

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
MINUTES  
MARCH 5, 2018

The Common Council of the City of West Lafayette, Indiana, met in the Multi-Purpose Room at the Morton Community Center on March 5, 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 [arrived at 6:31 p.m.], Steve Dietrich, Gerry Keen, Larry Leverenz, David Sanders, Gerald Thomas, and Norris Wang.

Absent: Jonathan Jones

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, Parks Superintendent Janet Fawley, Human Resources Director Diane Foster, City Engineer Ed Garrison, City Controller Peter Gray, WWTU Director David Henderson, Building Commissioner Chad Spitznagle and Police Captain David VanVactor.

NEW BUSINESS:

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)

President Bunder stated that he understands that the petitioner would like to remove Ordinance No. 02-18 from the agenda for this month. Councilor Keen motioned to table Ordinance No. 02-18 for a time certain, to the April 2, 2018, Council meeting. Councilor Dietrich seconded the motion, and the motion passed by voice vote.

There was no further discussion.

MINUTES

Councilor Keen moved for acceptance of the minutes of the February 1, 2018, Pre-Council Meeting, and the February 5, 2018, 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

There were no comments.

REPORT OF THE APC REPRESENTATIVES

Councilor Keen reminded everyone that the US 231 Corridor Plan is now available for viewing on the County website.

PUBLIC RELATIONS:

Council Appointments: Go Greener Commission

Councilor Keen motioned to appoint Gerry VanHorn and Peter Bunder to the Go Greener Commission. Councilor DeBoer seconded the motion, and the motion passed by voice vote.

*Note provided on the Agenda: Additional re-appointments to the Go Greener Commission are being made by Mayor John Dennis (Manuel Contreras, Dawn Whitaker) and by the Commission itself (Nicole Nelson). These appointments do not require Council action.*

#### FINANCIAL REPORT

City Controller Gray stated that this report will be filed tomorrow morning.

#### LEGAL REPORT

Councilor Dietrich asked for clarification about the two outstanding properties listed under the condemnation status updates. Corporation Counsel Burns explained that the property at River Market, is completed other than to get the check. It was completed on good terms to the City, and all of the work has been done. That leaves one property that is languishing, but the City is in good shape, and it is up to the property owner to move forward. The property is right off of Williams Street and we have long since done the improvements there.

Counsel Burns reported on the meeting held last week for the project to recodify the City Code. He provided a list to the Council containing the items that were brought up at the meeting that may need further discussion. He stated that the overall goal of the recodification process is to make the Code more accessible to the public and to modernize it. In his view, that has been done. Now the question is which of these items on the list need to be dealt with now, and which need to be put aside for later discussion. He would like to see the recodification process moving forward. Another work session meeting will be arranged soon to work toward getting an ordinance in front of the Council.

#### SPECIAL REPORTS:

##### Joint Board Report

Councilor DeBoer reported that the next Joint Board meeting is scheduled for April 17, 2018.

Councilor Sanders noted for the record that Councilor DeBoer had arrived [at 6:31 p.m.].

#### UNFINISHED BUSINESS:

Ordinance No. 01-18 An Ordinance To Establish The Cumulative Capital Development Fund And Readopt West Lafayette City Code Provisions Concerning The Fund (Submitted by the Controller)  
PUBLIC HEARING

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

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

Controller Gray stated that this is the annual process to set the percentage rate for the Cumulative Capital Development Fund.

Councilor Keen moved to open a public hearing on Ordinance No. 01-18. The motion was seconded by Councilor DeBoer, and the motion was passed by voice vote.

There were no comments.

Councilor Keen moved to close the public hearing on Ordinance No. 01-18. The motion was seconded by Councilor DeBoer, and the motion was passed by voice vote.

There was no further discussion.

COMMON COUNCIL MEETING MINUTES, March 5, 2018, CONTINUED

Clerk Booker called the roll call vote:

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

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

President Bunder announced that Ordinance No. 01-18 passed on second and final reading.

**NEW BUSINESS (Continued):**

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

Councilor Keen read Ordinance No. 03-18 by title only.

