana Booker, City Controller Peter Gray, and Police Chief Troy Harris. 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.

► The Pre-Council meeting scheduled of October 1, 2020, was cancelled.

MINUTES

Councilor DeBoer moved for acceptance of the minutes of the September 8, 2020, 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 stated that the form-based overlay for the Discovery Park District should be on the October APC agenda, and then the Council will see it the following month. The APC Ordinance Committee will be hearing an amendment to the UZO regarding solar energy systems.

PUBLIC RELATIONS:

Declaration of Fiscal Body – West Lafayette Public Library

Nick Schenkel, Director, West Lafayette Public Library, explained that this is a new requirement from the State legislature. Every public library in Indiana needs to have a document on file indicating which body is their fiscal body for review of budgets. For the WLPL, that body is the West Lafayette City Council. He noted that the Library follows the same calendar and steps in their budget process as the City. Mr. Schenkel and Counsel Burns discussed whether the Council is obligated to do a non-binding review of the budget or if it was optional, and Counsel Burns stated that he will find out that information.

Councilor DeBoer moved to certify the Declaration of the West Lafayette City Council as the Fiscal Body for the West Lafayette Public Library. Councilor Thomas seconded the motion, and the motion passed by unanimous voice vote.

FINANCIAL REPORT

Controller Gray reported that we are three-quarters of the way through the year and only two-thirds of the way through the budget. The department heads have been doing a stellar job of spending down considering the climate now. He noted that the non-property tax revenue for this year may be down by a couple hundred thousand dollars by the end of the year. As far as spending, he thinks we will be okay, but our reserves will be less than originally planned. He will provide updates as that becomes more solid.

LEGAL REPORT

This report is on file.

Councilor DeBoer asked about how the phase of COVID we are in right now relates to conducting virtual meetings, and if it is still part of the Governor's executive orders that we are permitted to have these meetings. Counsel Burns stated that the current extension is through November 5, 2020. That is separate from the County Health Department authority. His contact at Accelerate Indiana Municipalities (AIM) has indicated that there is no interest on anyone's part that they can discern, as far as the Governor's Office or the Public Access Counselor, to do anything but continue the electronic meetings. There is no indication that it will terminate at any time in the foreseeable future.

Councilor Kang asked about the review of the Police Department's policy changes, including use of force and discrimination. Counsel Burns responded that an associate in his office did that review, and he asked Chief Harris to provide details. Chief Harris explained that the Department uses a service called Lexipol which provides best practices and standards across the country. The policy updates changed some verbiage to be more inclusive throughout many of the Department's policies. The updates also included changes in use of force that were made earlier this year.

SPECIAL REPORTS:

Joint Board Report

Councilor DeBoer stated that the next Joint Board meeting is on October 20, 2020, and electronic access information will be circulated ahead of time.

UNFINISHED BUSINESS:

Ordinance No. 12-20 (Amended) An Ordinance Setting The 2021 City Budget And Setting The 2021 Tax Levy On Property And Tax Rate (Prepared by Controller) [No. of Readings 2 of 2]

Councilor DeBoer read Ordinance No. 12-20 (Amended) by title only.

Councilor DeBoer moved for passage of Ordinance No. 12-20 (Amended) on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Controller Gray stated that this is the 2021 budget information that has been discussed several times, and he requested approval.

There was no further discussion.

Clerk Booker called the roll call vote:

COMMON COUNCIL MEETING MINUTES, OCTOBER 5, 2020, CONTINUED

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

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

President Bunder announced that Ordinance No. 12-20 (Amended) passed on second and final reading.

Ordinance No. 13-20 An Ordinance To Set The 2021 Salary Schedule For The Elected Officials Of The City Of West Lafayette, Indiana (Submitted by Controller) [No. of Readings 2 of 2]

Councilor DeBoer read Ordinance No. 13-20 by title only.

Councilor DeBoer moved for passage of Ordinance No. 13-20 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Controller Gray spoke for Ordinance Nos. 13-20, 14-20, and 15-20. He explained that these are the salary ordinances that are reflected in the budget. There have been no changes from the previous reading.

