

CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES
MARCH 29, 2018

The Common Council of the City of West Lafayette, Indiana, met in the Multi-Purpose Room at the Morton Community Center on March 29, 2018, at the hour of 4:30 p.m.

President Bunder called the meeting to order and presided.

Present: Peter Bunder, Nick DeBoer [left at 5:01 p.m.], Steve Dietrich, Jonathan Jones, Gerry Keen, Larry Leverenz, David Sanders, Gerald Thomas, and Norris Wang.

Absent: None

Also present: Mayor John Dennis, Corporation Counsel Eric Burns, First Deputy Clerk Nichole Foster, Interim Parks Superintendent Pennie Ainsworth, IT Director Brad Alexander, Director of Development Erik Carlson, Facilities Director Tim Clark, Human Resources Director Diane Foster, City Engineer Ed Garrison, City Controller Peter Gray, Fire Chief Tim Heath, WWTU Director David Henderson, Building Commissioner Chad Spitznagle, and Police Captain David VanVactor.

UNFINISHED BUSINESS:

Ordinance No. 21-17 An Ordinance Regulating The Operation Of Unmanned Aircraft Systems In The City Of West Lafayette, Tippecanoe County, Indiana (Sponsored by Councilor Dietrich) Continued from the August 7, 2017, Council Meeting.

President Bunder read Ordinance No. 01-18 by title only.

Councilor Dietrich motioned to withdraw Ordinance No. 21-17. He explained that the State has since passed laws that covered much of what we wanted to do with the security aspect of this, and there have also been recent court decisions that covered parts of it. We also believe, as was suggested by citizens that we met with, that we can cover other issues through the nuisance ordinance. Councilor Keen seconded the motion, and the motion passed by unanimous voice vote.

There was no further discussion.

Ordinance No. 02-18 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect. (Sagamore Commons, LLC) (OR to GB) (Submitted by Area Plan Commission) Continued from the March 5, 2018, Council meeting.

President Bunder read Ordinance No. 02-18 by title only.

Joe Bumbleburg (Ball Eggleston PC), representing the petitioner, stated that we still have some unsatisfied details to work out. He requested that Ordinance No. 02-18 be continued to next month.

Councilor Keen motioned to table Ordinance No. 02-18 to the May Council meeting. Councilor DeBoer seconded the motion, and the motion passed by voice vote.

There was no further discussion.

Ordinance No. 03-18 An Ordinance Requesting An Additional Appropriation To The 2018 Budget (General Fund, Parks & Recreation Fund) (Submitted by the City Controller) PUBLIC HEARING

President Bunder read Ordinance No. 03-18 by title only.

City Controller Gray stated that there is nothing new from last month and confirmed that it will need a public hearing.

There was no further discussion.

NEW BUSINESS:

Ordinance No. 04-18 An Ordinance To Amend Ordinance No. 24-17 (Amended), To Fix The 2018 Salary Schedule For Appointed Officers, Employees, And Members Of The Police And Fire Departments Of The City Of West Lafayette, Indiana (Presented by the Controller)

Ordinance No. 05-18 An Ordinance To Amend Ordinance No. 25-17 (Amended), To Fix The 2018 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 Public Works and Safety)

Controller Gray discussed Ordinance Nos. 04-18 and 05-18 together. He explained that the majority of amending the salary ordinances is administrative. It fixes a couple things and changes the title of a couple of positions, with the dollar amount staying the same. However, in the Finance Department, it has become evident that he needs to focus more on the financial strategy of the entire City and also delve into the details of the day-to-day transactions. In order to do that efficiently and effectively, he needs to add a Deputy Controller to the department. That position is also added in the salary ordinances. He confirmed for Councilor Dietrich that the Deputy Controller will be a full-time position.

There was no further discussion.

Ordinance No. 06-18 An Ordinance Providing For Temporary Loans (Police Pension Fund) (Sponsored by the Controller)

President Bunder read Ordinance No. 06-18 by title only.

Controller Gray stated that we have had a couple of death payments come out of the pension fund, so we need to increase the temporary loan in order to cover the money before we get reimbursed by the State pension fund.

There was no further discussion.

Resolution No. 04-18 A Resolution Appropriating Insurance Recovery Received For Damage To City Property (Police) (Submitted by the Controller)

President Bunder read Resolution No. 04-18 by title only.

