

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
JULY 9, 2018

The Common Council of the City of West Lafayette, Indiana, met in the Multi-Purpose Room at the Morton Community Center on July 9, 2018, at the hour of 6:30 p.m.

Vice President Steve Dietrich called the meeting to order and presided.

The Pledge of Allegiance was recited.

Present: Nick DeBoer, Steve Dietrich, Jonathan Jones, Gerry Keen, David Sanders, and Norris Wang.

Absent: Peter Bunder, Larry Leverenz, and Gerald Thomas

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, Director of Rental Housing Inspection Dale Dixon, Deputy Director of Development Erin Easter, Human Resources Director Diane Foster, City Engineer Ed Garrison, City Controller Peter Gray, Fire Chief Tim Heath, WWTU Director David Henderson, Parks Superintendent Kathy Lozano, Deputy Fire Chief Jeff Need, Building Commissioner Chad Spitznagle, and Police Captain Dave VanVactor.

MINUTES

Councilor Keen moved for acceptance of the minutes of the May 31, 2018, Pre-Council Meeting, and the June 4, 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

Vice President Dietrich welcomed Kathy Lozano as the new Parks Superintendent. He reminded his fellow Councilors that the upcoming Budget Committee meetings will be held at the Morton Community Center on July 17 and July 19, 2018, at 4:30 p.m.

REPORT OF THE APC REPRESENTATIVES

Councilor Keen informed the Council that the Area Plan Commission (APC) agenda has a rezone for the property, which is on the corner of Kent Avenue and Salisbury Street. This will change the property's zone from R1 to NB. The APC meeting will be held on Wednesday, July 18, 2018, at 6:00 p.m.

PUBLIC RELATIONS:

a. Go Greener Garden Award – Ed Knoth and Kristin Matz

Nicole Nelson, President of the Go Greener Commissioner, stated that this season's Go Greener Garden Award goes to Ed Knoth and Kristin Matz of 915 Lindburg Road. She explained that the front yard is intended to attract butterflies and pollinators, with flowers and plants that support them. The yard also consists of a self-designed and built arbor that hosts a large grapevine. The homeowners have estimated the appearance of 30 Monarch caterpillars in the year this past season. Additionally, the backyard houses a number of raised-bed food gardens, with an abundance of tomatoes, radishes, carrots, onions, herbs, etc. They have attempted to get rid of the majority of their grass and minimize fossil fuel use by mowing only four times a year. There

is also a large open compost area. They have avoided using any City water when watering their yard over the last five years by relying on rain barrels and a large underground water tank with lines running to plant beds. Ms. Nelson concluded by stating that Mr. Knoth has lost his voice, but would like to express his appreciation to the community and Council during his acceptance of this award.

b. Firefighter Water Rescue Recognition Awards – Keith Burton, Sean Mayer, and Nick Wagner

Fire Chief Heath explained that on June 15, 2018, the West Lafayette Fire Department was called for a male subject who had jumped off the Harrison Street Bridge into the river. He described the events, which lead up to a water rescue performed by Firefighter Keith Burton, Firefighter Sean Mayer, and Firefighter Nick Wagner. Chief Heath noted and recognized that Lafayette Squad 7 was staged in the parking lot of Tapawingo Park upon the removal of the male subject. He explained that the West Lafayette Fire Department does not have a swift water rescue team, but are fully capable of rescuing someone out of the water. Chief Heath and Unit 75, Sean Mayer, are both certified scuba divers. The Department is an all-hazards type of agency despite not having the designation of particular teams, and they are aware of the correct people to contact when necessary. In addition to a copy of the incident report, Chief Heath presented each firefighter with a recognition award for their outstanding work.

Firefighter Burton, Unit 68, stated that the incident was not anything out of the ordinary, but is not a task they do frequently. All three firefighters feel that their actions were just part of the scope of their job. They do not feel that they went out of their way to deserve an award, but are extremely appreciative of it.

FINANCIAL REPORT

City Controller Gray stated that as of the end of June, the City continues to be on track with our spending and within budget. The report shows that we used 51% with encumbrances, and our actual expenses are at 45%. Mr. Gray commended the Department Heads for continuing to stay on budget and expressed his appreciation.

