

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
AUGUST 4, 2014

The Common Council of the City of West Lafayette, Indiana, met in the Multi-Purpose Room at the Morton Community Center on August 4, 2014, at the hour of 6:30 p.m.

Mayor Dennis called the meeting to order and presided.

The Pledge of Allegiance was repeated.

OATH OF OFFICE: Nick R. Councilor DeBoer, Council District 1

Mayor Dennis stated that he will administer the Oath of Office to a new Council member. He explained that Mr. VanBogaert is taking an employment opportunity outside of the State, so he has surrendered his seat. Mayor Dennis administered the Oath of Office to Nick DeBoer and invited him to tell a bit about himself.

Councilor DeBoer stated that he graduated from Purdue University in 2011 with a degree in Political Science and History. He explained that Eddie VanBogaert asked if he would be interested in taking over this seat when Mr. VanBogaert started looking at job opportunities in Chicago, so he has been attending the Council meetings and getting to know the members during the past year. He stated that he loves the City and feels privileged.

ROLL CALL

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

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

MINUTES

Councilor Keen moved for acceptance of the minutes of the July 3, 2014, Pre-Council Meeting, and the July 7, 2014, 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.

Mayor Dennis stated that the intersection at Salisbury and Navajo Streets is open and he complimented Public Works Director Buck. He noted that there is a lane that is now shared by bikes and cars which has markings called *sharrows*.

Councilor Hunt stated that there is also a pad for the relocation of a bus stop which Director Buck has included.

PUBLIC SAFETY AND ORDINANCE

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

Mayor Dennis complimented police Chief Dombkowski for the Department's work during the recent hail event.

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 Dietrich stated that there is no report, but he thanked the department heads for meeting with the Councilors at the budget work sessions prior to tonight's vote.

REPORT OF APC REPRESENTATIVE

Councilor Keen stated that there are two items on the agenda.

SPECIAL REPORTS: None

PUBLIC RELATIONS:

Beautification Award

Councilor Burch presented the Beautification Award to Eva and John Christos (2200 Happy Hollow Road) and described the design of their garden.

Mr. Christos thanked the Council.

FINANCIAL REPORT

Clerk-Treasurer Rhodes stated that the first reading of the 2015 budget is this evening. There will be a public hearing on September 2, and the final vote is planned for the October Council meeting.

LEGAL REPORT

City Attorney Burns stated that this report is on file. In response to an inquiry from Councilor Bunder, City Attorney Burns stated that conversations are ongoing regarding the Lutz Street fire.

Mayor Dennis asked if Kent Frandsen, the attorney handling the case, should be asked to attend a Council meeting, and Councilor Bunder responded yes.

City Attorney Burns stated that he would guess that due to the type of questions that would be asked, it should be done at an Executive Session.

UNFINISHED BUSINESS: None

NEW BUSINESS:

Ordinance No. 22-14 To Rezone Certain Real Estate Within The City Of West Lafayette, Indiana And Designating The Time When The Same Shall Take Effect (FRP Holding Company) (South Street Station PD) (R3W to PDRS) (Submitted by the Area Plan Commission)

Mayor Dennis read Ordinance No. 22-14 by title only.

Councilor Keen moved for passage of Ordinance No. 22-14 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Dan Teder (Reiling Teder & Schrier, LLC), attorney for the petitioners, stated that this rezone request is from R3W to PDRS for property located at 42 and 48 North Salisbury Street and 149 Littleton Street. The project will be known as South Street Station. He stated that the Council has previously been given a handout with a narrative and architectural drawings. The APC staff voted 11 yes to 0 no on this project and input from the APC and the City departments have been incorporated into the plans. He described some of the amenities, including the Ann Tweedale easement which will allow for beneficial traffic flow. There will be a public arts display with seating which is to be finalized with input from the City. Mr. Teder provided details on the number of units, bedrooms, and parking spaces. He stated that the project cost would be \$8 million.

Mayor Dennis stated that he believes there was a question as to how much would it generate in revenue for taxes.

Mr. Teder commented that the City could calculate that number better than he can. He stated that he believes it is a fantastic number for the City, and the \$8 million cost shows what the developers intend to do at this site. He noted that requirements are met for the Tippecanoe County Comprehensive Plan and the New Chauncey Neighborhood Plan.

Councilor Bunder asked if demolition of the current buildings has already begun.

Mr. Teder stated that regardless of what happens, the buildings there are in such poor condition that the owners sought a demolition permit. It has been boarded up and the decision was made that it has to be torn down.