Councilor Keen moved for passage of Ordinance No. 03-18 on first reading, and that the vote be by roll call. The motion was seconded by Councilor DeBoer.

Controller Gray explained that this appropriation is not actually increasing the 2018 budget. It is reallocating cash from 2017 that was not spent to move it into 2018. He and the Council discussed a scrivener's error regarding the word "personal" that will be corrected on the ordinance.

There was no further discussion.

Clerk Booker called the roll call vote:

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

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

President Bunder announced that Ordinance No. 03-18 passed on first reading.

REPORT BY THE MAYOR

Mayor John Dennis reported on his 11<sup>th</sup> trip to Washington D.C. with the Greater Lafayette Commerce. He stated that there were some primary topics that our legislators were interested in. The one that resounded the loudest was infrastructure. The legislators are all unified in trying to allow states to have more autonomy over their revenue. Since it is an election year, they are enthusiastic about listening to our concerns, and they gave a lot of decent guidance on how to get by. Another issue, specifically with Congressman Todd Rokita, Senator Joe Donnelly, and Senator Todd Young, was the opioid issue. They are coming to the game a little late, but they understand what a crisis it is. They recognize that local communities are doing as much as they can, and some believe that there are some things that can be done by our federal government. They recognize the concern and are willing to assist us as best as they can, although no specifics were given. Mayor Dennis mentioned that Senator Young was aware of details of our State Street Project, and was glad to hear that the partnerships that we have developed have created a model for other entities to use. Another issue discussed was Amtrak, and Arvid Olson was well prepared to have involved conversations about the timeliness of our local passenger rail. They had discussions with the head of Amtrak about how the rail is shared with CSX, and while they understood our frustrations, freight is a priority over passengers. The best thing that we can continue to do is try to improve what we can in the State and fight the good fight to see how it plays out on the national level. Mayor Dennis stated that all three of our representatives praised our community on the partnerships that we have had. What West Lafayette and Lafayette have been able to accomplish without getting into politics or petty turf wars should, again, be a model for other governments to follow. It would be a great lesson for our federal government to learn. Another issue discussed was health care. There is a lot of bureaucracy in getting those who need healthcare the most the services that they so desperately need. Unfortunately, with two of our Senators, we were given their aides to carry on that conversation. The issue about international trade also came up, which is a big deal in West Lafayette with our international community and the amount of international investments coming here. That was about the time when some tariffs were being levied by the federal government, and our Senators were well aware of the fact that those could have an impact on us. They were receptive to our concerns, but they are doing the best they can with what they have got. He stated that he got the overall impression that there is a strong collegial effort in D.C. to do what is right, but there is a strong debate on what actually is right. He thinks that, as a representative of Greater Lafayette, we made our points known, and they recognize that our community is a one that other communities should and could model. The other side of that is that we are only one leg on a great big octopus, and without some assistance, some buy-in, and some support from our federal legislators, even the greatest plans can fizzle out. We did bring up some social issues in private with some of our legislators, but there was not a lot of interaction with that. However, that does not mean that we stopped. We made some issues known. We talked specifically about guns, the issues involving needle exchange programs, and even more specifically about some of the divides that are being created in our country. Overall, it was a good trip. He thinks that it is a trip that we should continue to do. When we go with the Chamber it helps remove the political affiliation of the trip. They meet with us and give us a good amount of time, so it works very well. Elected officials have a lot of work to do, as do communities. We are going through a serious transitional period in our country. By all of us setting an example of pulling on the same side of the rope, it is a lesson that we can bring to D.C. and teach them how to make it work right. He expressed appreciation for being sent on the trip.

Councilor Dietrich asked, regarding the opioid crisis, if there is any indication that federal support, or at least interest in support, would be assisting in the lawsuit, in law enforcement, or in what particular aspect it would be. Mayor Dennis responded that the conversation of the lawsuit had made national news, so they acknowledged the importance of that. However, there were no

promises made. They do all support enforcement and talk about whatever tools they can give enforcement to deal with the illegitimate drug trade.

