

CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES
March 2, 2017

The Common Council of the City of West Lafayette, Indiana, met in the Multi-Purpose Room at the Morton Community Center on March 2, 2017, at the hour of 4:30 p.m.

President Bunder called the meeting to order and presided.

Present: Peter Bunder, Nick DeBoer, Steve Dietrich, Aseem Jha, Gerry Keen, Larry Leverenz, David Sanders, and Norris Wang.

Absent: Gerald Thomas

Also present: Corporation Counsel Eric Burns, Clerk Sana Booker, IT Director Brad Alexander, Street Commissioner Ben Anderson, Facilities Director Tim Clark, Police Chief Jason Dombkowski, Parks Superintendent Janet Fawley, Human Resources Director Diane Foster, City Engineer Ed Garrison, City Controller Peter Gray, Fire Chief Tim Heath, WWTU Director David Henderson, Quality of Life (Development) Bev Shaw, and Building Commissioner Chad Spitznagle.

UNFINISHED BUSINESS:

Ordinance No. 03-17 An Ordinance Concerning The Current Refunding By The City Of West Lafayette, Indiana, Of Its Sewage Works Revenue Bonds Of 2006, Series B; Authorizing The Issuance Of Sewage Works Refunding Revenue Bonds For Such Purpose; Providing For The Collection, Segregation And Distribution Of The Revenues Of The Sewage Works And The Safeguarding Of The Interests Of The Owners Of Said Sewage Works Refunding Revenue Bonds; Other Matters Connected Therewith; And Repealing Ordinances Inconsistent Herewith (Sponsored by Mayor John Dennis)

President Bunder read Ordinance No. 03-17 by title only.

Controller Gray stated that this will be the second reading on the refinancing of the Sewage Works Revenue Bonds of 2006, Series B.

There was no further discussion.

NEW BUSINESS:

Ordinance No. 04-17 An Ordinance To Vacate A Public Way In The City Of West Lafayette, Indiana (Jerry M. Weida and Patti A. Weida) (Submitted by Ball Eggleston PC)

President Bunder read Ordinance No. 04-17 by title only.

Jason Ramsland (Ball Eggleston PC), representing the petitioner, stated that they are petitioning for the vacation of an alleyway in connection with a planned development that was approved by the Council in July of 2016 [Ordinance No. 19-16]. This alleyway will be replaced by a separate alleyway, which is already a part of the development. The new alleyway will be plated when the final plat is actually filed. He confirmed for Corporation Counsel Burns that there will be a public hearing at the Council meeting.

There was no further discussion.

Ordinance No. 05-17 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect. (CASL Holdings, LLC—Dan Hrankowsky) (Rise at Chauncey) (CBW to PDMX) (Submitted by Area Plan Commission)

President Bunder read Ordinance No. 05-17 by title only.

Ryan Munden, (Reiling Teder & Schrier, LLC), representing the petitioner, stated that Dan Teder will be here for the Council meeting. He stated that Ryan O’Gara (Assistant Director, Area Plan Commission) is here, along with people from T-Bird to help answer questions.

President Bunder asked what will the APC do, or what should the City do, to preserve historic buildings in the Village. He asked what will be done about greenspace, and stated that it is an opportunity to have a developer make generous contributions to West Lafayette Parks and Recreation. He asked how much it costs the City in terms of infrastructure for these kinds of projects.

