

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
APRIL 1, 2019

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at the Temporary City Hall – Former Happy Hollow Elementary School on April 1, 2019, at the hour of 6:30 p.m.

President Bunder called the meeting to order and presided.

The Pledge of Allegiance was recited.

Present: Peter Bunder, Nick DeBoer, Steve Dietrich, Larry Leverenz, David Sanders, Gerald Thomas, and Norris Wang.

Absent: Jonathan Jones and Gerry Keen.

Also present: Mayor John Dennis, City Attorney Zach Williams, Clerk Sana Booker, IT Director Brad Alexander, Street Commissioner Ben Anderson, Facilities Director Tim Clark, Development Deputy Director Erin Easter, Human Resources Director Diane Foster, City Engineer Ed Garrison, City Controller Peter Gray, Police Chief Troy Harris, Fire Chief Tim Heath, WWTU Director David Henderson, Parks Superintendent Kathy Lozano, and Building Commissioner Chad Spitznagle.

MINUTES

Councilor DeBoer moved for acceptance of the minutes of the February 28, 2019, Pre-Council Meeting, and the March 4, 2019, Common Council Meeting. Councilor Leverenz seconded the motion, and the motion passed by 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 only item up for discussion this month will be to vacate an alley at the Morton Community Center, which the City Council will be voting on this evening.

PUBLIC RELATIONS: None

FINANCIAL REPORT

City Controller Gray stated that the City is a quarter of the way through the year. The expenditures per date is at 24%, and with encumbrances we are at 29%. The scrivener's error memo pertains to the temporary loans that we do each year for the cash flow. In recent years we have taken those out of the Motor Vehicle Highway (MVH) Fund. At one time they were taken out of the Wastewater (WW) Improvement Fund, but they were transitioned over years ago. When Ordinance No. 31-18 was prepared a previous template was pulled up with the WW Improvement Fund instead of the MVH Fund.

LEGAL REPORT

This report is on file.

SPECIAL REPORTS:

Joint Board Report

Councilor DeBoer stated that the next Joint Board meeting is scheduled for April 16, 2019, at noon in the Council Chambers. Mr. DeBoer stated that he will be on vacation the week of the meeting, but plans to work with the administration to get the details.

UNFINISHED BUSINESS:

Ordinance No. 05-19 Before The Common Council Of The City Of West Lafayette An Ordinance Vacating An Alley Located On The Morton Center Property (Sponsored by Mayor John R. Dennis)

Councilor DeBoer read Ordinance No. 05-19 by title only.

Councilor DeBoer moved for passage of Ordinance No. 05-19 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Dietrich.

City Engineer Garrison explained that when the Morton Center was originally built there was not a lot of concern with building over property lines. There are ten parcels and an alley that are shown on the block where Morton Center is located. We are looking at making that one parcel, and in order to do that we need to vacate the alley that is plotted there. The alley will be given to the City, and then we will be able to turn that into one large property.

Councilor DeBoer moved to open a public hearing on Ordinance No. 05-19. The motion was seconded by Councilor Dietrich, and the motion was passed by voice vote.

Councilor Bunder said, "Is there anyone who would like to speak on Ordinance No. 05-19? Seeing no one I would entertain a motion to close the public hearing."

Councilor DeBoer moved to close a public hearing on Ordinance No. 05-19. The motion was seconded by Councilor Dietrich, and the motion was passed by voice vote.

There was no further discussion.

Clerk Booker called the roll call vote:

<u>Councilperson</u>	<u>Vote</u>
Bunder	Aye
DeBoer	Aye
Dietrich	Aye
Jones	Absent
Keen	Absent
Leverenz	Aye
Sanders	Aye
Thomas	Aye
Wang	Aye

Clerk Booker stated that the vote was 7 AYES and 0 NAYS.

President Bunder announced that Ordinance No. 05-19 passed on second and final reading.

NEW BUSINESS:

Ordinance No. 06-19 An Ordinance To Amend Ordinance No. 28-18, To Fix The Salary Schedule For Appointed Officers, Employees, And Members Of The Police And Fire Departments Of The City Of West Lafayette, Indiana (Prepared by the Controller)

Councilor DeBoer read Ordinance No. 06-19 by title only.

Councilor DeBoer moved for passage of Ordinance No. 06-19 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Dietrich.