Councilor Bunder thanked Mr. Teder for referencing the New Chauncey Plan. He stated that he likes this project, but his nervousness is that if this were an occasion where there was an argument for historic preservation or the land use plan, then moving ahead before the Council approves is—

Mr. Teder stated that he understands but the developer's concern was that they did not want the liability sitting there anymore. It was understood that it still had to come before Council and they did not have the intent that it would automatically pass. Mr. Teder stated that he thinks that it was appropriate for this site.

Councilor Keen stated that he drove by there and it looked more like a salvage operation as opposed to a destruction of property and it was not being torn down yet.

Councilor Dietrich expressed disappointment that we are excited about the fact that the parking space ratio is a little over half of what the ordinance says about having one-to-one per bed.

COMMON COUNCIL MEETING MINUTES, August 4, 2014, CONTINUED

This is 0.62 and it is better than what was brought other times, but it is still a far cry from what the ordinance says it should be.

Mr. Teder stated that there is one per unit and that is much more positive than what the Council has seen. He believes that due to being close to campus there will be a lot of bicycles and a lot of people walking.

Councilor Dietrich stated that a nice job has been done on this project in making spaces available, but the lesson to him is to be careful on what is approved because it gets a little bit undercut each time. We have allowed this to deteriorate from one to sometimes a half or 0.6. The ordinance needs to be reviewed and say that we do not have the right number or we need to be more adamant about how we are doing this.

Mr. Teder stated that he believes Director Buck tries to do that with the Council before and have the parking standard changes in the Village area, but the Council did not want to at that point. Mr. Teder stated that he believes it is relevant and that the parking is not needed in that area that is needed elsewhere. He believes there will be fewer projects coming in the Village area because there are fewer redevelopment possibilities there.

Brent Davis (CSO Architects) discussed the design of the building. In response to a question from Councilor Hunt, Mr. Davis stated that the tower feature is for utilities; it is not an apartment.

Zachary Baiel (124 Connolly Street) stated that he saw that some of the buildings had already been razed and he appreciates the Council addressing that. He expressed some concerns, including that it is adding a residential-only building and the impact of adding more bedrooms. He asked how the buildings were able to get in such a state that they needed to be town down.

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 7 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 22-14 passed on first and only reading.

Ordinance No. 23-14 To Rezone Certain Real Estate Within The City Of West Lafayette, Indiana And Designating The Time When The Same Shall Take Effect (Medalist Holdings, LLC) (PDNR to NB) (Submitted by the Area Plan Commission)

Mayor Dennis read Ordinance No. 23-14 by title only.

Councilor Keen moved for passage of Ordinance No. 22-14 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mr. Teder, attorney for the petitioner, stated that this project will be known as Yeager Terrace, and the rezone is PDNR to NB. He stated that it received a favorable APC staff report and recommendation with a unanimous yes vote. The property is owned by Purdue Research Foundation (PRF) and PRF supports this request. He explained that there is a binding purchase agreement with PRF on this matter and the agreement is specific and demands quite a bit of quality. It includes that PRF does not want fast food with a drive-through or discount retailers, and they do want a sit-down restaurant. He described the retail office and the two out-lots. He stated that the ordinance is met for parking, building coverage, and vegetation; there will be no variances for those items. He explained that the NB zone includes most retail uses while the OR does not, and NB does not allow a drive-through restaurant. He stated that the cost of the project is approximately \$3.5 million.

Councilor Keen expressed his appreciation for the change from GB to the more restrictive NB.

Chris Kulesza (190 Burke Court, Apt. 312), President of the Purdue Graduate Student Government (PGSG), stated that having a development project like this is something that will help attract graduate students to West Lafayette.

David Hodde (PRF Assistant Vice President and Director of Real Estate), stated that he worked with the petitioners on this project for a good while to get a product that will be beneficial for the Research Park and for the City. It will be neighborhood-friendly and will serve as an amenity. He expressed his support of the project and asked for the Council's support.

Mr. Baiel stated that he is happy to hear about the local restaurant but is disappointed that it is a strip mall development along Sagamore Parkway. He stated that he finds it curious that the APC gave consideration to the adjacent companies and residences as the rezone change but does not vocally express these same concerns in other instances. He gave the example of development along New Chauncey.

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 7 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 23-14 passed on first and only reading.

Ordinance No. 24-14 An Ordinance Requesting An Additional Appropriation For The Rental Housing Inspection Fund (Sponsored by Mayor John R. Dennis) PUBLIC HEARING

Mayor Dennis read Ordinance No. 24-14 by title only.

COMMON COUNCIL MEETING MINUTES, August 4, 2014, CONTINUED

Councilor Keen moved for passage of Ordinance No. 24-14 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis stated that we have had a lot of litigation and we will continue to have some in regards to the code enforcement programs as well as some of the situations that have happened over the past few months. This revenue is dedicated to that and to replenish what has been spent.

