

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
JANUARY 8, 2018

The Common Council of the City of West Lafayette, Indiana, met in the Multi-Purpose Room at the Morton Community Center on January 8, 2018, 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, Jonathan Jones, Gerry Keen, Larry Leverenz, David Sanders [arrived at 6:37 p.m.], Gerald Thomas, and Norris Wang.

Absent: None

Also present: Mayor John Dennis, Corporation Counsel Eric Burns, Clerk Sana Booker, IT Director Brad Alexander, Street Commissioner Ben Anderson, Director of Development Erik Carlson, Facilities Director Tim Clark, Police Chief Jason Dombkowski, City Engineer Ed Garrison, Fire Chief Tim Heath, WWTU Director David Henderson, and Building Commissioner Chad Spitznagle.

MINUTES

Councilor Keen moved for acceptance of the minutes of the November 30, 2017, Pre-Council Meeting, and the December 4, 2017, Common Council Meeting. Councilor DeBoer seconded the motion, and the motion passed by voice vote.

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

Councilor DeBoer asked for information about the closure of Fresh City Market. He stated that he thinks there has been some good reporting in *The Exponent* and *Journal & Courier* about this. *The Exponent* called this area a "food desert" now, and this affects many of his constituents, along with those of Councilors Bunder and Jones. He asked what is going on, how we can fix this, and what can we do to try to make this viable here. He stated that having a food desert seems really bad and he is quite angry. He asked for an update on the situation.

Director of Development Carlson stated that, unfortunately, the first that anyone in the City heard of the Fresh City Market closure was from the *Journal & Courier*. This is not something that came to the City's attention at any point in what appears to be the last six months, when it has been the focus of discussion for Fresh City Market and their parent company, SpartanNash. Upon that news coming out, Director Carlson put together a packet of material showing the development that is coming to the City, including 2,165 new beds in a three-quarter mile radius of their location. That does not include another 104 beds in the Levee area and 800 beds in Innovation Park. These incoming individuals will be reliant on walkable groceries in this community. He hoped that this would begin a dialogue with SpartanNash. He has spoken several times with the co-owner, Jeff Maurer, who is locally based. Director Carlson stated that Mr. Maurer conveyed to him that it was not his decision to close; it was done above him, and he was outvoted. Director Carlson spoke about his several attempts to reach someone at SpartanNash, but he has not received any response. We are very interested in having a dialogue with them; however, to quote Mayor Dennis, "It is hard to put out a fire when everything is already burned down to ashes." It would seem that that is where we have gotten with Fresh City Market. He stated that he has also talked to the landlord of that building and with all of the developers who have buildings going up to begin discussions to make sure that a grocery store will be a part of someone's plan. This is something

that we need in this area for students, and hopefully more than students. We need a walkable grocery store where you can get fresh and clean healthy food. It is vitally important for the City of West Lafayette, as it is for any dense urban area.

Councilor DeBoer stated that he goes back to thinking about an interview in the *Journal & Courier* with a Purdue professor. The professor claimed that this model could not work in this area. He has had people express the same to him online. He asked if that is something that the administration believes is accurate or why is it not accurate.

Director Carlson stated that he does not believe it is accurate. He believes that the Village area may be a better location. He stated that he thinks that one problem at Fresh City Market is that they were trying to serve two different masters. They liked the population around it in the Hills & Dales and New Chauncey neighborhoods, and we liked that there was something there servicing those areas. However, it made a dichotomy in the types of products they were carrying and the market they were going after. He believes that if we get something in the Village then there will be an opportunity for something aimed directly at a younger population.

Councilor DeBoer stated that the other thing that comes to mind is the cost of rent that these locations are having to pay and whether that is an aspect that we need to be concerned about going forward. He asked if there are too few locations that a grocery store can operate in, and because of the limited supply the rent may be so exorbitant so as to prohibit something like a grocery store. He stated that he thinks we need to be keeping an eye on the cost of rent. He asked what it is looking like in terms of those places renting out, and if it is viable for a grocery store to make it there, given those costs. Director Carlson responded that, as far as Fresh City Market is concerned, due to the fact that SpartanNash never returned his correspondence, he does not know what role rent played in their decision. It was something that he wanted to discuss with them, but since they have failed to communicate in any way with the City, he cannot say whether it played a role in any way, shape, or form. It is something that we will be looking into and has been included in discussion with the developers. He feels that having a grocery store on the ground floor of a complex, when competitors do not, may be worth subsidizing internally as the developer. It could be a jewel in the crown for a building as opposed to some of the competition.