LEGAL REPORT

Report is on file.

SPECIAL REPORTS:

Joint Board Report

Councilor DeBoer announced that the next Joint Board meeting will be held on Tuesday, July 17, 2018, in the Walnut Room at the West Lafayette Public Library at noon. He encouraged any of his fellow Council members to attend who may be available.

UNFINISHED BUSINESS:

Ordinance No. 15-18 (Third Amended) An Ordinance Amending Building Code (City Code Chapter 110) (Sponsored by Mayor Dennis)

Councilor Keen read Ordinance No. 15-18 (Third Amended) by title only.

Councilor Keen moved for passage of Ordinance No. 15-18 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor DeBoer.

Building Commissioner Spitznagle stated that, as previously mentioned at Pre-Council, he attended a follow-up meeting with Bageled Builders Association of Greater Lafayette at a Networking event and has nothing new to report. The City did attend a meeting with the

COMMON COUNCIL MEETING MINUTES, July 9, 2018, CONTINUED

Apartment Association, who asked for clarification for one of the graphs, which was approved by substitution at Pre-Council.

Councilor Sanders asked how extensive an amendment would need to be in order to require an additional reading, to which Corporation Counsel Burns responded that as long as it is the same subject it is eligible to be revised. There would potentially be objection, but from a legal standpoint it would be allowed.

There was no further discussion.

Clerk Booker called the roll call vote:

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

Clerk Booker stated that the vote was 6 AYES and 0 NAYS.

Vice President Dietrich announced that Ordinance No. 15-18 passed on second and final reading.

Ordinance No. 16-18 (Amended) An Ordinance Amending City Code Chapter 117 – Inspection And Certification Of Rental Housing (Sponsored by Mayor Dennis)

Councilor Keen read Ordinance No. 16-18 by title only.

Councilor Keen moved for passage of Ordinance No. 16-18 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor DeBoer.

Fire Chief Heath stated that he reached out to Ed Comeau, who was the Chief Fire Investigator for the National Fire Protection Association's Fire Investigations Department. He managed and conducted investigations for a number of major incidents, which included the Oklahoma City bombing. Chief Heath then read a portion of Mr. Comeau's statement in regards to our City ordinance:

Off-campus housing is clearly the at-risk occupancy for students. Since 2000, over 85% of college-related fire deaths have happened where most students live, off-campus. In fact, since 2006, ALL fatal college-related fires have occurred in off-campus housing. Common factors in a number of these, as identified by Campus Firewatch and the United States Fire Administration, include:

- Missing or disabled smoke alarms
- Careless disposal of smoking materials
- Lack of exits
- Alcohol

COMMON COUNCIL MEETING MINUTES, July 9, 2018, CONTINUED

Students may not be familiar with what to look for in fire-safe housing since their selection criteria often centers on cost, campus proximity, and whether they get their own room. That is why it is imperative to ensure that the house or apartment they choose is one that will provide them with at least a minimum level of safety.

Chief Heath further discussed the duties of the West Lafayette Rental Housing Inspection (RHI), and the benefits of the safety compliance in these issues. He stated that since 2013, the West Lafayette Fire Department has responded to 11,238 calls for service, which 2,297 were reported in multi-family dwellings. He explained that 20.44% of all calls were to locations that are inspected by RHI. The property value loss since 2013 is \$1,939,767.00. The multi-family dwellings are the highest risk locations in West Lafayette, and are typically young adults living in their first apartments. The Department has distributed 750 free fire detectors, with the help of 1st Alert and KIDDE Corporation, as well as over 4,000 9-volt and AA batteries to citizens and landlords. Chief Heath noted that he has an open-door policy, and the landlords throughout the City are welcome to stop by his office at any time. He expressed his appreciation to the landlords and the great working relationship we have with them. Without the program, the potential for loss of life is greater. We are here to make sure all citizens have a safe place to live, work, and play.