There was no further discussion.

Clerk Booker called the roll call vote:

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

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

President Bunder announced that Ordinance No. 13-20 passed on second and final reading.

Ordinance No. 14-20 An Ordinance To Set The 2021 Salary Schedule For Appointed Officers, Employees, And Members Of The Police And Fire Departments Of The City Of West Lafayette, Indiana (Presented by Controller) [No. of Readings 2 of 2]

COMMON COUNCIL MEETING MINUTES, OCTOBER 5, 2020, CONTINUED

Councilor DeBoer read Ordinance No. 14-20 by title only.

Councilor DeBoer moved for passage of Ordinance No. 14-20 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

There was no discussion.

Clerk Booker called the roll call vote:

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

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

President Bunder announced that Ordinance No. 14-20 passed on second and final reading.

Ordinance No. 15-20 An Ordinance To Set The 2021 Salary Schedule For The Wastewater Treatment Utility As Submitted By The Board Of Public Works And Safety For Approval By The Common Council Of The City Of West Lafayette, Indiana (Presented by the Board of Works) [No. of Readings 2 of 2]

Councilor DeBoer read Ordinance No. 15-20 by title only.

Councilor DeBoer moved for passage of Ordinance No. 15-20 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

There was no discussion.

Clerk Booker called the roll call vote:

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

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

President Bunder announced that Ordinance No. 15-20 passed on second and final reading.

NEW BUSINESS:

Ordinance No. 18-20 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (Mezzanine 7, LLC) (202 W. Pierce St.) (R3W to R4W) (Submitted by Area Plan Commission) [No. of Readings 1 of 1]

Councilor DeBoer read Ordinance No. 18-20 by title only.

Councilor DeBoer moved for passage of Ordinance No. 18-20 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Dan Teder (Reiling Teder & Schrier, LLC), representing the petitioner, stated that after talking with the Development and Engineering Departments, he would like to request a motion to continue this matter for one month so they can have further discussion. He noted that the APC certified this on September 17, 2020, so the Council has 90 days from that date to approve or deny this matter.

Councilor DeBoer moved to table Ordinance No. 18-20 to a time certain of the November 2020 Council Meeting. Councilor Thomas seconded the motion, and the motion passed by unanimous voice vote.

In response to questions of procedure, Counsel Burns explained that in a virtual meeting it is required that a roll call vote be taken so that everyone afterwards can look back and know exactly what the votes were. His interpretation of that on procedural matters is that it is expeditious and legal for there to be a voice vote as long as there is no division. If there were a single nay vote, then we would go back and take a roll call vote. A unanimous vote is equivalent to a roll call vote because it is clear how everyone voted.

Resolution No. 17-20 A Resolution Requesting The Transfer Of Funds (Police) (Prepared by Controller) [No. of Readings 1 of 1]

Councilor DeBoer read Resolution No. 17-20 by title only.

Councilor DeBoer moved for passage of Resolution No. 17-20 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Controller Gray explained that this is a transfer within the General Fund to help outfit some new police squad cars.

There was no further discussion.

Clerk Booker called the roll call vote:

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

Councilperson	Vote
Sanders	Aye
Thomas	Aye
Wang	Aye

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

President Bunder announced that Resolution No. 17-20 passed on first and only reading.

REPORT BY THE MAYOR

President Bunder asked Mayor Dennis to speak about his interview on MSNBC.

Mayor John Dennis stated that the experience on MSNBC included himself and the Mayor of Boston, Marty Walsh. They discussed their response to their respective states loosening COVID restrictions. Both mayors had similar responses, which is to encourage people to still abide by the rules. He got the opportunity to talk about the City and our relationships, and more importantly, the uniqueness of having a very large college community within our small geographic footprint. It presents unique problems to us that are not unlike a major metropolitan area. It is always good when we can promote our City and when our City gets recognized for doing the right thing. He stated that it was a lot of fun.