Councilor Dietrich stated that it could only be a jewel if it is successful, and so far the model is not successful. The beds being added are not within walking distance of this one, and he does not think students will walk six or seven blocks to a grocery store and schlep things back. He thinks that it will have to be a smaller scale, and he does not see why a developer would subsidize this business when it has not succeeded anywhere else. Director Carlson responded that footprint-wise for where they are at, the square footage might have been a little large for what they were trying to do. Also, to some scale, it is not centrally located; however, one thing to keep in mind in an urban grocery store is that students will be near it at multiple points during their week because the location is across from campus. Fresh City Market did have a delivery service as well, but he does not know if they made that information well known or not. He did not know they offered it until his meeting with Mr. Maurer last week. He thinks that there are opportunities for better marketing. There are probably other locations that could be used, but he believes that the location they were in is still one that can be viable. Director Carlson noted that, even as they close, they still have a lease on the location for another seven years. It is a spot that will be primed and ready for someone else to go in with a different business model that could utilize that equipment. Hopefully we will see an opportunity for that to happen, although since SpartanNash has neglected to open any dialogue with the City, he cannot say what they are looking to do.

Councilor Dietrich stated that he hopes that they do not adopt the CVS mindset on vacating properties and lease continuation. He asked to clarify a comment that he saw in print in an article, which said that the City approved The Fuse project because of that grocery. He stated that it is not a true statement; we approved the concept of it with retail space on the bottom. We liked the idea of a grocery going in, but it was not contingent upon his vote and he does not believe it was for anyone else on the Council. He stated that they have been kicked around a little bit because of that statement. Mayor John Dennis stated that it was a challenging development from the get-go. There was a lot of back and forth just to make sure that the building could go up. We also worked closely with the neighborhood to make sure it was the right fit.

Director Carlson stated that we are very much committed to finding something to replace Fresh City Market in this market and to making sure that there are fresh and healthy alternatives for the people living in the Village and other high-density areas. It is something we will be working hard on. If SpartanNash had approached us previous to the closing, it is something we would have been interested in maintaining at that time as well.

Councilor DeBoer asked what tools we have as a City to incentivize something like this. We cannot do so through property taxes because these people are renting the space. We cannot give a direct subsidy in any form, from his understanding of State law. Other than playing hardball and saying that a developer cannot build here without a grocery store, he asked if there is anything else other than the human influence to incentivize a grocer within an area. Director Carlson stated that it is something we have been looking into. He noted that the USDA has identified food deserts, and there are programs available and that is one of the missions moving forward. It could come from other TIF incentives, where we may be able to give more dollars for a public right-of-way if there is a grocery store. At this point, it remains to be seen, but we are looking into any and all vehicles, if needed. He thinks that we have the market that we do not need to subsidize something like this. There was a previous discussion of Target coming into the Village. Target has dangled that carrot for other cities as well, but pulled back because they are still tinkering with what a small-scale Target is as well. He noted that he visited the one in College Park, Maryland, and it was not much more than paper towels, browning bananas, and Apple products. Nationally, grocers are still looking at how to have a small footprint for an urban market that is not Manhattan.

Councilor Jones asked if any work has been done in terms of gathering data from students regarding how far they would be willing to walk to a grocery store, versus drive, versus utilize delivery service, and how much they would be willing to pay. He knows that there has been speculation about if students are willing to walk that far, and he shares that concern as well. He asked if the City would be willing to accept surveys done by Purdue Student Government (PSG) if it has not already been done. He has heard in his district that students want a grocery store that is within walking distance. There was a report in the fall that said that 16.5% of students at Purdue reported skipping meals due to financial restrictions, and that was in a survey with roughly 3,000 respondents. The biggest reason was cost of groceries. Even with Fresh City Market there, the students felt that it was an expensive option. It was obviously better than no option. He asked if any work has been done to poll students, or if the City has a desire for that data. Director Carlson stated that we have been focusing on trying to retain what we have. Now that it appears to be a lost cause, we would be interested in working with PSG. There are also demand studies being worked on by potential developers in the Village. While polling the Purdue student body is something we would have interest in, he thinks it is something that national empirical data could convey. He knows that there is a large-scale development that hopes to come forward in the next year or so that is planning on grocery as part of their development, and others are looking at it. It is an ongoing conversation. Councilor Jones stated that he will distribute the report from the fall, and this is something that PSG will look into to add another data point.

