

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
JULY 6, 2015

The Common Council of the City of West Lafayette, Indiana, met in the Multi-Purpose Room at the Morton Community Center on July 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, Burch, DeBoer, Hunt, Keen, and Thomas.

Absent: Dietrich

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, IT Director Alexander, Public Works Director Buck, Police Chief Dombkowski, Parks Superintendent Fawley, Human Resources Director Foster, Fire Chief Heath, WWTU Director Henderson, Street Commissioner Payne, and Director of Development Poole.

MINUTES

Councilor Keen moved for acceptance of the minutes of the May 28, 2015, Pre-Council Meeting, and the June 1, 2015, Common Council Meeting. Councilor Burch 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 Burch presented this report, which will be on file in the Clerk-Treasurer's Office.

BUDGET AND FINANCE

Councilor Bunder reported that the next work session meeting of the Budget and Finance Committee is on July 7 at 4:30 p.m.

REPORT OF APC REPRESENTATIVE

There was no report.

SPECIAL REPORTS: None

PUBLIC RELATIONS:

Beautification Award

Councilor Thomas presented the Beautification Award to Mary Johnson and Drew Casani for their landscaping at 1515 Woodland Avenue, and Mr. Casani expressed appreciation for the award.

FINANCIAL REPORT

There was no report.

LEGAL REPORT

City Attorney Burns stated that this report is on file.

UNFINISHED BUSINESS: None

NEW BUSINESS:

Ordinance No. 19-15 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (Wabash Village, Inc.) (PDNR to GB) (Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 19-15 by title only.

Councilor Keen moved for passage of Ordinance No. 19-15 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Joe Bumbleburg (Ball Eggleston PC), representing the petitioner, stated that this matter has been brought about the fact that there was a planned development on this area near the Marsh store shopping area. He stated that the planned development expired, and one of the more unusual circumstances of our zoning and subdivision code is that when a planned development expires it creates a black hole on the planned map. It is an area that has no zoning category at all, and it does not revert to the old zoning. He stated that everything else in the general area is zoned General Business (GB), and it would be the appropriate zoning. He stated that the APC Staff Report agreed that the former GB zone would seem to make sense for future development. He stated that there was a delay in the zoning process when the APC staff was concerned that the road system would not be fixed. He explained that the City, while doing work on Salisbury Street, closed one of the driveways and opened an apron and entrance to the north of the previous one. This means that there needs to be a space between the existing parking lot and the apron that was built. He stated that at the last APC meeting the petitioners had a contract with Fairfield, surveys to add the easement, and a building permit from the City. He stated that they are in the process of getting it done, and he cannot record the easement until it gets done. Mr. Bumbleburg noted that Purdue Federal Credit Union (PFCU) is also doing work on the ATM there, and they cannot do anything until the rezoning is complete.

Councilor Burch asked if the limit is 10 years where the planned development expires if nothing happens with it.

Mr. Bumbleburg responded that what happened is that the first two phases of the planned development got done. This was the third and final phase and it did not get done, and when it expired it left a black hole.

Councilor Hunt asked what Fairfield is going to build.

Mr. Bumbleburg explained that they are building a driveway from the parking lot to the apron that the City has already built for ingress and egress. He confirmed for Councilor Hunt that the public art there will not be disturbed, and that the rezone is to make the entire thing GB.

Councilor Hunt asked what all can go into GB. She asked if bars or strip clubs would be allowed.

Mr. Bumbleburg stated that everything that is currently there is GB. He stated that you can create a list of horrors for almost anything, but he knows that the petitioners have already declined interest from one of those horrors. He stated that it makes no sense when the rest of the uses are depreciated by putting in one of those junk uses.

Councilor Bunder stated that he would like to remind the Council that when the planned development goes away, that is the end of the Council's oversight on the parcel. He stated that the challenge is to convince the constituents that what comes after is a decent use. He expressed concern about if a Family Express would go in if Marsh were to go out of business.

Mr. Bumbleburg stated that, to get the law straight, the Council did not lose control when the planned development disappeared. That control had already passed when the planned development was approved. He stated that nobody would put a filling station in this particular area because there is no access to any of the neighboring streets. He stated that this is a family-owned West Lafayette/Lafayette developer that has been here a long time, and they do not set out to foul in their own nest.

Councilor Bunder stated that to be clear, the APC staff recommended denial of this.

Mr. Bumbleburg stated that it was not due to the zoning category. They said that a GB zone made sense. He explained that they were concerned about whether or not the apron would get hooked to the parking lot, and for some reason did not trust that it would be built. He stated that after we got the building permit, the contract with Fairfield, and the work was started, the ten members of the APC who were present that night all voted unanimously to pass this.

