

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
April 6, 2015

The Common Council of the City of West Lafayette, Indiana, met in the Multi-Purpose Room at the Morton Community Center on April 6, 2015, at the hour of 6:30 p.m.

Mayor Dennis called the meeting to order and presided.

The Pledge of Allegiance was repeated.

Present: Bunder, DeBoer, Dietrich, Hunt, Keen, and Thomas.

Absent: Burch

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, Public Works Director Buck, Facilities Director Clark, Police Chief Dombkowski, Parks Superintendent Fawley, Human Resources Director Foster, Fire Chief Heath, WWTU Director Henderson, Street Commissioner Payne, and Marketing and Grants Administrator Shaw.

MINUTES

Councilor Keen moved for acceptance of the minutes of the February 26, 2015, Pre-Council Meeting, and the March 2, 2015, Common Council Meeting. Councilor Thomas seconded the motion, and the motion passed by voice vote.

COMMITTEE STANDING REPORTS

STREET, SANITATION, AND WASTEWATER TREATMENT UTILITY

Councilor Bunder presented this report, which will be on file in the Clerk-Treasurer's Office.

PUBLIC SAFETY AND ORDINANCE

Councilor Keen presented this report, which will be on file in the Clerk-Treasurer's Office.

PURDUE RELATIONS

Councilor DeBoer reported on events at Purdue University.

PARKS AND RECREATION

Councilor Hunt presented this report, which will be on file in the Clerk-Treasurer's Office.

ECONOMIC DEVELOPMENT

Councilor Thomas presented this report, which will be on file in the Clerk-Treasurer's Office.

PERSONNEL

Councilor Dietrich presented this report, which will be on file in the Clerk-Treasurer's Office.

BUDGET AND FINANCE

There was no report.

REPORT OF APC REPRESENTATIVE

Councilor Keen reported that the Ordinance Committee is still meeting and hearing input about the New Chauncey rezone, and that will continue on May 6.

SPECIAL REPORTS: None

PUBLIC RELATIONS: None

FINANCIAL REPORT

There was no report.

LEGAL REPORT

City Attorney Burns stated that this report is on file. He stated that, at the request of Councilor Dietrich, he has some comments to make about signs. He stated that there are two issues. One is yard signs, and in the past the City has taken the position that any sign in a political campaign is a great thing, no matter how large or where it is put. There is a slight change in focus this year. He stated that there has always been a law under the Unified Zoning Ordinance (UZO) that restricts the size of signs, no matter what the sign is for; whether it is political speech, religious speech, commercial speech, or any kind of speech. In a residential zone the size has always been a maximum of 6 square feet, and no higher than 5 feet. He stated that he has a letter for the City Engineer to review and send out. The letter is a request to all of the political parties and candidates to observe the existing UZO restrictions on signs. He stated that it is not a content issue; it is an issue of all signs to promote visual safety for cars, pedestrians, and bikes.

Councilor Dietrich asked if there are also setback location issues with the signs as well.

City Attorney Burns responded that there are. They are not supposed to be in the right-of-way. The smaller the sign, the less of a problem for sight distances, but the signs are supposed to be in the yard instead of the green strip between the sidewalk and street.

Councilor Keen stated that he has an unrelated note about signs. He stated that the Ordinance Committee will also be discussing animated signs at the next meeting, along with the New Chauncey rezone. He stated that it will also be a continuing discussion.

Councilor Hunt stated that she appreciates City Attorney Burns trying to get the message out to political parties because there were a lot of large signs out during the last election.

City Attorney Burns stated that this is only for residential areas because there are other rules for other zones. He stated that the second issue on signs also deals with UZO. He stated that there have been some complaints about the always-present "For Rent" signs in certain residential neighborhoods, which seem to be there whether there is anything for rent or not. He stated that the purpose of incidental signs, which include "For Rent" signs, is to allow landlords to let the public know when they have a vacancy. He stated that after looking into it, he found that the UZO already regulates this area, and it is not a question of changing policy, changing UZO, or changing our own City code. It is an education and enforcement issue. He stated that the signs that are put up for renting can always be there as long as it is vacant. Once there is a tenant, there should not be a "For Rent" sign there, because the residence is no longer for rent. He stated that the other issue is that an incidental "For Rent" sign has to be on the actual lot for which the rental is being advertised. He stated that the City recognizes that even though it should be on that day available, there is also a time period when landlords know that a lease is coming up. He stated that the consensus of the City staff he met with is that the policy of the City be that 30 days in a reasonable time period. The sign can be there 30 days before the lease is scheduled to run out, and that it is a sufficient time and an appropriate time. City Attorney Burns stated that he has a draft of a letter which he will ask Assistant Director of Development Dixon to send out with a reminder of the law, and point out that there is a 30-day

window that needs to be used. He stated that once the letters go out, this will be an issue where there may be a Neighborhood Resource Team (NRT) inform the person that they are out of compliance.