Director of Development Poole stated that we are requesting an additional appropriation for rental housing for legal bills to be paid. There were some costs this year that were not anticipated. He stated that we need to make sure that we are well-equipped and that our legal team is well-funded so the correct decisions can be made.

Councilor Hunt asked if the end is in sight at all of the extra spending for this issue.

Director Poole responded that for the particular cases in front of us, he would say that we are rounding the corner to understanding where we are going and getting towards a resolution. He does not know about next year.

Mayor Dennis stated that in the case of litigation it is difficult to calculate the timeline and the actual costs.

Councilor Bunder asked if this is paying Mr. Frandsen or if it paying something for the Housing Maintenance Board of Appeals, and Director Poole responded that it is for both.

Clerk-Treasurer Rhodes explained the finances behind this. She stated that several years ago statute required that the Rental Housing Inspection Fund be created. All revenues from fines for rental housing inspections were to go in this fund and the costs of running the code enforcement program were to be paid out of this fund. The fund began with a transfer from the General Fund of approximately \$70,000. This additional appropriation cannot be funded by revenues to the Rental Housing Inspection Fund; it is being funded by a transfer from the Economic Development Income Tax (EDIT) Fund. She explained that the Mayor has the statutory power to make that transfer, with the only requirement being that the Capital Improvement Plan for EDIT be revised and filed. She stated that this situation in which the Rental Housing Inspection Fund is not able to support all of the activities needed to perform the function is not just the additional \$50,000 this year. We have the same issue with the proposed budget for next year, in which we are also planning to transfer money from EDIT. She asked that the Council be aware that the code enforcement program will continue to need support from other funds in order to carry out its responsibilities.

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, August 4, 2014, CONTINUED

	AYE	NAY	ABSENT	ABSTAIN
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 24-14 passed on first reading.

Councilor Keen moved to suspend the rules to consider Ordinance No. 24-14 for second and final reading. The motion was seconded by Councilor Burch, and the motion passed by voice vote.

Mayor Dennis read Ordinance No. 24-14 by title only.

Councilor Keen moved for passage of Ordinance No. 24-14 on second reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor Keen moved to open a public hearing on Ordinance No. 24-14. The motion was seconded by Councilor Burch, and the motion was passed by voice vote.

Mr. Baiel said, "Real briefly, as a member of the public and also Chair of the Housing Maintenance Appeals Board, I support, obviously, this increase for the Department of Development for its legal services to continue. And as Rhodes as stated, this is going to be a fund that will need funding for years to come to keep the code enforcement alive. I urge the Council to vote in favor of that. Thank you."

There was no further discussion.

Councilor Keen moved to close the public hearing on Ordinance No. 24-14. The motion was seconded by Councilor Burch, and the motion was passed by voice vote.

Councilor Dietrich asked, with regard to Clerk-Treasurer Rhodes' comment, if there is an avenue of escape for us as it is a fee-driven fund.

Clerk-Treasurer Rhodes responded that the point of the legislation was to assure property owners that the fees paid were being used to support the code enforcement programs rather than a source of funding for general City operations. That has been accomplished, but as far as the sufficiency of funding, that is not part of the legislation. She stated that she does not know if there is any other option for us in terms of funding code enforcement; whether fees have been frozen by legislation or not.

Mayor Dennis stated that the fee schedule should be looked at and try to accommodate it for the projected expenditures. That would have to come in front of the legislative body.

Councilor Dietrich asked if money won from a settlement would go into this fund as well, and Clerk-Treasurer Rhodes responded that it would.

Director Poole stated that the rental housing inspection program has been a hot topic of debate at the State House for the last couple of years. He and Housing Program Coordinator Dixon have been there testifying. West Lafayette's program and any other that was in existence prior to 1984 is grandfathered in. He explained that for a while there was a moratorium on any new

programs or changes to fee structures so we had to wait for that to expire. He expects that this will be under attack again in upcoming years because there have been some communities that decided to use these funds to pay for other expenses rather than the rental certification inspections. He stated that West Lafayette is one of the shining starts of that debate and we are very proud of that.

Mayor Dennis stated that it is under attack. The general consensus of the legislation is to get rid of all of that and have it self-policed. Living in a college community, we know that there are a lot of outstanding landlords who are very conscientious about their properties, but we have also been exposed to those who are less conscientious. He stated that if we do not hold their feet to the flame and have some sort of punitive mechanism in place, it does sort of make us like a toothless shark.