Mr. O’Gara stated that there have been discussions about investigating greenspace issue. This project is incorporating a very large plaza area, that is both in the public right-of-way and on their own property. Given this tight urban setting, they felt that the urban open space for pedestrians is what they wanted to focus on, especially with a potential big retailer coming in at that spot. The plans reflect that with a lot of hardscape. There is also a lot of added landscaping such as planters and seating areas that fit the urban environment. He stated that Sallie Fahey, (Executive Director, Area Plan Commission) will be revisiting the investigation of the limitations of the City’s ability to look into some sort of impact fee. Concerning historic preservation, the APC has, on their own, shut down proposed projects that have been interested in taking down the core historic buildings. The CBW district is a very limited district, so it is somewhat protecting these buildings. The only option is to do a planned development, and being the gatekeepers of that process, and working with City staff, the APC has said that they are not interested in those buildings coming down. He noted that the former Director of Development, Chandler Poole, had begun the process of cataloging the prime historic buildings in the Village, and Director Carlson will be continuing that process. There may be an historic overlay created, perhaps under the jurisdiction of the Historic Preservation Commission.

Councilor Bunder asked how much we use TIF funds for The Hub or The Rise. Larry Oates, Redevelopment Commission President, responded that this has been a bone of contention, especially for him, because we are already putting in a \$120 million roadway to help developers. However, when we participate in these developments, we give the teeth behind what the APC is doing. One example is to get the exterior treatments we want—such as brick rather than vinyl siding. By incentivizing the developers in these projects, those are the kinds of things we can have an impact upon in the development itself. He stated that for The Hub, we are close to signing the agreement, and the impact from the RDC will be somewhere in the vicinity of \$700,000. He explained that the RDC has changed the way that we are doing this. The RDC is looking at paying for that out of the actual increment that the building produces; it is not an up-front fee, so the developer has to finance it. Once the building gets on the tax rolls and starts producing increment, we will then pay them back out of that increment. The way that we are going to pay the developers back is to pay no more than 50% of whatever that increment is per year. To use example numbers, he stated that if a building has a \$1 million increment, then only \$500,000 of that increment would be available for reimbursement in that year of the increment. If they had \$700,000 worth of development there, the first year they would get \$500,000. In year number two, if their increment stayed there, they would get the other \$200,000. The idea behind it is that we have done the ground work by putting in State Street. We still want to incentivize them, but at the same time, we also need to make sure that there is tax increment money going to other projects within that district

also. So, the other 50% of any increment each year would go to that. The other new requirement that the RDC has of the developers is that, in order for us to incentivize them at all, they have to agree not to contest the property tax floor on that property during the time period that we are paying back increment. He stated that the RDC has discussed this at length, and we now truly have an incentive package for any development along State Street. We are using the same structure with these other developers, such as The Rise. He has not seen the final number for The Rise, but believes it is between \$650,000 and \$800,000. He noted that Indiana pays property taxes one year behind, so the developers will not receive reimbursement until we get money coming in from the increment.

President Bunder stated that the process is pretty clever. RDC President Oates stated that the RDC has been quiet about it up until this point, because we needed to be sure we had our ducks in a row for how we will structure these deals. Now that we have it, this will be the structure that will continue. This is an idea to incentivize those buildings to come. We believe that the tax increment for The Hub will be between \$900,000 and \$1 million. We believe that the tax increment for The Rise will be around \$1.1 million. There is a third building that will come, The Hub 2 [also known as "The Hub Plus"], and it will be a similar amount. He stated that by those three buildings alone, we have \$3 million. The payment for State Street is \$2.7 million. So, we have done exactly what we said 2.5 years ago on State Street—we were going to put it together, we were going to get developments to be able pay for it, which is what we have done. Once we get past these three buildings, everything is gravy coming in, as far as being able to do other projects within that development area. He expressed that this is an exciting time, and it is kick-starting that entire area in a way that we could have never fathomed doing 10 years ago.

President Bunder stated that he appreciates the device being put into place. Corporation Counsel Burns requested that RDC President Oates clarify that when this was originally conceived at \$2.7 million annual payment, that it was based on existing increment, without any growth except 1% per year. RDC President Oates confirmed this, and he stated that the RDC did exactly as has been done since he became involved, and that is to be very conservative on what our revenue estimates will be. He stated that he never wanted to get us into a situation where we were not getting the revenues that we needed to support the projects that we put out there. When we were doing State Street we did not know for sure that anyone would do anything, so we had to be able to fund these projects. The inaugural payment that we have to come up with in 2018 is \$4.5 million. These developments will not be online until 2018, 2019, and 2020. So, we are still coming up with that amount of money to be able to do that, but looking two or three years down the road, things will start being rosy. We have some tight years in the Levee/Village TIF district, but we have it under control so that we can make these payments and be confident in being able to do so.