Vice President Dietrich stated that the summary for the document, which Chief Heath previously provided, was extremely poignant. The City has not dealt with an off-campus fire for awhile, but we are not completely immune from the situation. Chief Heath stated that these issues are something he takes very seriously.

Gretchen White (Indiana Apartment Association), stated that she had a chance to meet with several City employee representatives since the last Council meeting. She confirmed that they are not questioning the need for the program, but more the dramatic cost increase of \$48.00 per bedroom. Ms. White noted that they sent a letter out, but have not received any answers. She noted that they have budgetary concerns, which includes the need of these increases without being able to see what is going on with the accounting of the funds between the gateway and State Board of Accounts audit versus what was provided as the program budget.

Controller Gray explained that that governmental accounting is not an easy thing to follow. The RHI inspection fund, 2540, is able to cover some of the costs. However, not all costs are coded into that fund. In the letter, the four employee salaries are referred to being coded into that program, which they are not. The salaries recognizing time spent on employees are audited each year by the State Board of Accounts, and are found to be accurate and appropriate. In the letter there are four years of receipts and disbursements. Mr. Gray discussed that there was a loss of \$24,000.00 in 2014, a low budget of \$14,000.00 in 2015, a loss of \$22,000.00 in 2016, and a loss of \$6,000.00 in 2017. The program has shown an overall amount of \$38,000.00 more of disbursements than receipts, so it is not covering cost of what is in the 2540 fund in addition to the other expenses. There are other expenses that are not allocated to this, which include utilities, facilities, and maintenance, which are covered by the General Fund.

Councilor Jones stated that many of the concerns he received were in regards to landlords not understanding the scope and scale of the cost increase. He expressed his appreciation to Mr. Gray for sharing the detailed information to show that the program has been operating at a loss. He asked if in the future we would be able to track the revenue gathered from the fees and distribute that information to the landlords who have concerns, to which Mr. Gray responded yes. He further explained that information should be done in a manner that allows the City to monitor that those revenues are not exceeding expenses and expenses are not getting out of hand. Councilor Jones asked if the City would revisit the Council to lower fees if the revenues would

exceed expenses, to which Mr. Gray responded that it would be discussed at that time. He stated that he did not want to predict circumstances.

Corporation Counsel Burns stated that there is a procedural correction to make. The Indiana Apartment Association representative produced a citation that pertained to County law, which imposes a 90 day delay after publication of an ordinance. He stated that this delay is also effective in this case. He expressed his appreciation to the Indiana Apartment Association for bringing the correct information to our attention. There will be a publication after the ordinance is passed, and following the publication there will be a 90 day delay period. He confirmed that there is no need to change the ordinance, and it will automatically be done since it is imposed by State law.

Ms. White stated that it was her understanding that the implantation date for Ordinance No. 16-18 was further out in the future, and Ordinance No. 15-18 was effective immediately. Chief Heath confirmed that Ms. White was correct, and the fee process for Ordinance No. 16-18 was not scheduled to begin until June 2019. Counsel Burns confirmed with Chief Heath that the goal is for the ordinance to pass this evening, and then the 90 day notice would go into effect. However, the fees would then still not go into effect until June 2019, which would give the landlords almost a year before the changes were made.

In response to a question asked by Councilor DeBoer, Counsel Burns stated that it is on record for the implementation date and it is passed based on his representation. There is no issues with the information not being inserted in writing.

There was no further discussion.

Clerk Booker called the roll call vote:

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

Clerk Booker stated that the vote was 6 AYES and 0 NAYS.

Vice President Dietrich announced that Ordinance No. 16-18 passed on second and final reading.

NEW BUSINESS:

Ordinance No. 17-18 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect. (Schweitzer Engineering Laboratories, Inc.) (A to OR) (Submitted by Area Plan Commission)

Councilor Keen read Ordinance No. 17-18 by title only.

Councilor Keen moved for passage of Ordinance No. 17-18 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor DeBoer.