Councilor Dietrich asked how the City will know if and when it has been rented or is vacant, and what is the availability of the City to enforce this.

City Attorney Burns stated that the City has two methods to enforce. One would be a ticket with a fine attached from the NRT. The other way would be through the rental certification program, because as a certified rental it is required that the landlord keep their premises in compliance with City code as well as any other laws that regulate the premises, such as the UZO. There is the potential to be put on probation and not be able to rent. He stated that knowing if the residence has been rented or not is a retrospective. There is already a system in place where an affidavit is supposed to be sent if there is a change in renters to prevent overpopulation of housing, but really it will be an enforcement issue, which is to look back at a problem after a complaint. He stated that he believes this is an education issue.

Councilor Dietrich stated that he likes that this does not have to be a new ordinance and it is just enforcement. He stated that the last time this came up there was some concern on the City's part about enforcement because there was some ambiguity. He asked what has changed.

City Attorney Burns responded that he got his hands very dirty in the UZO. One provision of the UZO is that there cannot be false advertising. He stated that if you say that a house is for rent, and someone knocks on the door and is told that it is not for rent, then the question is why is the sign there. The legal argument can be made clearly that the rental has to be available when the sign it is, and 30 days is a reasonable time period. This is essentially a discretion on the part of the City that says there must be a reasonable time, and City Attorney Burns stated that it is his opinion that courts would recognize that as a reasonable time period.

Councilor Bunder stated that he was surprised that the letter has not gone out already because something has changed in the neighborhood for the better. Most of the signs have moved, so he thought that some people had already gotten a letter or heard about it. He stated that some of the rental corporations have done an interesting thing and put a site number on the bottom of the sign that indicates which site the sign goes with.

UNFINISHED BUSINESS:

Ordinance No. 08-15 An Ordinance Vacating Platted Easement In The City Of West Lafayette, Indiana (Submitted by Reiling Teder & Schrier, LLC) PUBLIC HEARING

Mayor Dennis read Ordinance No. 08-15 by title only, and noted that this is the Family Express property.

Councilor Keen moved for passage of Ordinance No. 08-15 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Ryan Munden (Reiling Teder & Schrier, LLC), on behalf of Family Express Corporation, stated that the easement that they are requesting be vacated was created by a 1927 convenience for Northwestern Gardens. The net result of this easement being vacated is that it will be replaced by a dedicated right-of-way, meaning that the property will no longer be owned by the current owner. It will be essentially given to the City. The petition was filed at the City's request, and the City is benefiting by the ordinance being approved.

COMMON COUNCIL MEETING MINUTES, April 6, 2015, CONTINUED

Councilor Keen moved to open a public hearing on Ordinance No. 08-15. The motion was seconded by Councilor Thomas, and the motion was passed by voice vote.

There were no comments.

Councilor Keen moved to close the public hearing on Ordinance No. 08-15. The motion was seconded by Councilor Thomas, and the motion was passed by voice vote.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder		✓		
Burch			✓	
DeBoer	✓			
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 5 AYES and 1 NAY.

Mayor Dennis announced that Ordinance No. 08-15 passed on second and final reading.

Ordinance No. 09-15 An Ordinance Requesting An Additional Appropriation For The Parks And Recreation Fund (Prepared by the Clerk-Treasurer) PUBLIC HEARING

Mayor Dennis read Ordinance No. 09-15 by title only.

Councilor Keen moved for passage of Ordinance No. 09-15 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Councilor Keen moved to open a public hearing on Ordinance No. 09-15. The motion was seconded by Councilor Thomas, and the motion was passed by voice vote.

There were no comments.

Councilor Keen moved to close the public hearing on Ordinance No. 09-15. The motion was seconded by Councilor Thomas, and the motion was passed by voice vote.

There was no discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch			✓	
DeBoer	✓			
Dietrich	✓			
Hunt	✓			

COMMON COUNCIL MEETING MINUTES, April 6, 2015, CONTINUED

	AYE	NAY	ABSENT	ABSTAIN
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 6 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 09-15 passed on second and final reading.

