

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
PRE-COUNCIL MINUTES  
AUGUST 3, 2017

The Common Council of the City of West Lafayette, Indiana, met in the Multi-Purpose Room at the Morton Community Center on August 3, 2017, at the hour of 4:30 p.m.

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

Present: Nick DeBoer, Steve Dietrich, Aseem Jha, Gerry Keen, Larry Leverenz, Gerald Thomas, and Norris Wang.

Absent: Peter Bunder and David Sanders

Also present: Mayor John Dennis, Corporation Counsel Eric Burns, Clerk Sana Booker, Street Commissioner Ben Anderson, Facilities Director Tim Clark, Police Chief Jason Dombkowski, Parks Superintendent Janet Fawley, City Engineer Ed Garrison, City Controller Peter Gray, WWTU Director David Henderson, Deputy Fire Chief Tony Schutter, Building Commissioner Chad Spitznagle, and IT Network Administrator Michael Young.

LEGAL REPORT

Vice-President Dietrich stated that the June Legal Report mentions a Purdue jurisdiction issue that involves the City, and he asked if that is something that we should be concerned about. Corporation Counsel Burns stated that there had been an incident and the question was whether Purdue or the City was in control of that area, and it turned out to be Purdue; it was nothing to worry about.

UNFINISHED BUSINESS:

Ordinance No. 16-17 An Ordinance Establishing The West Lafayette Public Arts Team (PAT) Fund (Sponsored by Mayor John Dennis)

There was no discussion.

Ordinance No. 17-17 An Ordinance Establishing The West Lafayette Community Historic Project Support (CHiPS) Fund (Sponsored by Mayor John Dennis)

There was no discussion.

Ordinance No. 18-17 An Ordinance Requesting An Additional Appropriation To The 2017 Budget (CCD-Police) (Prepared by City Controller)

There was no discussion.

NEW BUSINESS:

Ordinance No. 19-17 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect. (The Hub Plus on State Street PD) (Core West Lafayette State Street, LLC) (CBW to PDMX) (Submitted by Area Plan Commission)

Vice-President Dietrich read Ordinance No. 19-17 by title only.

Dan Teder (Reiling Teder & Schrier, LLC), representing the petitioner, Steve Bus. He stated that the location for this development is across the street from Triple XXX, at the site of the old gas station. This has received a favorable staff report and unanimous yes vote from the APC. The building will be 11 stories, stepping down to 10 going from west to east along State Street. It will have 260 units, 630 beds, 200 parking spaces. This is a 30% parking ratio per bed, and about 80% per unit. There will be bike parking of about one per unit. There will be a little over 13,000 square feet of retail. The delivery date for the project is in the fall of 2019, and taxes on the site should go from around \$15,000 to over \$900,000.

Councilor DeBoer stated that he saw the company moved into a corner near here with a leasing office, but there is also a leasing office on the plans. He asked about the permanent leasing office for both properties [The Hub and The Hub Plus]. Mr. Bus responded that the current leasing office is temporary for both properties, but each building will have its own within the buildings.

There was no further discussion.

Ordinance No. 20-17 An Ordinance Amending Ordinance No. 32-97 Being The Unified Zoning Ordinance Of Tippecanoe County. (UZO Amendment #88) (Transient Rentals) (Submitted by Area Plan Commission)

Vice President Dietrich read Ordinance No. 20-17 by title only.

Building Commissioner Spitznagle stated that when this first went to the Ordinance Committee, the City took a stance on this piece that we would not adopt the UZO amendment since the City already has the rental-housing program in place. He stated that we are still of that position, and we think that the rental-housing program offers us the strongest line, the most active line, and it has been in place for a while. One other component is that when our Development Department is marketing the City, and we have potential jobs coming in, we do not want to add more regulations that could hamper a more trendy business.

Councilor DeBoer asked if it is the administration's view that the Council should vote this down, and Commissioner Spitznagle responded that is correct.

Vice President Dietrich stated that we received a grandfather permission agreement on our rental-housing program, and he asked if that is forever or for a specific time. Corporation Counsel Burns stated that the grandfathering is important in all of this. He is convinced that it is a very good thing for us to go with what we have, and not have an overlay of this UZO on top of it because of the grandfathering. He explained that if we went ahead with the UZO, then anything that happened the day before would be grandfathered in. If there had been a long history of something going on, whether it was AirBnB or some other usage, it potentially could get grandfathered in. So, by staying with what we have, we go back decades. That gives us the power to enforce if necessary. Counsel Burns stated that he believes this came up because of a problem in Lafayette having to do with Chatham Square, and it is a particularized problem over there. They need the relief because they do not have anything close to what we have in their City Code. The UZO and this change are an important facet for the City of Lafayette, and perhaps other places. Because West Lafayette has the rental-housing program, we already have as much control as we need. By passing this amendment, we would do nothing but confuse what we already have, and confuse the public about what is lawful. He stated that it is good that the APC Staff Report contemplates that the City of West Lafayette will probably not pass this; there is no shame in that—we do not need it, so why pass it?