Mayor John Dennis stated that, as far as the student demographic goes, we had a lot of conversation with our student population during the State Street Project. We wanted to make sure that we identified some of the needs of the student population and accommodate those needs. At that time, a lot of those needs were having additional entertainment opportunities. He noted that, often, when businesses choose to relocate or just close their doors, we get the letter at about the same time as everybody else. It is unfortunate, because we can assist businesses. We have proven in the past that if there is something we feel is worthy of investing in, then we can do something to assist. It is difficult to do much when the decision has been made at several levels above ours. With this particular one, even though there was an academic that thought it was a zero-based success rate, he thinks that when you look at whom they cater to, it is a very valuable asset. Then there is the non-student based groups who live in the near-campus area that are very dependent upon having a walkable campus area and walkable commerce area. Again, that is something that we are striving towards now with and around the State Street Project. He stated that long after we are gone, we want to make sure that the footprint of West Lafayette is going to accommodate our population base, whether it be our senior citizens or students. That is why there has to be a lot of creative thought now so we are in a position to be able to do that. He stated that he applauds our entire Council and department heads for doing such a great job with that. However, when it comes down to it, this is a capitalist society, and profits unfortunately rule the day. The challenge that we all have is to figure out what that profit is. Since we are not involved in those conversations we are, again, putting water on ashes; it has already burned.

President Bunder noted that Councilor Sanders arrived [6:37 p.m.] during the above conversation.

REPORT OF THE APC REPRESENTATIVES

Councilor Keen noted that the 2017 Student Rental Report is on file.

President Bunder asked if Balfour Beatty is coming up soon. Councilor Leverenz responded that the final plan should be on the agenda this month.

PUBLIC RELATIONS:

President Bunder requested approval to add an item to the agenda to appoint two Councilors to the Area Plan Commission. Councilor Keen motioned to add the item. Councilor DeBoer seconded the motion, and the motion passed by voice vote.

Council Appointments:

Historic Preservation Commission

Councilor Keen motioned to appoint Erin Britton, Christopher Kulesza, Arnold Sweet to the Historic Preservation Commission. Councilor DeBoer seconded the motion, and the motion passed by voice vote.

Area Plan Commission

Councilor Keen motioned to appoint Councilors Keen and Leverenz to the Area Plan Commission. Councilor DeBoer seconded the motion, and the motion passed by voice vote.

FINANCIAL REPORT

City Controller Gray gave this report at the January 4, 2018, Pre-Council meeting.

LEGAL REPORT

This report is on file.

Councilor Dietrich stated that he noticed that there has been communication about placement of the cell towers. He asked if that is something that will come back to the Council, or who makes

that final decision. Corporation Counsel Burns responded that it began due to State law changes. We, as well as other cities, got a proposal from AT&T about how they would like to see things in our rights-of-way. We were not fully in favor of that, so we have spent a lot of time working on what we would find acceptable. It is going to, essentially, be a Board of Works decision because it is a policy that the City would have for its existing rights-of-way, so it would not come directly back to the Council. We are not done with the conversation, and there are a lot of cities around the State continuing conversations. The State law has changed things significantly, and he would say that it favors the utilities. They have increased the power under the State law for the utilities vis-à-vis to local governments. We are working with it, and he thinks we will probably come to terms with it, but it is still ongoing. Councilor Dietrich asked for confirmation that the Council was successful in our timing [of Ordinance No. 12-17 on May 1, 2017] and that we were not exempt from being grandfathered in. Counsel Burns confirmed that that is correct. This is a slightly different issue; that issue dealt with a specific statute that gave us a short timeframe to get certain things done. We did get those things done in the requisite timeframe. Now, the question is drilling down to more details to determine what can go where, how far apart they are, what they have to look like, and a host of technical engineering issues.

Councilor Sanders asked if there are not, in fact, bills in front of the State legislature that undermine that previous permission that we were given. Counsel Burns responded that he has heard that there is, but he has not seen any of the bills. Councilor Sanders stated that he has seen them, and there are bills to take away that slight amount of authority. Counsel Burns stated that he does not know how that will turn out, but he knows that we and other cities are very vigorous in making sure that our rights-of-way can be protected. Councilor Keen added that the APC has been working on this issue for the last several months, and one of the reasons that we have discontinued those talks is because of State legislation, and we are in limbo with that.

SPECIAL REPORTS:

Joint Board Report

Councilor DeBoer reported that the Joint Board will meet January 16, 2018.

President Bunder asked if it is correct that we are going to have a set of meetings with Purdue about future construction. He asked if that is going through Joint Board. Councilor DeBoer stated that it is his understanding that it will not go through Joint Board, but the Joint Board is privy to those discussions. Counsel Burns stated that is perhaps true. He thinks it is a work in progress as to whether or not the Joint Board is going to be directly related to it. There is probably an advantage to having them directly involved in the approval process, though he does not believe it is required. The working group is leaning to getting the Joint Board involved, and it is another opportunity to see what plans are afoot in the western district. All of the Council members will be brought into the loop on the planning process, and we will try to get that done in the next several weeks.