COMMUNICATIONS

► Councilor Wang asked about the status of trick-or-treating due to COVID-19. Chief Harris responded that in years past we have never set parameters for Halloween. Mayor Dennis stated that he expects a continuance of parents supervising children, especially the younger ones. We have been pounding the drum of practicing social distancing, wearing masks, and washing hands. He expects to make an announcement encouraging that, along with the usual safe practices for Halloween. Another thing we are unaware of is the sanitary conditions of the products being handed out, which has been the case for many years before COVID. He encourages parents to parent, keep an eye on their children, and that the children do not eat the candy before it is inspected at home by an adult.

► Councilor Parker stated that she followed-up with Police Chief Harris about hiring some mental health professionals to join the Police Department. The Department is actively researching that. She stated that she also wants to recognize and commend our young climate activists in West Lafayette and in the greater area. They started by contacting their elected leaders here, then took it across the river, and now they are going statewide. She and Councilor Thomas were on a climate campaign launch with them a week ago, and they are raising awareness all over the state with a goal to convince Duke to move to renewable energy sooner rather than later.

Councilor Kang added that the climate activists have pushed the elected officials to keep bringing awareness to climate action. She encouraged anyone on social media to contact her for help with creating Instagram or Facebook stories or posts. The students are pushing the Councilors to keep supporting them and to use our platform to spread awareness.

► Councilor Sanders stated that he wants to commend Councilor Parker and the Police Department for making progress in having mental health professionals actually deal with mental health issues in the community; that is a great step forward. He stated that he is concerned about the reopening of Big Ten football. He does not think that is a positive step for a variety of reasons. It turns out that one of the major benefits of Big Ten football is in the amount of business it generates for the local community, and that is simply impossible under the conditions of the reopening. He has grave concerns about the opening, and the benefit that would potentially come

to the community will not happen in any substantial amount. Councilor Sanders stated that he wants to say that he wishes that no one gets infected with SARS-CoV-2, and he wishes that everyone who has been infected has a full and speedy recovery. That having been said, we as a society face a choice for the future of the United States and our constitutional democracy. Our very republic is at risk in this upcoming election, and he thinks that it is extremely important that everyone go out and vote for the continuation of this great experiment, which is the United States of America. The Constitution of America is the document upon which all our liberties are based. He thinks it extremely important the people go out and vote and think very carefully about the future of America, and specifically in the Presidential race, think about which candidate is truly committed to the good of the American people. Go out and vote.

► Councilor Wang stated that he wants to commend Chief Harris and Councilor Parker for their diligence with including social workers. He is concerned about liability issues with those social workers on a police call. We need to think about whether we will assume the responsibility for their risk.

CITIZEN COMMENTS

► Emails that were received to the Clerk email address prior to the meeting are made a part of these minutes.

ADJOURNMENT

There being no further business at this time, Councilor DeBoer moved for adjournment, and President Bunder adjourned the meeting the time being 7:10 p.m.

From: [Erik A. Carlson](#)
To: [clerk](#)
Cc: [Peter Bunder](#); [Erin Easter](#)
Subject: Citizen Comment for WL Ord. 18-20
Date: Monday, October 5, 2020 2:50:39 PM
Attachments: [Citizen Comment WL Ord 18-20.pdf](#)

External

Please see attached PDF for comment as part of tonight's City Council Meeting during the reading of Ord. 18-20

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Erik A. Carlson
259 Simpson Street
Morgantown, WV 26501
Mobile: 614-657-3446
[ErikAndrewCarlson@\[REDACTED\]](mailto:ErikAndrewCarlson@[REDACTED])

Citizen's comments on West Lafayette Ordinance No. 18-20

Comments from Erik A. Carlson, 259 Simpson Street, Morgantown, WV.

Councilors –

I am disappointed and frankly feel disrespected -- as should you -- about the request made in Ord. No. 18-20. Over the span of six months from when the Area Plan Commission Ordinance Committee first heard the Downtown Master Plan through when it was approved by this body on March Second of this year, I and Erin Easter worked with Mr. Don Teder to find a consensus that would work for the best interests of the community and his capital driven ambitions.