City Controller Gray referenced two positions in the Street Department on Page 4, Fleet Manager and Mechanic/Equipment Operator, by stating that the positions are moving from a clothing allowance to uniforms. Due to combining employees within the new City Hall, the Parks and Recreation Department have made some changes within the Department which are listed on Page 4 of the salary ordinance. He further explained that the Recreation Director position is moving from being exempt to non-exempt. The position for the Morton Center Director has been eliminated. The Skating Center Director and Pool Manager position has been moved under a Recreation Director, which has allowed the Department to have two Recreation Directors. The Morton Administrative Assistant position has been moved to a regular Administrative Assistant position.

There was no further discussion.

Clerk Booker called the roll call vote:

Councilperson	Vote
Bunder	Aye
DeBoer	Aye
Dietrich	Aye
Jones	Absent
Keen	Absent
Leverenz	Aye
Sanders	Aye
Thomas	Aye
Wang	Aye

Clerk Booker stated that the vote was 7 AYES and 0 NAYS.

President Bunder announced that Ordinance No. 06-19 passed on first and only reading.

Ordinance No. 07-19 An Ordinance To Amend Ordinance No. 29-18, To Fix The 2019 Salary Schedule For The Wastewater Treatment Utility As Submitted By The Board Of Works And Safety For Approval By The Common Council Of The City Of West Lafayette, Indiana (Presented by the Board of Public Works)

Councilor DeBoer read Ordinance No. 07-19 by title only.

Councilor DeBoer moved for passage of Ordinance No. 07-19 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Dietrich.

COMMON COUNCIL MEETING MINUTES, APRIL 1, 2019, CONTINUED

City Controller Gray explained that this is dealing with the Fleet Manager position, moving from a clothing allowance to uniforms. He noted that the position is one that is split between two salary ordinances.

There was no further discussion.

Clerk Booker called the roll call vote:

Councilperson	Vote
Bunder	Aye
DeBoer	Aye
Dietrich	Aye
Jones	Absent
Keen	Absent
Leverenz	Aye
Sanders	Aye
Thomas	Aye
Wang	Aye

Clerk Booker stated that the vote was 7 AYES and 0 NAYS.

President Bunder announced that Ordinance No. 07-19 passed on first and only reading.

Ordinance No. 08-19 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect. (UZO Amendment #95) (Submitted by Area Plan Commission)

Councilor DeBoer read Ordinance No. 08-19 by title only.

Councilor DeBoer moved for passage of Ordinance No. 08-19 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Dietrich.

Building Commissioner Spitznagle explained that this is an amendment to the zoning ordinance and is brought forth by the Area Plan Ordinance Committee. The County Building Commissioner, Mike Wolf, initiated the legislation, and it has been adjusted over the last couple of months through the Ordinance Committee. He explained that this gives the Administrative Officer (AO) the ability to go through a notification of a zoning violation and issue a fine after 15 days. He explained that the main intent is to relieve some legal enforcement. The AO is able to internally hold the violator accountable through fines instead of beginning a legal enforcement action against them.

Councilor Bunder noted that this would not be just for the County, to which City Attorney Williams confirmed. He noted that he also serves as the Area Plan Commission Attorney, and something that tends to be a struggle in the zoning enforcement world is that the ordinance is extreme. The penalties are \$1,500.00 per day, and almost mandate court intervention to get to that level. This will allow the AOs the ability to work things out on the front-end before getting to the end result with substantial penalties, fines, and court.

Councilor Dietrich asked if transient guesthouse meant Airbnb, to which Mr. Spitznagle responded yes. While the County and the City of Lafayette adopted that section of the UZO, we kept it in our Rental Housing Program. If it does not apply to our ordinances in West Lafayette, it does not apply in these circumstances.

COMMON COUNCIL MEETING MINUTES, APRIL 1, 2019, CONTINUED

City Attorney Williams added that there is a list of various circumstances that the AO is only allowed to act upon, and would not be allowed to do this in every occasion. It would only be approved in the listed items.

Councilor Wang stated that the appeal process allows for a collection of fines or to be assessed by the AO. He questioned what would happen if they would want to appeal a corrective action and what the process would be.