UNFINISHED BUSINESS:

Ordinance No. 30-17 An Ordinance Expanding The City Of West Lafayette's Garbage And Recycling Collection To Specific Neighborhoods Within The Unit (Sponsored by Mayor Dennis)

Councilor Keen read Ordinance No. 30-17 by title only.

Councilor Keen moved for passage of Ordinance No. 30-17 on second reading, and that the vote be by roll call. The motion was seconded by Councilor DeBoer.

Street Commissioner Anderson stated that he does not have anything to add to the previous discussions on this issue unless anyone has questions.

Justin Johnson (3545 Chateaugay Court), HOA president for Huntington Farms, stated that he spoke last month about the cancellation fee they have from Republic Services. They have verified that their contract goes through the end of 2019, and it would result in a \$13,700 cancellation fee if they are forced to take City trash services. They are not opposed to taking the service, but they ask for flexibility in when they accept the service. It would be no later than the contract expiration, but in good faith, he would negotiate with Republic to end the contract as soon as possible without paying a fee. He stated that he believes this is a reasonable request. Councilor Dietrich asked how many households the cancellation fee would be divided among, and Mr. Johnson responded 169, so approximately \$80 each.

Commissioner Anderson stated that he spoke with the regional manager of Republic after our last Council meeting, and also confirmed with him today that Republic is going to work with the City and make sure that there is no financial strain or issues in getting out of the contracts with individuals or neighborhoods. Mr. Johnson asked if that means they will not be forced to take the trash service until the contract is cancelled without a fee. Commissioner Anderson responded that Republic is aware that, if this passes, we will start service the week of June 4, 2018. They know that their service would stop at that point and ours would begin. He stated that the person he spoke with has been in the refuse business for 39 years and this is not the first time this has happened; they are not interested in trying to fight it or hold anybody financially responsible for a change in the City's sewer district. Mr. Johnson asked, for clarification, that Republic will not charge the cancellation fee, and Commissioner Anderson responded that they will not.

There was no further discussion.

Clerk Booker called the roll call vote:

Councilperson	Vote
Bunder	Aye
DeBoer	Aye
Dietrich	Aye
Jones	Aye
Keen	Aye
Leverenz	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. 30-17 passed on second and final reading.

Ordinance No. 32-17 An Ordinance To Approve Blanket Bond Coverage For 2018 (Prepared by Clerk Booker)

Councilor Keen read Ordinance No. 32-17 by title only.

Councilor Keen moved for passage of Ordinance No. 32-17 on second reading, and that the vote be by roll call. The motion was seconded by Councilor DeBoer.

COMMON COUNCIL MEETING MINUTES, January 8, 2018, CONTINUED

Clerk Booker stated that we have this Blanket Bond each year, and it covers everyone in the City who handles money instead of having individual coverage. Councilor Keen asked if the Council is covered, and Clerk Booker responded yes.

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	Aye
Keen	Aye
Leverenz	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. 32-17 passed on second and final reading.

Ordinance No. 33-17 An Ordinance Providing For Temporary Loans (2018) (Presented by the Controller)

Councilor Keen read Ordinance No. 33-17 by title only.

Councilor Keen moved for passage of Ordinance No. 33-17 on second reading, and that the vote be by roll call. The motion was seconded by Councilor DeBoer.

There was no discussion.

Clerk Booker called the roll call vote:

<u>Councilperson</u>	<u>Vote</u>
Bunder	Aye
DeBoer	Aye
Dietrich	Aye
Jones	Aye
Keen	Aye
Leverenz	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. 33-17 passed on second and final reading.

NEW BUSINESS:

Resolution No. 01-18 A Resolution To Amend The 2045 Metropolitan Transportation Plan As An Element Of The Comprehensive Plan For Tippecanoe County To Include The Bike Walk Greater Lafayette Safety Plan (Submitted by Area Plan Commission)

Councilor Keen read Resolution No. 01-18 by title only.

Councilor Keen moved for passage of Resolution No. 01-18 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor DeBoer.

City Engineer Garrison stated that there were two things going on at the same time. One was that the APC was finalizing the 2015 Metropolitan Transportation Plan. At the same time, the cities of Lafayette and West Lafayette, as well as the County, were working on a bike safety study. Once we wrapped up that study, the APC, acting as the Metropolitan Planning Organization (MPO), felt that it was important to have it incorporated into the 2045 Plan.