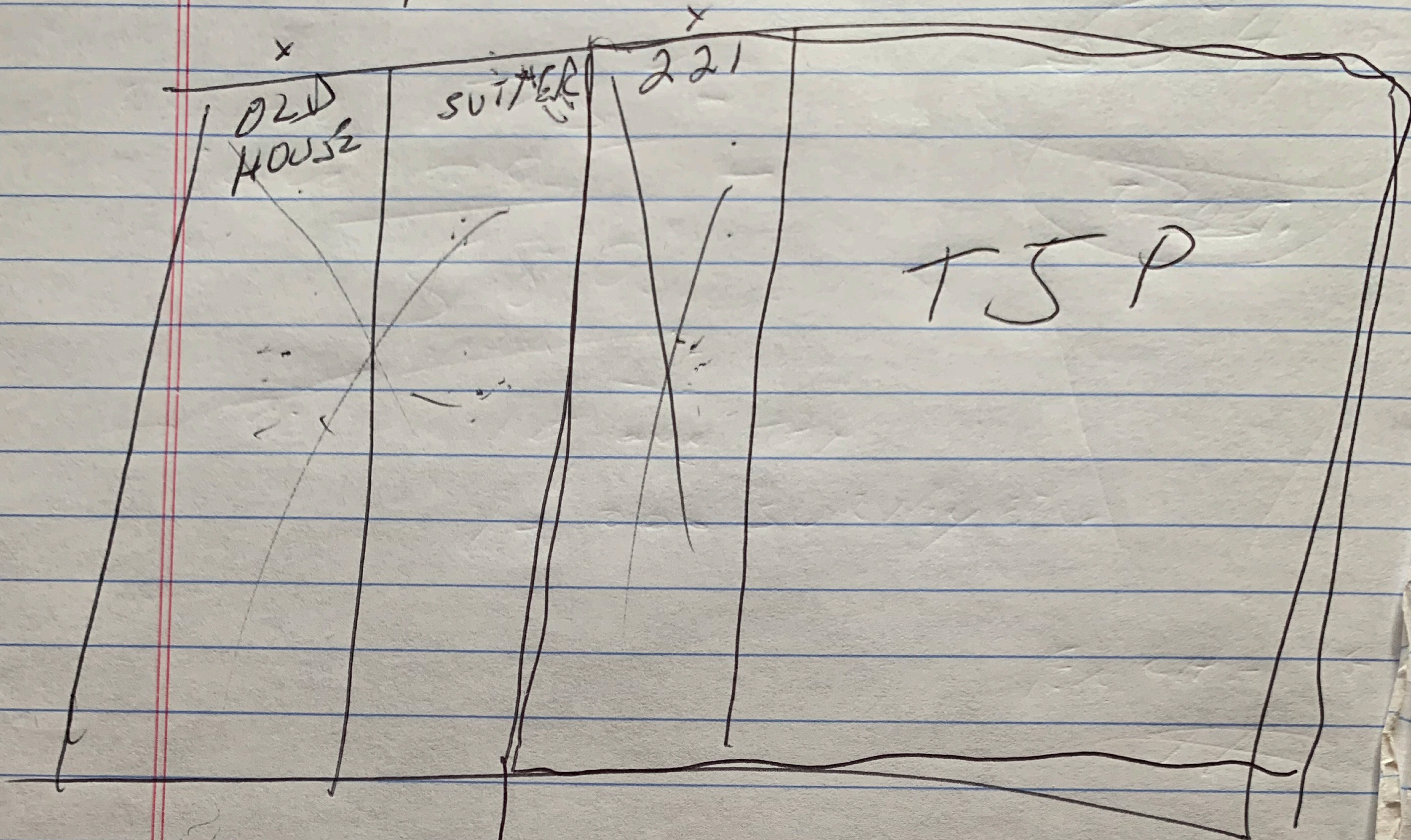
On more than one occasion we had reached a handshake agreement that would have achieved just that, only for Mr. Don Teder to renege on his agreement saying "we let city council decide." One such agreement would have called for the city, through the Redevelopment Commission, to work with Mr. Teder to secure a piece of property he doesn't own on Block 27 (terminology from the Downtown Master Plan) and engage in a land swap, which would allow for Tommy Johnston Park to expand on his eastern most property on that block (once deeded to the Parks Department), and leave room for a Planned Development on the western most two parcels. In that plan, the eastern portion of those two parcels would blend into the park in a seamless, aesthetically pleasing fashion, while allowing public access. Evidence of that plan is attached in the form of a drawing Mr. Don Teder himself drew, which I still have in my possession.