COMMON COUNCIL MEETING MINUTES, July 9, 2018, CONTINUED

Joe Bumbleburg (Ball Eggleston PC), representing the petitioner, stated that the property is 20 acres that will be owned by Schweitzer. It is two pieces that will be put together by deed. The APC successfully came to an understanding about how to put this together by the petition system. APC voted unanimously, the staff report had worthy comments to be discussed, such as the piece of ground being ideally suited for this particular type of use and in an ideal location. When the project is completed the relationship between the company and the School of Electrical Engineering will be to everyone's advantage. The company is wholly owned by employees, who have a history at Purdue. They have already expended a considerable sum of money for endowments. It has been discovered that there is a shortage of people in the area in controls and electrical engineering. They are aware that if they come to this area it will be easy to recruit, teach, and research on the design for controlled systems. This will be a huge benefit for everyone.

Councilor DeBoer asked how many individuals are projected to be employed, to which Mr. Bumbleburg responded that it is a proprietary number that has not been released yet.

There was no further discussion.

Clerk Booker called the roll call vote:

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

Clerk Booker stated that the vote was 6 AYES and 0 NAYS.

Vice President Dietrich announced that Ordinance No. 17-18 passed on first and only reading.

Ordinance No. 18-18 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect. (Pure Development, Inc.) (OR to NB) (Submitted by Area Plan Commission)

Ordinance No. 19-18 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect. (Pure Development, Inc.) (OR to R4W) (Submitted by Area Plan Commission)

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

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

Dan Teder (Reiling Teder & Schrier, LLC), representing the petitioner, stated that he would be addressing both Ordinance Nos. 18-18 and 19-18, but requests that they are both voted on separately. Mr. Teder noted that the petitioner's representative, Steve Shook from Schneider Corporation, and David Huddy from Purdue Research Foundation (PRF) were present to answer questions. A favorable staff report from APC was received. The clients have entered into a

binding purchase agreement with PRF, which is contingent upon the rezones for the two tracts. The tracts are located at the southwest corner of Kalberer Road and Yeager Road. Mr. Teder explained the handouts, which were provided to the Council, include the site plan that illustrates the layout of the two lots. There will be an entrance on Kalberer Road and Yeager Road, with parking in the bufferyards. Previous concerns have resulted in the petitioner and PRF amending the purchase agreement to include a covenant that the property will not allow a gas station or convenience store at this site. The petitioner is projecting the zone to be a NB zone, which is similar to an OR zone. The only negative use for an OR zone for this property was the potential of a gas station. However, this was an unlikely potential use since the size of the property was small, and the vetting from Purdue is strict on what type of businesses they would like to see in the area. They have currently not leased to any vendors because it is still premature. The zoning will need to go through first and then the subdivision process. Mr. Shook has indicated discussion with a restaurant, which would be complimentary to a full-service salon and a coffee shop. PRF is continuing to grow and the amenities are thought to be appropriate. The second tract is 7.72 acres, which will be constructed to a R4 zone for an apartment complex. The three story apartment complex will include covered parking, club house, fitness center, pool, and a dog park. The apartment complex will be built for the faculty and young professionals at PRF. He noted that it will also be in the West Lafayette School District. Mr. Teder discussed the breakdown of the 228 units. The project will not exceed the building coverage of 40%, but will exceed the vegetation coverage of 30%. The construction is projected to begin in the fall of 2018, with a budget to exceed \$30 million.

Councilor Keen asked for further details about what type of uses would not be allowed. In response Mr. Teder stated that the one excluded use would be for a convenience store/gas station. The uses in zones OR and NB are similar, except for a gas station. A drive-thru restaurant is permitted in the OR zone, unlike the NB zone, which requires a special exception. There are no negative uses to foresee, except the convenience store/gas store. Due to the size of the project and the vetting with PRF, it is not projected to be an issue.

Councilor Keen confirmed with Mr. Teder that the use limitation will be written into the deed.

Vice President Dietrich stated that the project seemed backwards. He explained that he was not use to seeing a request for zoning change without a project to base it on.

Mr. Teder stated that actually the Council did this exact process on the last rezone they approved, as well as with Walt's Pub. Not every project needs to be a planned development. The current site plan will be part of the variance that will be filed for the apartments. After the variance is filed, the covenant will run with the land, which cannot be changed. The only square out of there is NB, and the only thing that can go on the property will be a strip center. If a strip center goes in, there is no reason to have any other covenants.