City Attorney Williams responded that they will not go through Corporation Counsel because it is a decision of the AO, under the UZO. The first option would be to appeal to the Board of Zoning Appeals (BZA), and the other one would be to ignore it and take the action to court.

There was no further discussion.

Clerk Booker called the roll call vote:

Councilperson	Vote
Bunder	Aye
DeBoer	Aye
Dietrich	Aye
Jones	Absent
Keen	Absent
Leverenz	Aye
Sanders	Aye
Thomas	Aye
Wang	Aye

Clerk Booker stated that the vote was 7 AYES and 0 NAYS.

President Bunder announced that Ordinance No. 08-19 passed on first and only reading.

Resolution No. 03-19 Resolution Adopting A Proposal For The City Court Of The City Of West Lafayette To Implement The Statewide Case Management System Called Odyssey (Sponsored by Councilor Steve Dietrich)

Councilor DeBoer read Resolution No. 03-19 by title only.

Councilor DeBoer moved for passage of Resolution No. 03-19 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Dietrich.

Councilor Dietrich stated that this is the first step to upgrade the City Court and make us transparent.

Councilor Wang stated that this is a statewide data management system that will allow us to have the ability to look at other cases around the State of Indiana. The State will not only be funding the system, but also the training for various City employees.

Councilor Bunder brought up that Corporation Counsel Burns had noted at the Pre-Council meeting that we are getting on a list to receive State training prior to receiving the system.

Councilor Sanders confirmed that he was in favor of approving this resolution. However, when he researched the program online it was only stating that it was provided free to the counties.

COMMON COUNCIL MEETING MINUTES, APRIL 1, 2019, CONTINUED

City courts were mentioned, but there was nothing stating that those courts would be funded by the State too.

Controller Gray responded that they have spoken with the people in Indianapolis, who have clarified that it will be provided free to the cities too.

Councilor DeBoer asked what the impetus is and what type of benefit the City has seen to back up this decision, to which Councilor Dietrich responded that the County court system has been involved with it for quite some time. It has been extremely successful with not only the court systems themselves, but also for attorneys and citizens on a transparency standpoint. It has a proven track record.

Councilor DeBoer explained that he has not interacted with law enforcement much outside his friends through City Council. He questioned what the system will help facilitate for lawyers, judges, or constituents who are facing time, to which City Attorney Williams responded that over the last decade the court has been slowly rolling out the current version of the system that will replace the older system. As an attorney, it has been extremely helpful to be able to track the status of cases going on. City Attorney Williams noted that he can see that there are currently other cities who have already began to switch over to this new system. The public will find this system beneficial compared to the old paper files too.

Councilor Wang added that it gives citizens the ability to find out if the case is under advisement, if a decision has been issues, and the date of decisions. More importantly, this is a statewide system. If citizens move out of West Lafayette they can still look their case up online. The County has been on Odyssey for ten years.

Councilor Dietrich stated that as the City Court evolves, it will be more imperative to provide this information. A lot of people who may be impacted within our City may only be here on a temporary basis, or for a one-time event.

Patrick Hagmaier (375 Brown Street, and owner of The Pint,111 South River Road), stated that as a private citizen the system is extremely helpful. It also tracks people from out-of-state when they move into state, or other counties within the State. It is extremely helpful for employers to be able to look things up about individuals. Mr. Hagmaier stated that an applicant might not necessarily be able to tell you all of the details on their applications, but an employer is able to look further on this website.

There was no further discussion.

Clerk Booker called the roll call vote:

<u>Councilperson</u>	<u>Vote</u>
Bunder	Aye
DeBoer	Aye
Dietrich	Aye
Jones	Absent
Keen	Absent
Leverenz	Aye
Sanders	Aye
Thomas	Aye
Wang	Aye

Clerk Booker stated that the vote was 7 AYES and 0 NAYS.

President Bunder announced that Resolution No. 03-19 passed on first and only reading.

REPORT BY THE MAYOR

Mayor Dennis stated that our City Attorney, Zach Williams, has been involved with the meeting that was held last week about the recent decision by the Supreme Court of Indiana about our Rental Inspection Program. Mayor Dennis wanted to make it very clear though that the inspections are not illegal, and it is just the fees. Our City will continue to do the inspections.