Councilor Jha asked how the amount of incentive determined for each construction. RDC President Oates responded that we look at what amount of each project is in the public space. He stated that this is one of the misnomers about redevelopment commissions—we do not have the ability to just write a check and hand it to a developer. What we have the ability to do is to buy real estate and to improve real estate that the City owns. It needs to be things that are within the public realm itself. We are not just going to throw money against it—it is about asking what is in the public realm, what is the public going to be able to use, and then what type of project should be in those spaces that the public can use. Councilor Jha asked if it is correct that in exchange we get the ability to craft certain aspects of the project. RDC President Oates responded exactly, and he explained that the developer does not have to take the incentive money if they do not want to follow the City's suggestions. But, by having this incentive money, and basing it also with what the APC does, between the two of us we can help the developer craft the project to be not only a wonderful project for the developer, but a project that the City can be proud of also.

Councilor Keen stated that he would like to thank Mr. Oates and his team because this sounds like good outside-the-box thinking, and it is really encouraging. RDC President Oates stated that the entire State Street project has been outside-the-box. You do not just go forward saying “yes” to everything, and he was one of the people saying “no” at one point. But it is one of those things that as long as our eyes are open, and the information is available so that we understand what is going on, this is really outside-the-box thinking that communities our size do not have the ability to do otherwise.

There was no further discussion.

Ordinance No. 06-17 An Ordinance To Establish The Cumulative Capital Development Fund And Readopt West Lafayette City Code Provisions Concerning The Fund (Submitted by the Controller)

President Bunder read Ordinance No. 06-17 by title only.

Controller Gray explained that this is an annual ordinance to reestablish the Cumulative Capital Development Fund. We have an assessment of five cents per hundred dollars. We have used this fund for a number of different things over the years; we can almost use it for anything that we can use any other tax revenue. This is the same rate that we have had for a number of years.

There was no further discussion.

Resolution No. 01-17 A Resolution Declaring West Lafayette A Machaseh For Immigrants (Sponsored by Councilors Sanders, Bunder, DeBoer, Leverenz, and Thomas)

President Bunder read Resolution No. 01-17 by title only.

Councilor Sanders stated that this is a resolution declaring West Lafayette a Machaseh for immigrants. We heard from people at the last Council meeting who were expressing their concerns and asking for action from the Council. He stated that he has heard from numerous people in the community, both from West Lafayette and from Purdue, about the necessity of this type of resolution that reflects the values that we believe in here in West Lafayette.

Counsel Burns stated that he received a copy of this shortly before the Mayor left town, who will return Sunday, and he will continue those conversations. He has also had conversations with several of the Council members. He knows that there are a few issues in the wording of this document that will need modification, and thus far he has felt that there is a willingness to do that. He explained that as Corporation Counsel, he has an obligation to make sure that whatever is going to be considered before this Council is in a legal format. Looking at the State law in particular, there are some issues in the resolution that need some adjustment. He will work on that with the Council members and the Mayor before Monday night.

Councilor DeBoer stated that he does not remember a piece of legislation, since he has been on this Council, that he has heard more feedback from constituents since this came before the press. Every single one of them is in support. He stated that he feels like there are people in this community who are afraid right now, and he thinks that fear is justified. Whatever we can do to ensure that they are safe in this community is something that we need to do right now so that fear can be alleviated as much as possible. He stated that he understands the legality problems, as this is Indiana, and our hands are tied on a lot of things. If we can get as close as we can, and try to provide reassurance to this community, then that is what we need to do. He hopes that any changes made keeps in mind that people are legitimately afraid, and this is not necessarily just a matter of legal language; this is a matter of how people are going to continue surviving.