There was no further discussion.

Ordinance No. 21-17 An Ordinance Regulating The Operation Of Unmanned Aircraft Systems In The City Of West Lafayette, Tippecanoe County, Indiana (Sponsored by Councilor Dietrich)

Vice-President Dietrich read Ordinance No. 21-17 by title only.

Vice-President Dietrich stated that this ordinance on drone regulations is designed to augment State statute and give us some local control into it.

Councilor DeBoer asked how this differs from the State regulations. Vice-President Dietrich responded that there is City registration, and it follows a lot of the FAA regulations. While the State gets into what convicted child offenders may or may not do, the City regulations are about private and private property. Counsel Burns confirmed for Councilor DeBoer that we have the legal authority to do this. Vice-President Dietrich stated that this is something we want to get out in front of, as we are starting to see drone law and lawyers already.

Councilor Keen stated that this ordinance is a regulation that prohibits using drones over public property without permission. He thinks that if he had a drone, the place he would want to use it would be in a City park, and it seems like a logical place to want to use one. He asked if that was considered, or if parks should be exempt from the public property part of this. Vice-President Dietrich stated that we talked about that. The larger concern is over a football stadium, festivals, or other large gatherings. It is cleaner to break it off; it does not prohibit it from being done, but it requires permission.

Counsel Burns stated that there is also the possibility of the Parks Department doing their own thing and setting up areas where the drones can or cannot be used.

Councilor Keen stated that he thinks it is the most logical place that people would want to take a drone to fly it, and so, by prohibiting that, it will force people into being violators of the law in other places. Counsel Burns stated that he understands the point, and the question is do you want them flown there with a bunch of little kids running around. Some of the drones are sizeable and could do some damage.

Vice-President Dietrich stated that some wide-open areas are great places to use one, but Happy Hollow, with all of the trees, may not be. He thinks it allows us to have the ability to say yes to one area, but no to another. Councilor Keen stated that we might think about designating areas in the ordinance. Mayor John Dennis spoke about the older remote-control airplanes being used everywhere, but the concern now is with invasion of privacy with the additional equipment on them. It is better to start off tough and roll it back if needed.

Vice-President Dietrich stated that if the ordinance stands as it is, the Police Chief or his designee has authority to later designate areas. We can talk about doing so ahead of time, but it will be difficult to name them all at this point, so it seems better to do so as we go.

Councilor DeBoer asked the Police Department to speak about how enforceability would work. Police Chief Dombkowski responded that he thinks it would be incident-based. When an incident occurs, we would have something of substance and have some teeth to enforce the law, instead of winging it and needing to help fix a problem. It is getting ahead of a problem, and enforceability of that will probably be incident-driven. We have a population here that is youth-based, ages 18-25, and that demographic has a tremendous amount of affinity toward technology. There are some safety controls mentioned, such as line-of-site, and making sure the operator can actually see the drone. The technology is so advanced now that the drone can go for miles away from the person controlling it, and that is a big safety factor.

Councilor Wang asked if we are addressing issues with educational institutions, such as Purdue and the high school, and if the drones are operated for classes. Counsel Burns responded that State statute deals with that, but if it is on school property then it is not a public property as we speak of it. They would have discretion to use it on their own property; it would be up to the school officials. Chief Dombkowski stated that there is some real work being done at Purdue in the area of drone technology. He is aware of two institutions that we have been in discussion with, and may soon have formal agreements with, regarding using the drones for public safety. Both Police and Fire may use them on scenes of emergency situations. Purdue is cutting edge on this, and they are doing work for the U.S. government on drone technology. Of all communities across Indiana, we have the potential to densely have drones in and around us. With the airport here as well, it is probably the right time for this discussion and this ordinance.

There was no further discussion.

Ordinance No. 22-17 An Ordinance Setting The 2018 City Budget And Setting The 2018 Tax Levy On Property And Tax Rate (Prepared by the City Controller)

Vice-President Dietrich read Ordinance No. 22-17 by title only.