Controller Gray stated that we have received insurance money, which we would like to use to purchase another vehicle for the Police Department. This resolution is just to work through that money coming in, similar to what we have done many times in the past.

There was no further discussion.

Ordinance No. 07-18 An Ordinance Authorizing The Entering Into Of A Conditional Project Expenditure Agreement Of The City Of West Lafayette, Indiana (Purdue/PRF TIF Projects), And The Lending Of The Proceeds Thereof To Purdue Research Foundation, And Authorizing And Approving Other Actions In Respect Thereto (Submitted by Department of Development)

President Bunder read Ordinance No. 07-18 by title only.

Department of Development Director Carlson stated that this will be the beginning of discussion with the Council on this ordinance and the overall thought and theory behind it. It began last week with discussion with the Redevelopment Commission (RDC). It will also include the Economic Development Commission, the Area Plan Commission, and the Joint Board. This is to look at a natural evolution of the relationship the City has with the University and the Purdue Research Foundation (PRF) for the expansion of development in the US 231 South/Purdue TIF District. This area is also referred to as the Western Gateway or the Western Lands of the City of West Lafayette. The plan was for the City and the University to pay for the project and through this the University would be getting reimbursed out of this TIF district. In order to get some of the development actually going in the district, we need to get infrastructure into that area, including streets, sidewalks, light poles, and other utilities. This is a discussion that will bring them those possibilities to do that work. He noted that there will be a presentation at the Council meeting.

Corporation Counsel Burns noted that there is a link on the agenda for an Exhibit A, which is for a proposed amendment. This is an exhibit that is going to be attached to the resolution that will be before the RDC, but it is an important document that he wanted the Council to see. It was finalized yesterday after long and careful discussion between the parties' counsel and financial advisors. The exhibit shows a list of projects, which are those that will be undertaken by Purdue and PRF in the western lands. This TIF district has over \$105 million worth of credit from the City, if you want to look at it that way. What is going to happen here, unlike most redevelopment projects, is that Purdue and PRF will pay for City streets and other infrastructure that would generally be paid for by the City—from TIF and other City sources. They want to do this because they have a lot of development planned out there. US 231 came in around 10 years ago, and that prompted the State Street project. His view is that this is the next step in that natural progression. There is a lot of development on one end of State Street that has been there for 100 years, then the beautiful redone area, and now we have these spaces where Purdue and PRF wants to build a lot of infrastructure. The City does not usually have much influence or say-so for projects when we do not have TIF money to pay for them. In this case, because we do not have development out there, and therefore cannot have any increment, Purdue is going to create that increment by creating the infrastructure. We will have influence and decision-making power that we would not otherwise have, and that will be done through the RDC. Exhibit A is the first-run at what the RDC will be using for its approval process. This is the generic list. By putting together a generic list, we have to recognize that this is a long-term project, which is another interesting and unique feature about it. The RDC will take a look at this at their next meeting and hopefully approve it. Using the first project, Phase 1 Streets, on the exhibit's list as an example, Counsel Burns explained that the next look the RDC would have at this is to approve the street design. It is possible that everything on this list would be built by Purdue and PRF before the City puts a single nickel into it. He stated that he will ask Jim Treat to talk, from a financing standpoint, about why the City would go with this big list. However, it is planning for extraordinary success. If you put in too small of a number and have extraordinary success, then you are short and did not put in enough. This is a list that represents what would be an excellent outcome. A final point is that we have an opportunity to have money come from a source that most cities do not have, and to have infrastructure built that would generally have to wait until the City has the money. He sees

it as a good opportunity for the City. He asked the Council to entertain a motion that would allow the blanks to be filled in on the ordinance. The blanks were there until we finalized the number of \$105,975,037, and he asked that the number be inserted into the blanks in the ordinance and the corresponding documents.

Councilor Dietrich moved to amend Ordinance No. 07-18 by insertion. Councilor DeBoer seconded the motion. The motion passed by voice vote, with Councilor Sanders later noting that he had abstained from voting.

Counsel Burns asked Jim Treat to do a general overview to remind us all about the TIF. He asked everyone to recall that this project does not get paid for until the TIF is sufficient to generate what is called "excess TIF." This means that in a particular year, the expenditures that Purdue has put out is repaid, and that the payments for the indirect costs of approximately \$20 million also get paid.