For Mr. Don Teder to now seek a by right zoning changing, absent of any good faith effort similar to that which city staff gave to him over many months, is as I stated, take it as a personal insult, but one frankly in this line of work happens all too often, and would not cause me to lose sleep. Where I feel this is insulting to the City Council of West Lafayette is that Mr. Don Teder knows full well the abilities of a Redevelopment Commission in Indiana as for at least two years during my time in Indiana, he headed Lafayette's Redevelopment Commission. I have little doubt that West Lafayette's commission would willing and interested in working with Mr. Don Teder to find an acceptable and community pleasing alternative. But he has forgone any good will effort to seek that option and has instead looked to slide through this change, and let you, city council decide.

I would also like to point out what I feel is an error in the APC's Staff Report regarding its recommendation for approval. The report overlooks a formal step in a MUCH NEED march to by-right development within the urban core. That is the implementation of **Form Based Code** (pg. 39 of the Downtown Plan, Strategy 2 under the header "OBJECTIVE A: Redevelop the downtown based on a future land use plan and support its adoption as an amendment to the Comprehensive Plan") or an **Architectural Review Board** (pg. 38 of the Downtown Plan, Strategy 2 under the header OBJECTIVE C: Ensure new development is appropriately sized for compatibility with historic structures"). Not everything done in West Lafayette should be required to be a Planned Development, BUT, until such time that these extra controls are put into place, NOTHING should be done in the urban core that is not a planned development unless it is being done under the rights of its existing zone.

Please do not let the fact that at this moment that intersection is out of sight and mind of most in West Lafayette lead you to allowing what would be a mistake. This site is directly across Wood Street from a building that was built at a cost of more than \$50 million and sold months after it opened in 2018 for more than \$80. The opposite corner on the northside of that intersection is currently a gravel lot, which is owned by the Purdue Research Foundation. I would expect some time in the next few years a large-scale development will be proposed to this body for that site. While I firmly believe the highest and best use for the parcel in question is a city park to provide greenspace and a West Lafayette "welcome mat" for the students that live in that densely populated area. I know that others would feel different, mostly for capital-minded reasons. But, I would be shocked to find anyone that feels a by-right postage stamp-sized rezone would be the highest and best use for this site. And that is for you, city council, in fact to decide.

Block 27



CITY
WANTS
A
PARK

From: [Rose](#)
To: [clerk](#)
Subject: Virtual council meeting Oct. 5th, 2020
Date: Monday, October 5, 2020 4:38:20 PM

External

Dear West Lafayette council members,

Be on notice: closed door meetings are not permitted by the constitution, and are therefore illegal. You do not have the authority to impose mandates on citizens to restrict their rights, behind closed doors or otherwise.

Every member of the council has participated in further illegal action by waving the rules without the consent or witness of the public. The rights of the citizens do not come from local, state, or even federal government. They are endowed by our Creator. You were elected to serve the public, not to serve as god.

Rose H.
West Lafayette resident & property owner

Sent from ProtonMail Mobile

From: [Rose](#)
To: [clerk](#)
Subject: Virtual Council meetings
Date: Monday, October 5, 2020 9:59:17 PM

External

Council Members,

Please explain why you have mandated for West Lafayette citizens to wear masks in order to go about their daily lives and to get back to work, yet you are all unable to do the job you were elected to do? Masks work for everyone else, but not for any of the council members to meet in person and take comments from the public?

I appreciate your feedback.

Rose H.

Sent with [ProtonMail](#) Secure Email.