Councilor Sanders stated that he wants everyone to understand that when we were submitting this, we did send it to the Mayor and solicited his and the attorney's input. We are open to any changes necessary. He stated that he wants to echo what Councilor DeBoer was saying about the core message of the resolution, but we are happy to work with the attorney and the Mayor on any legal issues.

Councilor Bunder added that some of the material in the resolution was lifted from the City of Urbana's [Illinois] resolution. The notion of a public action not only reflects the comments we heard at the last Council meeting, but also the response of the Mayor of Indianapolis to the same issue—the importance of doing some public action. He stated that it has already had some impact. He explained that he had a conversation earlier with Director of Development Carlson, currently lobbying on West Lafayette's behalf in Washington D.C., who said that this allowed him to raise the immigration issue with people like Congressman Rokita, Senator Young, and Senator Donnelly. If nothing else, we have given members of the City administration permission to raise the question in Washington, and that is a good thing.

Chief Dombkowski stated that he wants to point out that no one who introduced this legislation asked for input from the Office of the Chief of Police, and we certainly would have offered some had the Police Department been asked. Several operational and logistical issues exist by the first draft of this. Most importantly, as Councilor DeBoer pointed out, in Indiana we have specific laws on the books, in place, that absolutely spell out our obligations as law enforcement officers to assist federal agencies on issues such as immigration. These have been vetted out at the State House for several years, starting around 2009, and the law in 2011 that is referred to by Council in review of the resolution. He stated that, regarding the 2011 law, he offered information at the State House on a version of a law that would have required local law enforcement to do a lot more with immigration, in specifically requiring local law enforcement to enforce immigration laws ourselves. He testified at the House, at the request of Representative Sheila Klinker, offering information on why that is a bad idea. He stated that he believes that, following the history of that law, that this is the compromise that came out of the debate at the State House at that time. He stated that he has some bullet points that he can send the Councilors in email. At the end of the day, the West Lafayette Police Department's sworn officers have to follow the law; that is the bottom line. We can get into the ins and outs of what those responsibilities and duties are, but as sworn law enforcement officers, in West Lafayette we are going to follow the law.

Councilor Sanders asked that Chief Dombkowski share a couple of those bullet points so we can know what we are talking about here. Chief Dombkowski stated that there are really two sets of bullet points; one has to do with legalities, and one has to do with operations. The legal aspects, he will leave to Counsel Burns. He provided some of the examples of logistical and operational challenges. One involves State permits of handguns to carry. That is vetted through the Department, and we have to ask if someone is a US citizen or not, because it takes a different direction depending on that answer. Another is that the Police Merit Commission (PMC) Rules and Regulations requires that we ask somebody's citizenship regarding law enforcement employment. Another involves criminal investigations. When we move into the area of criminal investigation, we are dealing with victims, dealing with witnesses, and often dealing with suspects. In putting together a case, with a population like Purdue has of 10,000 international students, it is a regular occurrence that the Department has to ask people where they are going to be if a case is made later in the year for witness or a victim to testify. Our officers are educated in the F1 visa status of students. They need to ask how long people may be out of the country, if they are going to graduate, if they are going to be able to come back to provide testimony—there are a lot of logistical, daily reasons why the Department inquires about someone's legal status or citizenship here at an institution with over 10,000 international students. He stated that he understands the purpose of the resolution, but in a city like West Lafayette, it is a lot bigger issue than the issues between

Mexico and the United States and the border. We are an international city, with tentacles all over the globe. We find ourselves often in the position of having to sort through the specifics of somebody's status and where they are going to be after the semester ends. Another issue that most police departments probably do not have deal with, but we do on a regular basis, is a mandatory consular notification. If we detain someone, even just for questioning, from one of 57 countries, we are required by a U.S. treaty from the State Department to notify the person's consulate or embassy that they are in custody. It is mandatory, and we often do that in the middle of the night.