Councilor Keen asked Mr. Bumbleburg to highlight a bit about what the plan is for this if it gets to GB, as far as what types of other businesses could go in there. He asked if there are actual contracts with anybody.

Susie Eros stated that she is the daughter of David Lux. She explained that she and her brother have stepped in, at the request of her father, to help with this business. She stated that the goal is to get Wabash Village back to its glory; to have good businesses in there, good tenants, good leases, and to beautify it. She stated that the family knows the value in the family's legacy, and in the businesses they own, is Wabash Village. They want to take it back to the way it used to be. She stated that the family wants to see quality businesses in there, and to clean it up. Ms. Eros explained that when they learned the area needed to be rezoned in order to develop it they signed the contract with Fairfield and got the work started. She stated that the family does not want to junk up the shopping center or have it fall into disrepair. She stated that they want to get in there and clean it up, make it look good, and make it function for the City of West Lafayette. She explained that as far as what they want to put in there, they are looking for a good tenant that will pay the rent and help with the common area maintenance charges_and she will investigate them.

Councilor Keen stated that this was rezoned to a planned development ten-plus years ago.

Ms. Eros stated yes, and that is when the medical portion was put in along with the offices where the carwash is located. She stated that afterwards the recession hit and her father got older, and he got worn out. Recently he has asked for help and is teaching his children how to help with the business.

Councilor Keen stated that the concern he has heard is that we had this development in place for at least ten years, and he understands that two phases have been completed. He stated that his question was what happened to the third phase, but Ms. Eros just answered that. He stated that the other concern he and others have had is if it is rezoned to a GB zone, what kinds of things you could be put in there versus what you would put in there. He stated that we have to ask ourselves these questions because this is our only chance to question what goes in there if we rezone this. We have to proceed with caution as far as what we would like to see there and what is best for the community. He stated that there are a lot of things within the GB classification of things that you would probably not want within that district.

Ms. Eros stated that she agrees.

Councilor Keen stated that the question comes that if it was a Neighborhood Business (NB) then a lot of those categories go away, but then it creates other issues. He stated that he did check to see that if it was rezoned to a NB versus GB it would not create any nonconforming uses with anything that is there. He asked if the NB zone would be considered, stating that he understands there is economic value to consider.

Mr. Bumbleburg stated that if that was done they would have to start over. It would put the plans for the PFCU ATM months behind. He stated that it would not be in their best interest or the best interest of the City.

Councilor Keen stated that he understands and the points are well taken, but he felt that he needed to ask the questions and see if it should be considered. He stated that this panel has a lot of trust in the developer, but needs to ask questions such as what if Marsh goes away. Then there is this big building and a lot of possibilities of what could go in there under the GB classification.

Ms. Eros stated that she thinks that the value of that property, if Marsh would leave, would outweigh any consequences. She stated that honestly, if Marsh was not there they could probably do some things that would be of value the community, but they are locked into a lease with Marsh.

Councilor Keen stated that he is trying to put everyone at ease with the possibilities of what if.

Mr. Eros stated that they had one of those companies that you might not want near your neighborhood approach them, and they were told no. She stated that her family has been in this community for a number of generations and they are not bringing a bad seed to the community. She stated that they want this to be profitable for the family business, but also beneficial for the community. She stated that she will not put something there that will cause controversy and lower the value of the shopping center as it does not make good businesses sense.

Councilor Keen stated that we have seen this before within the community where a developer would come forth and get a property rezoned and then suddenly the plans fly away, and we end up with another development because of the rezone. In hindsight we have to start asking a few more questions, and that is where we are at right now.

COMMON COUNCIL MEETING MINUTES, July 6, 2015, CONTINUED

Ms. Eros stated that our goal is to make it a better shopping center than it is today.

Councilor Hunt stated that she was on the Council when the planned development was approved and she shops at Marsh. She stated that one of the things in the planned development that she was pleased about was the parking lot rejuvenation with bigger slots. She asked if the parking lot improvement can be part of the plans.

Ms. Eros stated that she can certainly take that into consideration. She stated that the parking lot was striped this year for safety's sake, and they are not opposed to any ideas. She agreed that the parking spots are narrow.

Councilor Bunder stated that one of the concerns the Council has is that often we go into developments and then the properties change hands. Developments that may work well with a local family may not work as well with a different set of investors. We have watched things stall in different corners of the City because of those changes. He stated that it inspires some of our concern. He stated that we have no doubt the petitioner will do a good job with the property, but our experience is that things change.