Councilor Sanders asked for more details about the lawsuit, including the pros and cons of being involved in it and what we hope to achieve. Mayor Dennis stated that we have joined several other communities in the country in filing a lawsuit against the big pharmaceutical companies who are responsible for the manufacture and distribution of opioids. Councilor Sanders added marketing, and Mayor Dennis agreed. Mayor Dennis continued by saying that there is a lot of presumptive material about how immediately addictive some of these narcotics actually were, and a denial of that when initially distributing those pharmaceuticals. What West Lafayette is involved in is just the recovery of expenses that we incurred when dealing with the resulting issues. Specifically, the use of Narcan on those who have overdosed, ambulance runs, police runs, and things of that nature. West Lafayette is participating in this lawsuit for practical reasons, but also in support of other cities and agencies that are doing the same thing in order to bring attention to the seriousness of this issue. Again, the legislators are concerned. Each one comes from a community that has had some effect from this opioid crisis. However, we do not know what the federal government is going to do with that. Some of the aides spoke about how time-released pain medications is being created which will not have that immediate addictive quality. When you talk about our medical institutions, a lot of those people are evaluated on a component of pain management, and that pain management is no more than, "Does it hurt?" or "Does it hurt a lot?" and that is it. When it hurts a lot, you get three pills instead of two. It is not a real scientific process, but it has been one of the strong contributors as to why we have the issues that we have right now. Having a different type of pharmaceutical created is going to be of assistance to that problem. Secondly, we need to make sure that this does not happen again. Profits should not equate to tombstones. He stated that he thinks it is a value to get involved in the lawsuit.

Councilor Sanders asked if there are any costs to the City in being associated with the lawsuit. Mayor Dennis responded that Counsel Burns did some work for us to make sure that it met the legal threshold, but that is about it. Counsel Burns confirmed for Councilor Sanders that the lawyers for the lawsuit are being recompensed by contingency based on whatever is recovered.

Councilor Sanders asked if Congressman Rokita said that making English the national language would either solve our opioid problems or stop school shootings. Mayor Dennis responded no, but he did ask where we stood on legalization of marijuana. Councilor DeBoer asked, "Where do we stand?" Mayor Dennis stated that he explained to Congressman Rokita that there is a lot of research that needs to be done because the marijuana that we are dealing with now is not the same marijuana that he may have been exposed to when he was younger. Councilor DeBoer stated that Mayor Dennis was hedging there then. Mayor Dennis responded no, and that it is true. Councilor DeBoer asked if Mayor Dennis is against it. Mayor Dennis responded that he can only speak from experience, and his experience as a police officer was that when people were using drugs it was against the law and they went to jail. However, when they were arrested, he never had to fight anybody that was stoned—if you give someone three beers they think they can take you apart. As it stands right now, in the State of Indiana, it is against the law.

Mayor Dennis welcomed members of Boy Scout Troops 391 and 335 to the meeting. It was noted that Counsel Burns was a member of Troop 35 [which became 335], Controller Gray was a member of Troop 335, and Mayor Dennis was a member of Troop 395.

President Bunder asked about the topic of Deferred Action for Childhood Arrivals (DACA). Mayor Dennis responded that it was mentioned in a broader conversation with Senator Donnelly in talking about children of immigrants who are in a position of being deported, and he felt that that was the wrong way to go.

## COMMUNICATIONS

► Councilor Dietrich stated that he is curious about the status of the Delphi quarry with the latest end-run that was attempted from the representative from Bloomington who tried to attach it and then pulled it. He asked if that finally solidifies the “no” vote. Counsel Burns stated that his understanding is that the legislature has turned it down for this session. There was an attempt to change the law so that there would not be the ability for local governments to prohibit in flood plains. Mayor Dennis added that the topic came up while he was in D.C. as well. He and County Commissioner Tom Murtaugh worked with Representative Sally Siegrist and Senator Ron Alting to take care of that topic. He stated that the oddity of it, and this may be a great civic lesson to us all, is that bills are not subject specific; they can attach items to legislation that has nothing in common with the original stated legislation. That is why our legislators spend a lot of time reading the entire bill to make sure there is nothing dubious in there. The good thing about our representatives, Sally Siegrist, Ron Alting, and Sheila Klinker, is that when this came out they scrambled and got a lot of work done, or else it would have passed. There was a legislator who said that he would speak to nobody regarding the Delphi quarry other than the two Mayors, so he and Lafayette Mayor Roswarski had to be quickly educated about quarries, their impact, the zoning, flood plains, and the overall effect on water quality. Although they were ready, it never materialized; it was dropped, for now. Councilor DeBoer stated that the legislator was quoted this weekend as saying that he would exempt Tippecanoe from the future iterations of this bill, so that is at least where he is at in the press right now. Mayor Dennis stated that that is a valid point, as oftentimes at the close of a session, comments are made to the media that might not be the reality at the next session. The rule of thumb is that if you are passionate about something going to the State level, you should make sure that you have a representative that understands and keeps you posted on the activity of the bill. The opposite can happen as well, where a good bill has something counterintuitive added that causes it to fail.