Controller Gray stated that this will be the first reading of the 2018 budget. The next month will be the public hearing, and the following month is planned for the final hearing. This is substantially the same thing that was reviewed in the budget meeting. There are a few slight changes, with line items going down as costs were refined. Overall, the proposed budget is \$22,359,181, which is a 4% increase from last year. The usual detail is in the ordinance, and the three-year trend is also available.

There was no further discussion.

Ordinance No. 23-17 An Ordinance Requesting An Additional Appropriation And Reduction To The 2017 Budget (Sanitation-MVH) (Submitted by the City Controller)

Vice-President Dietrich read Ordinance No. 23-17 by title only.

Controller Gray stated that some equipment needs replaced at the sanitation facility, and this is to move money between funds, from MVH to Sanitation, to be able to get that equipment.

There was no further discussion.

Resolution No. 12-17 A Resolution Appropriating The Necessary Funds Resulting From The 2017 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)

Vice-President Dietrich read Resolution No. 12-17 by title only.

Director of Rental Housing Inspections Dale Dixon stated that this is to appropriate the award that we are getting from the U.S. Department of Housing and Urban Development (HUD) this year. We found out just a few weeks ago that we are getting just a little over \$325,000, and this resolution gets it into the proper accounts and line items within the budget so we pay out to the groups accordingly. There is a section for Development's administrative costs, as well as the public service agencies, and it breaks down the groups who are getting awards this year.

Councilor Thomas stated that he assumes someone is closely watching the government as far as what they may be doing in the future. Director Dixon stated yes, and that this is actually the first year since 2010 that we got an increase. It is a 7.8% increase from last year, but the trend had been going down. We are keeping a finger on the pulse of that.

There was no further discussion.

Resolution No. 13-17 A Resolution to Amend the Comprehensive Plan for Tippecanoe County to include the 2045 Metropolitan Transportation Plan (Submitted by Area Plan Commission)

Vice-President Dietrich read Resolution No. 13-17 by title only.

Councilor Keen explained that this is a housekeeping item. The APC is required to keep this plan updated from time to time. It is a capital budgeting tool for transportation purposes for the next 26 years.

There was no further discussion.

Resolution No. 14-17 Resolution Concerning Joint Board Resolution 2017-01 - *A Resolution Of This Joint Board Under The City Of West Lafayette – Purdue University Interlocal Agreement Authorizing: (1) The Second Amendment To Public Private Agreement; (2) The Memoranda Of Understanding With The Purdue Research Foundation And With The City Of West Lafayette And The City Of West Lafayette Redevelopment Commission; And (3) Depository Agreements With The Huntington National Bank* (Sponsored by Mayor John Dennis)

Vice-President Dietrich read Resolution No. 14-17 by title only.

City Engineer Garrison stated that this is a resolution to a resolution. There was a resolution of the Joint Board to do three parts. There was a second amendment to the Public Private Agreement (PPA), a Memorandum of Understanding (MOU), and depository agreements. He stated that the second whereas on Pages 2 talks about the enactment of P.L.255-2017, which allows any public agency in a Public-Private Partnership (P3) to now put additional funding scope change order work on a project. Previously, additional funding could not be put in until the very end, and involved additional charges. He stated that there have been a couple of change orders on the contract, which were not part of the original scope, for things that we thought we were very necessary to help the project function properly. This will allow us to do the funding to pay for that. He stated that we would be looking for signing off on the actual MOU of how we would pay for those funds.

Vice-President Dietrich asked why this is specific to Huntington National Bank. City Engineer Garrison stated that Huntington has been set up for the other funding that has been built into the contract, and it made sense to keep it all there. Vice-President Dietrich asked if this allows the three entities to blend money together in that account. City Engineer Garrison responded that it is one account, but there are sub-accounts within it.

There was no further discussion.

Resolution No. 15-17 A Resolution Requesting the Transfer of Funds (Facilities, MVH, and LRS) (Prepared by City Controller)

Vice-President Dietrich read Resolution No. 15-17 by title only.

Controller Gray stated that the first part of this is to move money from Janitorial Services to Salaries, as it is more cost-conducive for us to do the cleaning work than to hire an outside agency. The second section for MVH actually needs to be amended to be removed. This section was actually part of the discussions of budget information for next year and was accidentally inserted here. The third section is to allow the Street Department to buy a paint machine with surplus funds we had for supplies.

Councilor Keen moved to amend Resolution No.15-17 to remove the Motor Vehicle Highway transfer. Councilor Leverenz seconded the motion, and the motion passed by voice vote.

There was no further discussion.

#### ADJOURNMENT

There being no further business at this time, Vice-President Dietrich took the consent of the Council and adjourned the meeting, the time being 4:56 p.m.