Ms. Eros stated that she will not say that if someone comes in with a great price that she will not sell it.

Councilor Bunder stated that that helps make his point.

Ms. Eros stated that she will say that there are many family members involved in this; that is who owns the company. She stated that she does not think they would walk away from it easily. She stated that she knows how important it is to take care of the community, and they will take care of the community whether they own it or sell it to somebody else to take care of it; they will make sure it is the right fit.

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 Ordinance No. 19-15 passed on first and only reading.

Ordinance No. 20-15 An Ordinance Abolishing The Non-Reverting Capital Pool Fund (Sponsored by Mayor Dennis)

Mayor Dennis read Ordinance No. 20-15 by title only.

COMMON COUNCIL MEETING MINUTES, July 6, 2015, CONTINUED

Councilor Keen moved for passage of Ordinance No. 20-15 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Parks Superintendent Fawley explained that this is to allow the Non-Reverting Capital Pool Fund go into the Parks and Recreation Fund. It allows more latitude in how the money is used throughout the parks rather than just for the pool. She stated that the fund was originally developed by the Park Board and it is part of the bond that has been paid off.

Councilor DeBoer asked for confirmation that this is not time sensitive.

Superintendent Fawley confirmed this and stated that this is required to be read over the course of two regular meetings.

Councilor Burch asked what the dollar amount is that is being transferred.

Superintendent Fawley responded that at this point it is over \$200,000, but there is still money coming out for this year's appropriations.

Clerk-Treasurer Rhodes explained that because the budget will be filed at the end of this month, prior to the second reading, the intent is to have one budget if there is a successful first reading tonight. The budget that will be filed would be the Parks and Recreation budget; the Non-Reverting Capital Pool Fund budget would not be filed for 2016. She clarified that no bond money proceeds were put into this fund. It was an accumulation of pool admission fees over the years. She stated that she believes the Park Board decided to create this special purpose fund after the bonds were paid off. They thought that they would direct pool admissions to fund capital improvements to the pool.

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 Ordinance No. 20-15 passed on first reading.

Ordinance No. 21-15 An Ordinance Providing For Temporary Loans (General Fund, CCD, SAFER Grant) (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 21-15 by title only.

Councilor Keen moved for passage of Ordinance No. 21-15 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

COMMON COUNCIL MEETING MINUTES, July 6, 2015, CONTINUED

Councilor Burch stated that we are transferring money from the WWTU to the SAFER Grant. She stated that she needs clarification on if this is because we do not have the entire \$300,000 grant that was awarded, or if it goes back to her question of how to pay these individuals when we no longer have this money.

Fire Chief Heath stated that we request funds every two weeks, when we have a pay period, and we can only have one request for payment out at a time with the federal government. He explained that we did not actually receive the full amount of the grant to put into our account at the time it was awarded. There is an account that the federal government has, and we request funds out of that account. He stated that they are not always timely in sending those funds. He stated that this transfer covers those funds have not been received until the federal government catches up with their system.

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 Ordinance No. 21-15 passed on first reading.

Clerk-Treasurer Rhodes requested a second reading of Ordinance No. 21-15.

Councilor Keen moved to suspend the rules and hear Ordinance No. 21-15 on second and final reading. The motion was seconded by Councilor Burch and the motion passed by voice vote.

Mayor Dennis read Ordinance No. 21-15 by title only.

Councilor Keen moved for passage of Ordinance No. 21-15 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

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

COMMON COUNCIL MEETING MINUTES, July 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. 21-15 passed on second and final reading.

Resolution No. 17-15 (Amended) A Resolution To Authorize The City Of West Lafayette To Apply To The Indiana Economic Development Corporation For Designation Of A Certified Technology Park (Submitted by the Department of Development)

Mayor Dennis read Resolution No. 17-15 (Amended) by title only.

Councilor Keen moved for passage of Resolution No. 17-15 (Amended) on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor DeBoer asked if we figured out the form issue at Pre-Council.

Director of Development Poole asked if Councilor DeBoer is referring to the language of Attachment C.

City Attorney Burns stated that there were two issues. One was that the legal description needed to be cleaned up so it was more legible, and that was done by a successful motion at Pre-Council. The second issue was about the fact that Attachment C is not ready at this time. In order to take care of that issue, Clerk-Treasurer Rhodes has inserted a placeholder as an Attachment C. At the time that the attachment is prepared and ready, then the Council will be asked to attach that at that time. At a future meeting there will be a motion to attach the finished document. He asked Director Poole to explain the document.