City Attorney Williams stated that our program has been in place for a long time, and has remained unchanged. Back in 2011 the legislature began to make changes to the statewide rules that govern residential leases. The changes began as small ones at first. Over the next few years they made changes that affected programs that were newer in the State of Indiana. One of those changes was that a newer program was not allowed to charge annual registration fee higher than \$5.00. One of the cities, Hammond, believed that the rule should not apply to them because of how the legislature had been written. They were then involved in a lawsuit with another property management company that made its way up through the courts. From our prospective, the Supreme Court recently took a surprising turn and ruled that something that the legislature did back in 2014 is now unconstitutional. He noted that it was not anything that we did, and assured the Council that we did not change anything back then. Our program has been in place for a long time. However, because of the Supreme Court's ruling for a newer program not being allowed to charge more than \$5.00 for an annual registration fee, the Supreme Court found that the exception that carved out the older programs is no longer in place. As of March 15, 2019, the \$5.00 cap on annual registration fees going forward applies to all jurisdictions in Indiana. It is now a good time for us to look at how this change will impact our program that has been long standing. This is an interaction between State Law, Local Law, and a brand new decision that we are still trying to wrap our heads around.

Mayor Dennis redirected the conversation to explain the operational issues. We have a relatively successful program that we are passionate in about making sure our properties are safe, and that we have some mechanism in place to ensure that it will continue to stay safe. Every year we have parents approach the Council after purchasing a product online for their children to stay in while they are at school, and when they get to town they find a horrible house with massive problems. The strongest programs that we have for these issues are with our Rental Housing Inspection Program and our Neighborhood Resource Team, who do the routine inspections in these facilities. This allows us to have the mechanism to not only encourage compliance, but to guarantee it. In order to do this though, it cost money. A lot of that money was generated through the fees, which has now changed. One thing that will not change is the programs, and they will not go away. In recent meetings, we have been trying to find a way to finance those programs. We have not come to a final conclusion yet. However, we do know that we have enough manpower to currently continue with the inspection programs that are currently on our books. We are in the middle of a budget cycle, and this is an unpredictable loss of an estimated \$150,000.00. We will continue to work with staff, the City Controller, and within the perimeters of the law to determine what our next plan will be. We have numerous outreach programs to ensure the safety of our students and residents who choose to rent instead of purchase a place to live.

Councilor Bunder asked if the Redevelopment Commission (RDC) would be involved in funding, to which Mayor Dennis replied that the RDC is empowered to have staff. We have looked at the transition of assigning the Inspection Program to the RDC. This is not a comfortable decision because the question is on the table of how things would work when the TIF districts run out in

five years. Currently a better option would be to look in the operational funds that we have now to see how to better contour those to support this program.

Councilor Dietrich stated that nothing in the court ruling prohibits our enforcement. He asked if it allows us some sort of fine system for non-compliance or continued fine system, to which Mayor Dennis responded that there is some degree of subjectivity with it and they cannot be egregious. The City will continue to look at logical ways to determine practical fees and fines for violations, and the other side of it is collection. The good news is that things will continue. There is work that needs to be done. We will need to figure out a new system and process of payment, while keeping the high standards that we have in West Lafayette.

COMMUNICATIONS

► Councilor Dietrich recognized the passing of Don Sherrick.

► Councilor Sanders reported that he had the privilege and duty of attending the vigil in memory of the victims in the mosque in New Zealand. Mr. Sanders commended the Mayor for his representation of the community and his effective words of both anger and comfort.

► Councilor Bunder announced that the recodification of the City Code is now online. He asked for an update on scooters, to which Mayor Dennis responded that there has been inquiries, but nobody has set-up camp yet. Now that there are rules and regulations, it seems that they are not as quick to immediately drop their scooters off throughout the City.

Councilor Bunder noted that the West Lafayette teachers would like to remind the public that on Wednesday, April 3, 2019, there is an Ed for Red Westside Walk-in for the support of WEA. The Intermediate school will begin at 7:00 a.m., the Junior/Senior High will begin at 7:15 a.m. and the Elementary School will begin at 8:00 a.m. He encouraged everyone to gather outside their buildings and to wear red during these times.

CITIZEN COMMENTS

► There were no comments.

ADJOURNMENT

There being no further business at this time, Councilor DeBoer moved for adjournment, and President Bunder adjourned the meeting the time being 7:07 p.m.