Vice President Dietrich stated that when the rezone for Walt's Pub was done, Walt was present at the meeting with an explanation and detailed drawing of what was intended to be place on the site. This does not seem to be the case for this project.

Councilor Keen intervened by stating that the uses that are allowed in OR and NB zones are similar. By writing into the deed that a convenience store/gas station is not allowed, there are no other uses that would be allowed. By right, if the property is not rezoned most of the uses would be the same.

Mr. Teder stated that the look of the strip center seems to be an issue for Vice President Dietrich, but Steve Shook may have further input on the situation.

COMMON COUNCIL MEETING MINUTES, July 9, 2018, CONTINUED

Steve Shook (Schneider Corporation), explained that the initial goal for this project was to bring an adult multi-family amenity through PRF. They also wanted to bring other amenities at the corner across from Walt's Pub. The site was designed to allow a 9,000 square foot strip center that will be an estimated 17 feet tall. The exact design has not been determined yet, but it will be professional. The brick building with glass windows will face Kalberer Road. The space will have enough room to allow a restaurant that is complimentary to Walt's Pub, a coffee shop, and a full-service salon. He assured the Council that the strip center will blend well with the multi-family project and area.

Thomas Westbrook (3319 Crawford Street), asked the Council to question if it is better to enhance the community by adding another strip mall or the nature preserve that is currently there. Mr. Westbrook stated that open spaces, such as the Meadow, contribute to the quality of life that are not fully appreciated until they are gone. He urged the Council to fail the ordinance, or table it to consider putting the strip mall at 609 W. Navajo Street. He noted that the rezoning notice that he saw has this meeting listed at 609 W. Navajo Street.

There was no further discussion.

Clerk Booker called the roll call vote:

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

Clerk Booker stated that the vote was 4 AYES and 2 NAYS.

Corporation Counsel Burns stated that the ordinance fails. The vote has to be 5 out of 9, particularly for a rezoning.

Vice President Dietrich announced that Ordinance No. 18-18 failed on first and only reading.

Ordinance No. 19-18 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect. (Pure Development, Inc.) (OR to R4W) (Submitted by Area Plan Commission)

Councilor Keen read Ordinance No. 19-18 by title only.

Councilor Keen moved for passage of Ordinance No. 19-18 on first reading and only, and that the vote be by roll call. The motion was seconded by Councilor DeBoer.

There was no further discussion.

Clerk Booker called the roll call vote:

COMMON COUNCIL MEETING MINUTES, July 9, 2018, CONTINUED

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

Clerk Booker stated that the vote was 6 AYES and 0 NAYS.

Vice President Dietrich announced that Ordinance No. 19-18 passed on first and only reading.

Resolution No. 11-18 A Resolution Appropriating The Necessary Funds Resulting From The 2018 Community Development Application Of The City Of West Lafayette Under Title I Of The Housing And Community Development Act Of 1974, As Amended (Submitted by Department of Development)

Councilor Keen read Resolution No. 11-18 by title only.

Councilor Keen moved for passage of Resolution No. 11-18 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor DeBoer.

Director of Rental Housing Inspection Dixon stated that they have gone through the public meeting process with the Mayor's CDBG Advisory Committee to assign award amounts to the recipients for the new program year. He explained that this resolution will allow the budgeted funds to be put into the correct line item for the budget. This will allow us to pay the bills once the projects and activities begin.

There was no further discussion.

Clerk Booker called the roll call vote:

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

Clerk Booker stated that the vote was 6 AYES and 0 NAYS.

Vice President Dietrich announced that Resolution No. 11-18 passed on first and only reading.

REPORT BY THE MAYOR

No report.

COMMUNICATIONS

► Vice President Dietrich stated that he would like to recognize West Lafayette Police Department K9, Remco, who passed away last week.

CITIZEN COMMENTS

► No comments.

ADJOURNMENT

There being no further business at this time, Councilor DeBoer moved for adjournment, and Vice President Dietrich adjourned the meeting the time being 7:21 p.m.