Director Poole stated that Attachment C is to describe an incubator that would be placed within the aero technology park. At this point we do not know where it will be, how big it will be, and the details have not been put together. He stated that it has been discussed with the State, and they are fine with the fact that we do not have that detail information ready yet.

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. 17-15 (Amended) passed on first and only reading.

COMMUNICATIONS

► Councilor Burch reported that the Indiana Historical Society has an exhibit at the Tippecanoe County downtown library, entitled Indiana Disasters. It is free and open to the public from July 5 to July 30.

► Councilor Bunder reported that the West Lafayette Public Library is holding a read-a-thon fundraiser with Barnes and Noble on Monday July 13 from 9:00 a.m. to midnight. They have organized half-hour sessions for people to read a part of *To Kill a Mockingbird* because Harper Lee's next novel drops at midnight.

CITIZEN COMMENTS

► Dev Verman, Purdue Graduate Student Government (PGSG), spoke about a new program for international students. He stated that coming here is not always the easiest move, so this new program will provide temporary accommodation for up to three nights with hosts. Some graduate students are acting as hosts, but they are hoping to recruit more community members who will be willing to host. He stated that this will be a better start and more welcoming for these students to the City of West Lafayette, the State of Indiana, and the United States.

► Thomas Kesler (479 Maple Street) spoke about concrete in the gas line work areas in New Chauncey. He expressed concern about needing to pick up trash in his yard more frequently, and stated that he again requests tight-fitting lids on the trash cans that are left in the alleys. He stated that he is pleased that the State cancelled its contract with Porter Novelli as he thought it was a waste of his taxpayer dollars, and the State leaders should fix image issues themselves. He stated that, regarding a newspaper headline, "Hoosers' Purchasing Power Lags National Average," he would like to say that this is the other side of the coin of the State's pro-business perspective. He stated that in listening to tonight's planned development discussion he was reminded that when his parents passed, the kids sold everything and divided the money, and he knows that this happens with properties in New Chauncey. He stated that he was glad to hear that there is a strong concern about the property at the north end.

► Jan Myers (1909 Indian Trail Drive) asked that tonight we think about celebrate two anniversaries—the 25th anniversary and the 42nd anniversary. She stated that in 1973 the Rehabilitation Act came into existence, which was to make all government facilities available. In 1990 was the enactment of the Americans with Disabilities Act (ADA), which allowed access for all disabilities. She asked that we think about how walkable, livable, and "visitable" the community is. She spoke of how she ended up in the street while at the Art in Bloom event, and she mentioned that there are sidewalk codes for power wheelchairs. She asked if the City has a sidewalk inventory. She asked what if West Lafayette could delay accepting streets from INDOT. She stated that she is not aware of a walkthrough for River Road to look at pedestrian safety, and now INDOT's response is that it belongs to the City. She stated that most of what she has talked about has to do with her "roundfeet." She asked that everyone think about if they had to wear disposable underwear every time they attended or used a City or Parks facility. She stated that she has not found a restroom that is truly ADA compliant, and that is a part that does not make the City livable. She stated that she grew up in 4-H and believes in the phrase, "we can always make the best better." She stated that it has been 42 years since the City was to be compliant under the Rehabilitation Act. She asked that we try to make our City walkable, livable, and visitable.

► Councilor Burch asked if there is any recourse for Mr. Kesler or the other citizens, or for the City, who is affected by the gas company work to get things put back properly and looking decent.

City Attorney Burns stated that the gas utility is like any other utility or person who gets a permit or works in rights-of-way. They have to put it back to substantially the same condition. It is dependent on weather, but at the end of the project it will be re-graded, reseeded, and put back in the same condition in which they found it. It may take some prodding. He stated that it will take a certain amount of time to get done, just like any other project.

Ms. Myers stated that she has been in contact with Vectren because under ADA, disability rights are civil rights. She stated that the gas company does not have the right to delay repairing the sidewalk until they are finished with the contract. They are to be repairing it right along, and she has been calling them. She stated that anytime someone is doing that in the City by not making it walkable, livable, and visitable, they are violating civil rights.

Councilor Burch stated that she has seen some semi-repairs with gravel and sand after they have ripped up some nice grass and plantings. She wondered how soon they need to get it as close as they can to what it was before.

Councilor Bunder stated that he would thank City Attorney Burns for facilitating a way for the citizens to find an email or phone number for Vectren that they can complain to instead of their City Councilman. He stated that this occupies a considerable portion of his time.

ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting the time being 7:39 p.m.