► Councilor Sanders asked about the final outcome of the cell phone micro-tower legislation, and how it impacts the legislation that we passed last year. Counsel Burns stated that nothing new came up with this session. What we had passed, with short notice, were those things that were most protective possible for the City. We now have a contract in front of us from AT&T, which will be usable by us after negotiations are finished. However, there is a lot more clout in the cellular service providers than there was before, meaning the local government’s rights-of-way. When we have a right-of-way with certain plans, the companies have the ability to come in with a lot of control because of the fact that they have been determined to be a utility. We will probably be signing that contract soon through the Board of Works, and we have been pushing hard to make sure it has provisions for adequate control; we just do not have as much as we used to. Councilor Sanders stated that it was his impression that some legislation had passed to nullify the local ordinances in this past session, which would make the corrections we tried to make no longer valid. Counsel Burns stated that it did pass. What we had was the blanket ability to control our rights-of-way if certain requirements were met. At this session, they passed additional legislation that then changed the rule again and gave them more power. We are not in as good of a place as we were when we scrambled and passed that legislation; we are not nearly as protected as we were. That is statewide, not just our community.

## CITIZEN COMMENTS

► Jan Myers (1909 Indian Trail Drive) shared that the US Transportation Research Board has put out a new publication entitled *All Ages and Abilities on Bike Lanes*. They have come up with nine categories of users, so it is far broader in definition than we have been using when we talk about complete streets. Ms. Myers stated that she would like to know what is happening to the housing here. She knows of some younger people who would like to move here. We have had historic preservation done in one neighborhood, yet it is available for any community that has housing 50

years or older. Wabash Shores is definitely 50 years or older; her house is from 1959. Yet, in this neighborhood, there are arbitrarily built McMansions, which start at \$500,000. Some of them are not selling quickly, and one of the real estate reasons for this is that if you buy a house for that price, you have to expect that you are in a neighborhood where you can increase the value of your house when you sell it. It also raises the issue, which is more strongly presented in states like California, where housing gets to be beyond the cost of what teachers, police officers, and firefighters can afford. She is concerned that we are pricing ourselves out of something that she has heard mentioned several times at City Council, which is that we want young families moving in to grow our school system and have our neighborhoods protected. Ms. Myers stated that now that it is getting to be spring, she re-offers her invitation to go on a walk on "roundfeet." She noted that Dennis Carson in Lafayette found out that the new Main Street is not accessible when he walked with her, and she wants to show some things around here with that issue. Ms. Myer stated that, for those who wonder what she is doing with her yard, those are all art installations. The title of one of them is the "Misbehaving Tree." She gets a lot of comments on it, including finding out that someone used a picture of her yard for her Christmas card with the label of "See, West Lafayette can be funky." Ms. Myers stated that she was recently reading an article on the various generations, such as millennials, baby boomers, and so forth. Those of us who are over 70 are labeled the Silent Generation, but she does not know if many here would consider her silent. Ms. Myers added, as an aside to the opioid discussion, that you might want to see what is being done with the research in Colorado from several months of what they have been doing, especially in the emergency rooms. They have basically not been using opiates; they have been training people in the ERs and other areas, and it is making substantial changes.

#### ADJOURNMENT

There being no further business at this time, Councilor DeBoer moved for adjournment, and President Bunder adjourned the meeting the time being 7:16 p.m.