Jim Treat (O.W. Krohn & Associates) stated that we have been through all of the projects that PRF and Purdue have provided, and it has been an open discussion. We put our own assumptions to the numbers, and it is generally very conservative. It is a big picture, as it is over the remaining 22 years of the TIF area. In terms of the big numbers, we are talking about approximately \$800 million in improvements, with offices, hotels, apartments, and multi-family units. We would have to get up to that level of improvements over the next 20 years, or Purdue would have to foster that level of improvement, in order to generate enough increment to cover State Street and then have some additional to cover anything from what we are contemplating in these new agreements. In terms of the numbers—if all of these things get built that Purdue wants to see built as a result of the infrastructure that they are willing to front the money for—we are looking at \$130 million to \$165 million in potential increment generated between 2020 and 2040. First of all, we have a total bill of about \$90 million for State Street payments. The timeframe for the State Street payments could be 10 to 15 years out before we even make that transition, and then they start reimbursement for these projects. It is a long term and it is sort of a difficult concept, but it is all up-side for the City to be in a position where somebody is going to fund something this transformational for the area up-front and with no definitive promise of being paid back. It is only paid back if the money is available and only if all of the obligations related to State Street are covered. Potentially, we are looking at possible additional increment of \$30 million to \$65 million in those last 10 years of this TIF area being available; that is probably the best number that they are going to be able to recoup out of this \$100 million in projects. There is really no downside for the City to allow them to recoup additional if they do all of this work and if all of the development that could occur as a result comes to fruition.

President Bunder asked why the Council is seeing this before the RDC acts on it. Counsel Burns responded that the schedule was put together by bond counsel, who will be here Monday night, and it is setup so that the Council has the first necessary look at it. The documents related to this are similar to a bond. It is like a mortgage, with the difference being that we do not have to pay it back unless we have the income. It is part of the process that the Council gets the first look at it, and the RDC does not have to do that until next month. It was presented to them, but that was before Exhibit A was completed. President Bunder asked if there is a rush, or is there a reason that it feels like a crisis. Counsel Burns stated that he does not think it is a crisis, and does not even know it is a rush. It does represent the fact that Purdue has already put in about \$30 million out there that they will not be able to get reimbursed, so they are interested in getting the possibility of reimbursement as early in the process as possible. Although this is good news for Purdue, it is also good news for the City. The point that he thinks is critical to understand is that this is like rocket fuel on a fire—it might grow over the next 50 years, but if you do not have the fuel that this process represents of advance funding by another entity, then you do not have the

same kind of growth. That is the biggest reason that they want to get going. He noted that they cannot get reimbursed for that \$30 million because once they have signed a contract, then the City has no power to reimburse that. The reason that we have all of these documents is to allow the legal process to allow us to reimburse them for things that are built today with future TIF dollars.

Director Carlson stated that there is already \$9 million out there in the field that has already been committed to where work has already begun, and that will not be eligible for reimbursement. There is another approximate \$15 million of work, some of which would be done this year, which is ready to go in relation to some other buildings that will be filed with APC for next month. Those would come to the Council in May. In order for the infrastructure to go around those buildings to be considered for reimbursement, this proposal would have to be approved. Therefore, there is somewhat of a sense of urgency in that they have money ready to go and projects ready to do. If those are executed, as the first \$9 million has, in advance of this approval then it would not be eligible for reimbursement.

President Bunder stated that he usually has confidence in understanding most of what we do, but he would be happy for the RDC to have the first look at this and then to issue a report to the Council in advance of our taking a vote on it.