Councilor DeBoer stated that he is sorry we did not pass this through the Police Department ahead of time due to deadlines. He stated that we should take this as a beginning step. We knew that this would provoke a debate, but that debate should end up in something productive. He stated that he does not want it to feel like anybody in a contest here. This is a healthy starting point, and we can vet a lot of these concerns and redraft language as necessary. He does not want it to become an issue between the Council and Police Department, or any other branch of local government.

Chief Dombkowski stated that we want the same thing. We want people to feel safe in the City. But, reassurance from immigration law and safety are really two different things. We have one of the safest cities in the country, and one of the safest college towns in the country. He stated that he wants to be careful here when talking about safety—we are talking about status and immigration status. That is not always a criminal issue. We are looking at making a safe community by enforcing criminal law. Assisting Immigration and Customs Enforcement (ICE), for example, can sometimes be of a criminal nature. Just like we would assist any other agency at the federal level, which we do often, in a community like West Lafayette with an international-flavored institution here; those requests for a city of our size come in more than you might think. That is kind of the neatness of West Lafayette too—is our international flavor—but we have to be aware of what we really are.

Councilor DeBoer stated that he thinks this will help give awareness to the community about those aspects of the Police interactions, and what is involved with people from out of the country. He thinks this is healthy so that we can get into the press exactly those kind of interactions, and why some should be necessary, and why perhaps ICE should not be raiding locations or we should not be helping innocent people get round-up. Councilor Sanders thanked Chief Dombkowski for the clarification.

Margaret Hass (no address given) stated that she teaches at the International Center and is involved with Greater Lafayette Immigrant Allies. She stated that they have been talking about such a resolution, and they are excited to see that the Council has moved forward with this type of resolution. She stated that she is glad that Chief Dombkowski brought up the issue of witness testimony. She suggested that part of the resolution talk about certifications for potential "U" or "T" visa issues, which are for people who are victims of crimes. Local law enforcement is able to give certain types of certifications to federal immigration authorities to say that these people are assisting with an investigation and can support that visa application. Similar resolutions in cities in Illinois have introduced resolutions for this particular option, and she encouraged the Council to think about not only supporting certifications, but perhaps designating a City official to handle such requests, and also giving extra training to City employees as necessary. She stated that she also works with Susan Brouillette at the Lafayette Urban Ministry (LUM) Immigration Clinic, and such a training may be something they are able to provide to the employees. She expressed support for this resolution, and stated that she is glad to see this debate has been opened and that these issues are being raised and discussed right now when the need is so great.

Aparna Puri (no address given; West Lafayette resident for over 30 years) stated that she also recently starting working with Susan Brouillette at LUM. She expressed her excitement about this resolution and stated she is looking forward to seeing how it evolves. She stated that she wants to share her concerns from the speech that President Trump made to Congress this week, where he mentioned the creation of the Office of VOICE, which stands for Victims of Immigrant Crime Engagement. The intention is to make lists of victims who have been subject to crimes committed by immigrants. This announcement came immediately after our community was already very upset over the death of an Indian legal alien in Kansas City. She stated that safety is definitely a concern, and we want to work under legal parameters—however we can twist the language and make it work. She requested that the resolution talk about VOICE or that a complementary office be considered that would also make lists of hate-motivated acts towards immigrants.