NEW BUSINESS:

Ordinance No. 10-15 An Ordinance Authorizing The City Of West Lafayette, Indiana To Issue Obligations For The Funding And Construction Of A Childcare Facility For The Purdue Research Foundation And Approving Other Actions In Respect Thereto (Sponsored by Mayor John Dennis)

Ordinance No. 11-15 An Ordinance Authorizing The City Of West Lafayette, Indiana To Issue Obligations For The Funding And Construction Of A Flood Mitigation Project For The Purdue Research Foundation And Approving Other Actions In Respect Thereto (Sponsored by Mayor John Dennis)

Ordinance No. 12-15 An Ordinance Authorizing The City Of West Lafayette, Indiana To Issue Obligations For The Funding And Construction Of A Sewer And Water Utility Service Project For The Purdue Research Foundation And Approving Other Actions In Respect Thereto (Sponsored by Mayor John Dennis)

Mayor Dennis stated that there has been a request that these three ordinances be withdrawn. He asked City Attorney Burns to provide a legal explanation.

City Attorney Burns stated that these ordinances relate to the State Street project, involving some development in the western lands. He stated that all three of these relate to the financing method, and there was going to be a request under these ordinances for conduit financing. This financing would use the City's governmental role to authorize this kind of financing. The government has no stake in it, no money in it, and no risk in it; however, the government needs to make certain findings. He stated that this was Purdue Research Foundation (PRF) and Purdue University, and they have decided that there are better ways to fund this than the conduit financing. So, it is a simple matter to withdraw these ordinances because they have no more need. He stated that procedurally, since Mayor Dennis in the sponsor of all three ordinances, that merely showing the ordinances as withdrawn since they have not been brought onto the table would be appropriate.

Mayor Dennis stated to let them be shown as such.

City Attorney Burns confirmed for Councilor Keen that a motion is not needed since they have not been introduced.

Councilor Bunder asked whose conduit it is if not ours, and if we know where the financing will come from. He asked if we know anything else about how the financing will go forward.

City Attorney Burns responded that there will probably not be any conduit financing. He stated that this was to be a part of the overall financing package, and they decided that it was not going to be necessary. He stated that for the financing going forward, we have the memorandum of understanding and he and Purdue's counsel is working on narrowing parameters for that. He stated that the Council will have that by the May meeting.

COMMON COUNCIL MEETING MINUTES, April 6, 2015, CONTINUED

Resolution No. 05-15 A Resolution Requesting The Transfer Of Funds (IT and Police)
(Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 05-15 by title only.

Councilor Keen moved for passage of Resolution No. 05-15 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

There was no discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch			✓	
DeBoer	✓			
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 6 AYES and 0 NAYS.

Mayor Dennis announced that Resolution No. 05-15 passed on first and only reading.

Resolution No. 06-15 A Resolution Welcoming All People To The City Of West Lafayette; Celebrating Diversity; And Opposing Discriminatory Actions Of Any Type Against Any Person In The City (Sponsored by Councilor Dietrich)

Mayor Dennis read Resolution No. 06-15 by title only.

Councilor Keen moved for passage of Resolution No. 06-15 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Councilor Dietrich thanked the Clerk-Treasurer's office for the extra work done after the Pre-Council meeting to add this item, and City Attorney Burns for his assistance in putting this together. Councilor Dietrich stated that he would like to talk about his intentions with this resolution. He stated that it is not designed to be an argument on either side of that legislation [Religious Freedom Restoration Act (RFRA)], as there were far better legal minds than his arguing both sides. He stated that his intent is to recognize what the City of West Lafayette has done for almost 50 years, and that we were well ahead of the curve in 1968. Also, to reaffirm what we have done, where we stand, and where we are. He stated that that this talks about the diversity of our community making us a stronger community, and he firmly believes that. He stated that it is from both ends of the perspective, from the far right to the far left, we have them all in West Lafayette and we welcome them all, and it is important that neither side get lost in the shuffle. He stated that it is not designed to be one-sided, to protect one group, whether they are straight, gay, right, or left; it does not matter. The City has adopted the policy that we will be welcoming to all, and that is important as we go through. He stated that we do not always like the message, or agree with the message, but that is a part of our role also. He stated that it is part of his efforts to try to accomplish and capture. At the request of Mayor Dennis, Councilor Dietrich read the resolution.