Larry Oates, President of the Redevelopment Commission, stated that the RDC was presented with this for the first time last week. When the RDC looked at it, they did not know which projects would be included. Exhibit A provides that information, and now that it is done, it changes the whole thing. They wanted to wait until the blanks were filled in, and they also wanted Purdue and PRF to present what they were going to do. He believes that PRF will be making that presentation to the Council on Monday, and they will be able to show the types of buildings they are talking about going in. He thinks that at that point it makes this a complete and total game-changer. He noted that the RDC did not pass on this because they did not like what will happen; they passed on this because of the big hole in the middle of it. Without that number in there, they thought it was imprudent to go forward at that point. However, with what they are trying to do, and with the way it is setup, he is amazed that we have this opportunity. One of the big questions that comes back on this is to ask why Purdue/PRF is doing this. After thinking about it, he has a good basis for why they are doing it. Number one, it is good for the community. Although it must also be good for Purdue, what is good for Purdue is good for this community. As long as we are working together on that partnership, it makes a lot of sense. Number two, which is a more picayune kind of thing, is that Purdue/PRF are AAA-rated financial institutions. They are going to go out to the marketplace to get money for this; they are going to finance it. With that high of a rating, they will get it taken care of, but it also puts Purdue in a bad position to negotiate down a rate. To have the RDC and the City stand behind them with part of the funding, it gives them another feather in their cap to get another basis point or two off the rate. At first blush, this may not make sense, but when you look at the numbers we are talking about, it does. It is up to \$1 billion in new development that could possibly go out there, and a basis or two on a rate with those kind of dollars quickly adds up to real money. Therefore, there is a benefit for Purdue. That is the trade-off for the City of West Lafayette in getting all of this infrastructure done ahead of time. It comes down to the question of where is the chicken and where is the egg. We want to have development out there, but we need to get some infrastructure in place to get the development started. However, in order to pay for that infrastructure, we need to have development, because that is where we are going to get the money. We are caught in a vicious cycle. What Purdue/PRF is doing is saying that they believe in this, because it is the western gateway into the campus and into West Lafayette, and they are going to step up and put that infrastructure money up front. That is going to allow us to make that development out there. Once they do that, it will start snowballing, just as it is doing on State Street. At one point, we had four cranes sitting above the

City here, with a plan coming to fruition, which is exciting stuff. Mr. Oates stated that he has been accused before of spilling the beans, and what he can spill the beans on today is that there is more coming. There is more exciting stuff coming to this end of the project, and now we want to jumpstart the other end and get it moving forward. Purdue is giving us the benefit on being able to do that. When looking at the possibilities, it is a win-win for both Purdue and the City. Quite candidly, the City has nothing at stake here. Purdue is going to put the money up front. If there is no development, it will not affect the City at all other than that we would not end up with any more increment after the TIF district is done. After the TIF ends in 2039, all of the development comes back into the tax base for the City. We need to look at how to set it up so that that development happens. This plan in front of us today is exactly how to do that, and with no responsibility out of the City. It does not increase taxes to any citizens within the City. We get that infrastructure put into place, and we get development that will “wow” us by the time it is done. He hopes that this answers questions about why we want to do this.

[Councilor DeBoer left at 5:01 p.m.]

Councilor Sanders stated that the question was not addressed of why the Council is dealing with this before the RDC. We understand why it was not dealt with at the last RDC meeting, but he asked why it should be that the Council deals with it before the next RDC meeting. Mr. Oates responded that, to be honest, it keeps the project moving along at this point. We are trying to get to where we can get that development started out there. The world would not end if this moves out a month, but it does not serve any purpose to wait. The RDC has to come to it anyway; next month they have to make a decision one way or the other on it. If the RDC were to say “no” then it would be done. If they say “yes” then we continue the process. In a perfect world, it would have been nice to have all of the numbers in place ahead of time, but it is not a perfect world. This is a situation where it still has to go through the whole timeline, and right now we are looking at almost the end of June before the process is complete.

Councilor Keen stated that he has always been told that when something sounds too good to be true, it probably is. However, Mr. Oates has done a great job at settling a lot of his concerns. He asked what the real-life expectation is that we will have that kind of excess to pay this back when the time comes. He also asked if there is any kind of interest rate attached to that repayment. Mr. Oates responded that there is no interest rate attached; it will be whatever the project is whenever the RDC approves the individual projects that come through. Even though we have this master list, details of each project will still come back to the RDC for approval. Whatever the actual cost given at that time will be the cost. He confirmed for Councilor Keen that it will not include any kind of financing; that is how it is set up, and it is what we can do under State law.

Mr. Treat added that a part of this drives Purdue’s repayment of their portion of State Street. They already have \$90 million on the line worth of motivation to make sure that this project is successful. There is already some motivation, but they have a bigger vision for that. Also, some of this same infrastructure has to occur just to get their portion of the TIF area paid. Development will happen, but we are trying to make it as successful as possible. Councilor Keen commented that it sounds exciting.