Jim Hass (663 Pawnee Park) stated that he is here to support the general idea of this resolution. He asked to remember that the idea of law and law enforcement depends on the will and cooperation of the community. A local law enforcement agency depends on the active cooperation of everybody to report and testify. If we start getting on federal projects too much, it is betraying the basic mission to protect, defend, and serve. He stated that there are cases where we cooperate with the federal investigations, and there are cases where we report federal crimes, but the law and case-law is quite clear that the feds cannot commandeer you to do their work. If they want you to do something, they have to pay for it. In a good team, everybody plays their position. West Lafayette is about West Lafayette government and what happens here. The term “illegal alien” started in 1921 after the Emergency Immigration Act, which set quotas based on eugenic reasoning, to keep out Italians and Eastern Europeans, particularly Jewish immigrants, that might lower the intellectual caliber of the United States. We do not have that reasoning anymore. To get involved in federal projects where millions people have no legal authority, but are not deportable under federal law in some sort of gray area, is difficult. He stated that the feds have made a mess, and we should not weigh in on it. The primary job of West Lafayette government is to serve and protect West Lafayette, and to maintain the consent and the cooperation of everybody in the community.

Councilor Sanders stated that one of the motivations for this measure was his concern about the registry of crimes committed by immigrants. That has absolutely no justifiable purpose, is totally repugnant, and absolutely something that we should not be cooperating with. He stated that he is glad to have heard from the Chief about the specific issues, such as gun licenses and employment, and can understand exactly why those rules exist. But, this idea of a registry of crimes is absolutely insane, repugnant, and is one of the motivations for the existence of this resolution.

Councilor Wang asked if it is possible to get a rush job done [to amend wording] by Monday's meeting. Counsel Burns stated that he was aware of the legal issues, but not fully aware of all of the operational issues that the Chief brought up. He stated that he will do his best to get something out tomorrow that will be comprehensive and cover both. Whether or not we will be ready will be the Council's judgement more than his. Councilor Wang stated that if we are going to do this, he would like to see it done right. Councilor DeBoer stated that that is fair, but he expects there to be a lot of people here on Monday to speak in favor of this, and he would like to keep this on the agenda so that we can hear from more voices from the community.

There was no further discussion.

Resolution No. 02-17 A Resolution Opposing The Development Of A Stone Quarry Near Americus, Indiana (Sponsored by Mayor Dennis)

President Bunder read Resolution No. 02-17 by title only.

Counsel Burns stated that a suggestion was made by one of the Council members that we get this issue on the agenda, and if we want to continue it we can—we can keep it on the agenda as long as we need to because of the time sensitivity of the comments.

Mr. O’Gara explained that the application that the Rogers Group submitted was an incomplete filing, so the ball is still in their court. He stated that the APC was prepared to issue a statement declaring that it runs afoul of the comprehensive plan’s policies, and he thinks that will still stand. Ultimately the APC has to render a determination of it if meets the policies of the plan, and that becomes one of the tests that the Board of Zoning Appeals (BZA) has to consider when they render their vote. At this stage, they have missed the March meeting, so the earliest BZA meeting where the quarry issue may be heard would be the fourth Wednesday in April.

Counsel Burns stated that given that deadline, we probably do not need to take action and can continue it, but he will reach out to the Americus Area Community Coalition to understand their intention and what needs done.

There was no further discussion.

Resolution No. 03-17 Resolution No. 03-17 A Resolution in Support of Graduate Student Appreciation Week (Sponsored by Councilor Bunder)

President Bunder read Resolution No. 03-17 by title only.

President Bunder stated that we appreciate graduate students, and Councilor DeBoer stated that he supports it.

There was no further discussion.

COMMUNICATIONS

► Councilor Sanders stated that when one is single, it is time for philosophy. When one is no longer single, it is time for poetry. He stated that he thinks that everybody should have a little more poetry in their life, and he read the following:

*I did not meet the Russ-I-am.
I do not like him, Sam-I-am.
Would you meet him on a boat?
Would you chat him 'bout the vote?
I would not meet him on a boat.
I would not chat him 'bout the vote.
I did not meet him in the rain.
I did not meet him on a train.
Not in the dark! Not in a tree!
Not in a car! You let me be!*

ADJOURNMENT

There being no further business at this time, Councilor DeBoer moved for adjournment. President Bunder adjourned the meeting, the time being 5:27 p.m.