Mayor Dennis thanked Councilor Dietrich. He stated that there are always people who reach out to give their perspective on how certain issues of controversy has impacted them. He stated that we do have some conservative people, and some conservative religious people in our community, and he believes we should accord them with the same modicum of respect.

Councilor DeBoer thanked Councilor Dietrich. He stated that he has been expressing his view on this to many people. He stated that while he has been calling for stronger action at a State level on this, he feels that this is the best way we can go about this in our community.

Councilor Bunder stated that for the record, he would call attention to where things change and how we have done this over the years. He stated that in 1993 and 2010 we are not able to include the provisions listed there in ordinance; they are available only as resolution. He stated that this at some point ought to be corrected by our State legislature. He stated that Stephanie Wang with the *Indianapolis Star* had a great article today about the reality of enforcement of our human relations ordinance. He stated that he was proud of us, to see that over the years this City had taken up a stronger or braver approach than some of the other cities in the State. He expressed his thanks to Councilor Dietrich and to those who have sat in these chairs over the last 50 years and been faithful to the issue of inclusion. He stated that perhaps someday we will be able to move the resolutions into the ordinance.

Councilor Dietrich stated that he just realized that his father was on the Council in 1968. He asked the Councilors to sign the proclamation that had been prepared previously, if they wish, since the Council does not sign resolutions.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch			✓	
DeBoer	✓			
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 6 AYES and 0 NAYS.

Mayor Dennis announced that Resolution No. 06-15 passed on first and only reading.

COMMUNICATIONS

► Councilor DeBoer asked Police Chief Dombkowski to talk about what we plan to do about the pedestrian bridge closing, and whether there are plans to have extra officers keeping an eye out for individuals on those sidewalks.

Chief Dombkowski stated that different commanders attend the different planning meetings, and he will follow-up in the morning to see exactly what the plans are. He stated that there are a lot of moving pieces in the month of April as festivities start, including Grand Prix week. He stated that we are starting bicycle patrols with Purdue University, and there is a bridge component in that.

Mayor Dennis requested that as plans are worked out or clarified that it is good information to put on the website.

► Councilor Hunt stated that the Engineering Department held an informational meeting at the library last week regarding Happy Hollow Road construction, and they and Street Commissioner Payne were good about answering questions in detail.

Councilor Dietrich agreed that the meeting went well for the Happy Hollow group.

► In response to a question from Councilor Dietrich, Mayor Dennis stated that the City flag used to fly at City Hall, and is now at the Police Station. He stated that there were some issues with the vendor regarding the flags not holding color after being exposed to the weather.

CITIZEN COMMENTS

► Dev Verma, representing the Purdue Graduate Student Government, thanked Councilor Dietrich for the resolution, and stated that it is very welcome as an international student. He stated that Purdue has the second highest international population of students.

► Thomas Kesler (479 Maple Street) thanked City Attorney Burns for speaking about the ordinance on signs, and stated that he has a fear that at some point there will be an animated sign meeting the size requirement. He spoke about issues with uncovered trash cans causing windblown trash, and also that some property owners need to get out and clean up alley areas. He thanked Councilor Dietrich for his comments about that RFRA, and stated that it will take a long time for Indiana's public image to recover for the squabble over this issue.

► Zachary Baiel (124 Connolly Street) asked how citizens can get in on the signing of the resolution, stating that it is not just the Council that wants to celebrate that kind of diversity. He stated that he applauds Councilor Dietrich for moving so aggressively on that issue. Mr. Baiel spoke about his beliefs that everyone should be able to speak their thoughts, and stated that encourages people to fight speech with more speech and non-violent forms of protest. He asked how we will ensure that freedom of speech while balancing the rights of those who wish to speak in uncouth, or even hateful, ways. He thanked City Attorney Burns and Councilors Bunder and Dietrich for their work on the sign issue. He asked if the 30-day window is codified.

City Attorney Burns responded that it would be in the application for housing permits.

Mr. Baiel stated that Boiler Blast is April 11, and he will be working with a group from the Clean Sweep program to clean up trash, and he appreciates the collaboration from Street Commissioner Payne.

► Michele Tomarelli (1727 Maywood Drive) stated that she has been a civil rights protester for almost 60 years, and she stated that she was utterly discouraged by the State legislation. She thanked Councilor Dietrich for the proclamation.

ADJOURNMENT

There being no further business at this time, Councilor Keen moved for adjournment, and Mayor Dennis adjourned the meeting the time being 7:30 p.m.