Councilor Leverenz stated that it is not that all of us are opposed to this, but it is the need to get a handle on what is happening here. He asked to be corrected on his understanding if needed, and he listed his understanding of the steps for this project: We have a plan, with a list of projects to be done. That plan is going to include infrastructure. PRF is going to finance that at this point, with the idea that when, somewhere down the road, that TIF district becomes viable, they will get reimbursed. Councilor Leverenz asked if that is the plan, and Mr. Oates responded that it is exactly. Mr. Oates stated that the one addition, as stated in the documents, is that not all the

money is going to go to PRF/ Purdue. There will be 10% of the monies from the excess levy that will be kept in the TIF district itself. This is with the idea that in our current TIF districts, we use a bit less than 10% of the funding for projects other than roads or other infrastructure, including for public art. We wanted to make sure that there is that kind of money in there so that we can also do those things in that TIF district, and have the look of the City be such in all of the districts. That money would also be used to pay for consultants, and it would cover all of the costs at that point.

Councilor Leverenz asked if he is correct that the final caveat to all of that is that if the TIF district does not create those funds, then “tough.” Mr. Oates confirmed that in 2039, when the TIF district sunsets, if there is not money as of that date that has reimbursed PRF and Purdue for any of the costs that we are talking about—if they have not received their reimbursement on the day that we sunset, then we are done. Period. There is no debt that the City owns at that point. There is no additional money that is owed to PRF or Purdue. They are really at risk on this. That is part of the whole deal that we talked about on State Street originally; that risk is sitting on their end. On State Street, we have the City’s \$62.5 million that we risked, and we have pushed development to make sure that we can cover our availability payments. To a certain extent, it was a little easier for us because there was already development at this end when we started. We could use that as money to prime the pump and get us going. However, the other end is a blank slate, and there is no money to prime the pump. Purdue and PRF is saying, and we believe, that if they put this money in, it will prime that pump, and we will get our money back because of the development that will follow. Councilor Keen stated that the faster they get development moving, the faster they get reimbursed, and Mr. Oates confirmed this.

Councilor Dietrich stated that he has a concern based on when the State, a few years ago, expressed some disinterest in TIF districts in general and changed some things with them. Those changes were presumably because some communities were not dealing with the TIF on the straight up-and-up. We also had another recent issue where we set up local control over the cell towers, the State back-doored around and took that away from us. He asked if there is any concern that TIF will disappear between now and that year that could impact this matter. Counsel Burns responded that he does not think we could anticipate whether it could happen or not, although he thinks it would be catastrophic across the State if it did. However, if it did, the risk to the City is nonexistent. There could certainly be risk to Purdue and PRF. Mr. Oates added that the agreements specifically say that it is the earlier of 2039 or when the TIF district dies. We took care of that in the first end, because we did not want that possibility on the State Street project. We are living in that world where some bad apples did not follow through with what they should have done with their TIF districts, and it irritated the legislature and, unfortunately, got the laws changed. Mr. Oates stated that he hopes that the Council understands that TIF funding has been an absolute boon to the City of West Lafayette as far our ability to move infrastructure forward and to be able to bring development to this community. We need to start lobbying at the Statehouse to say that TIF funding is a good thing, although there may need to be some rules and regulations on it. If they were to take that funding away, we would have to do a lot of work using the City budget instead of the RDC budget. It would be a tough situation, and that is what is looming in 2039 unless the State figures out something new for funding.

There was no further discussion.

CITIZEN COMMENTS

► Don Franzmier (1535 Summit Drive) stated that his concern is that the plan for collecting wastewater fees is detrimental for good care of lawns and landscaping in the City. The goal of the water company is to charge the citizens for the water that they use, and they can measure that with a meter. The goal of wastewater is to charge for the sewage that flows from our house to the plant, but there is no meter there, so it is estimated from water usage. That applies well in

the wintertime. Wastewater allows a summer rate, which applies for three months. The problem is that the growing season is six months long, and it is getting longer with climate change. He gave the example that his three months ran out on September 9th last year, which is about the time that things start getting really dry. We were mowing the lawn well into November. He noted that he volunteers with the West Lafayette Tree Friends, and a few years ago they were watering trees well into October. We encourage the people who get City trees to water those trees. They probably realize that they have to pay for the water, but may not realize that they also have to pay the sewage charge that they give to those trees. He proposes that because growing season is six months that the three-month rate be extended to five months. He understands that the Wastewater Department will give him a meter to hook up to his faucets to measure water used in late summer, but it is time-consuming for the City and residents to read the meter and coordinate dates. He thinks it would be more efficient and fair to extend that period of time to five months. Many cities do use three months, but some use four months. He stated that his plea is to extend of the summer rate from three months to five months and settle for four months.

ADJOURNMENT

There being no further business at this time, Councilor Keen moved for adjournment. President Bunder adjourned the meeting, the time being 5:16 p.m.