Councilor Keen noted that this is one step closer to our “complete streets” agenda, which he thinks is a good thing. Mr. Garrison agreed, and he added that the safety study is an effort to get proper communication out to the biking community, pedestrian community, and the traveling community, so that everyone can interact properly along roadways and through intersections.

There was no further discussion.

Clerk Booker called the roll call vote:

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

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

President Bunder announced that Resolution No. 01-18 passed on first and only reading.

Resolution No. 02-18 A Resolution Requesting The Transfer Of Funds (EDIT, 2017) (Prepared by City Controller)

Councilor Keen read Resolution No. 02-18 by title only.

Councilor Keen moved for passage of Resolution No. 02-18 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor DeBoer.

Controller Gray spoke about this resolution at the January 4, 2018, Pre-Council meeting. President Bunder stated that it is his understanding that we may not need to do this, but maybe should. Counsel Burns stated that he believes that is an accurate description. This allows the resolution to sit in a file if the State Board of Accounts (SBOA) needs to look at it. They would see that the Council is aware that the expenditure was made. Legally, the expenditure is proper;

however, the SBOA does not like things crossing between years. By having the Council involved, it sanitizes any sort of questions they may have.

There was no further discussion.

Clerk Booker called the roll call vote:

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

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

President Bunder announced that Resolution No. 02-18 passed on first and only reading.

REPORT BY THE MAYOR

There was no report. Mayor John Dennis confirmed for Councilor DeBoer that next month's meeting includes the State of the City Address.

COMMUNICATIONS

► Councilor Thomas stated that he wants to recognize Kathy Parker, who organized a memorial late last month at St. John's Church in Lafayette. The memorial was to commemorate the Sandy Hook shootings. He noted that State Representatives Sheila Klinker and Sally Siegrist were involved. It was a moving ceremony and Ms. Parker did a fantastic job of making the evening special for everyone involved.

► Councilor Dietrich expressed appreciation to Councilors Leverenz and Keen for their efforts on the APC. He knows that it is a lot of work, and it is nice for the Council to get the capsule version going into it, along with some insight from some of the larger projects.

► Councilor Sanders read a statement regarding why he kneeled after the Pledge of Allegiance at the last meeting. That statement is attached hereto.

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 7:17 p.m.

Statement from Councilor Sanders:

Some of my Republican friends, including a member of the City Council, have asked me to elaborate on why I kneeled after the Pledge of Allegiance at our last meeting. I am glad to have the opportunity to do so. I should mention first that I had intended to kneel at the October meeting, but decided against doing so when there was a major violent act on the weekend preceding that Council meeting.

The United States of America is a great experiment in representative democracy. Nevertheless there is a long history of inequity in the operation of American government and law.

We who live in Indiana should know this fact as well as anyone. The very name of our state is a recollection of the unfair treaties that were imposed on the Native Americans who resided here and the repeated violation of those treaties that led to European settlement throughout the state and effective expulsion of the Native Americans.

Until the Civil War, slavery was enshrined in the United States Constitution and law. Even after the war in some states African-Americans were kept in servitude through punitive incarceration and forced labor. Although Indiana was a free state and part of the Union in the Civil War, African-Americans were not always welcome here. In the 1920s approximately 40% of white, Protestant males in Indiana were members of the Ku Klux Klan. The Republican Party in Indiana was effectively the political wing of the Ku Klux Klan. I should point out that we can be proud of the fact that locally the Democratic mayor of Lafayette, George R. Durgan, was an outspoken enemy of the KKK, and West Lafayette native, Governor Henry G. Leslie, as well as fellow Indiana Republican Wendell Willkie (the 1940 Presidential candidate) became prominent opponents of the KKK as well.

Notwithstanding these exceptions, we continue to face racial and socioeconomic inequities in the law and its administration in this country. It is not yet a nation "with liberty and justice for all." The war on drugs has been a war on African Americans and other minorities as well as the poor. It is immoral for the United States to be the world leader in imprisoning its population. These matters are, in essence, public-health as well as moral issues.

Indiana voter ID laws are discriminatory in intention and in application. Assaults on the provision of legal representation for the indigent in the United States are racist and discriminatory.

I kneeled, because I wished to draw attention to these issues in solidarity with others who have done so.

Ultimately, however, I kneeled because of a demented assault on the Constitutional right to free speech from an individual who had sworn to protect it. If one cannot engage in a peaceful, silent protest for equal justice in this country without fear of government officials advocating that one be fired from his employment, then there is something deeply amiss in our society.

A week from today we commemorate the birth of Martin Luther King, Jr. He was a seminal figure in the civil-rights movement; its work is not yet done. Martin Luther King, Jr. considered opposing injustice as a spiritual imperative, as do I. If he were alive today, he would kneel as well.