Councilor Bunder expressed appreciation for this being done. He stated that this kind of support for housing inspection is a good thing and a comfort to his constituents. He asked if consideration has been given to raising the fee, sooner rather than later.

Mayor Dennis stated that we have been looking at all of our fees and fines and some of the expenditures that we incur in the City which can possibly be elevated to be more competitive with the marketplace. We provide services at a great discount. It is something that all of the department heads have been tasked to do; they have been asked to look at opportunities for generating revenue to provide some relief on the General Fund. That includes a conversation about fire hydrants.

Councilor Dietrich stated that his question to City Attorney Burns was that if we are maxed out on our fines, it seems we are dealing with a group that is deviating from the norm. Rather than raise the fee across the board, perhaps we should look at the fine structure.

Councilor Keen stated that he met with City Attorney Burns this morning and discussed this very topic. One thing that came out of that discussion was that we need to look at collecting all of the fees that the City has involved in ordinance violations. We need to look at administrative costs, actual costs, for all things considered. He hopes to move forward with ways to accomplish that.

Mayor Dennis stated that as a former police officer, you quickly realize that if the punitive measure is nothing more than a nuisance then it is very difficult to hold people to compliance.

Councilor Keen noted that it would be cheaper to have the City come mow the grass than it would be to hire somebody. That is something that needs to be looked at under the current structure and see where the City can effectively recoup costs.

Sally Mohler (4033 Willowwood Drive, Lafayette) asked if there is something similar to what is done for restaurant inspections in that people who do not pass get published in the paper. She believes this would be powerful and would get the word out to potential renters.

Mayor Dennis asked Councilor DeBoer if there is a website that publishes that information.

Councilor DeBoer responded that there are but he does not know about the accuracy.

Councilor Bunder stated that we have periodically thought of a way the City could do that at minimal cost and it has been difficult to accomplish.

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 7 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 24-14 passed on second and final reading.

Ordinance No. 25-14 An Ordinance Setting The 2015 City Budget And Setting The 2015 Tax Levy On Property And Tax Rate (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 25-14 by title only.

Councilor Keen moved for passage of Ordinance No. 25-14 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis stated that this is known as the spending plan, or the budget for 2015. He thanked each of the Councilors who contributed to the budget. This budget is approximately 4% higher than the 2014 budget. The increase is for the most part due to the costs incurred in annexation, but it also accounts for the revenue that will be generated from that.

Clerk-Treasurer Rhodes stated that following the first reading, the budget will be advertised. Once it is advertised it cannot go higher. It is advertised with a levy and a tax rate significantly higher than we expect to receive. These are recommendations of the Department of Local Government Finance (DLGF) which provides the City with the greatest flexibility as we go through the budget process and make adjustments in various funds as the Council chooses. She stated that we may approve a budget with a particular levy, but in the City of West Lafayette we need to automatically subtract one million dollars from revenues to take into account the effect of circuit breaker. She stated that we do not expect much of a change in the tax rate. However, due to the circuit breaker, what an individual taxpayer pays depends very much on the type of property they own and the jurisdiction they are in. It is not as simple as used to be to strictly look at the tax rate and calculate whether taxes will go up or down. For many residents of West Lafayette, taxes are frozen due to circuit breaker.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch	✓			
DeBoer	✓			

COMMON COUNCIL MEETING MINUTES, August 4, 2014, CONTINUED

	AYE	NAY	ABSENT	ABSTAIN
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 25-14 passed on first reading.

Resolution No. 15-14 A Resolution Appropriating Insurance Recovery Received For Damage To City Property (LRS) (Submitted by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 15-14 by title only.

Councilor Keen moved for passage of Resolution No. 15-14 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Director Buck explained that this is for damage to a traffic controller and cabinet that was hit on Wood Street.

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 7 AYES and 0 NAYS.

Mayor Dennis announced that Resolution No. 15-14 passed on first and only reading.

COMMUNICATIONS

► Mayor Dennis stated that September's Council meeting is on Tuesday, September 2, due to the Labor Day holiday.

► Councilor Dietrich congratulated the West Lafayette marching band for qualifying for the State finals.

► Councilor Bunder stated that he has a suggestion for a Fun with the Mayor video, which is to explain the new sharrow marks at the intersection of Salisbury and Navajo Streets. He explained that a member of his congregation was confused by the markings and how the lane is to be used.

CITIZEN COMMENTS

► Mr. Kulesza reported that occupancy at the new Student Graduate Community Center will start on August 15. He invited the Council to a ceremonial opening on September 5. He also invited them to the New Graduate Student Convocation on August 22 and a picnic on September 19. Referring to the discussion about rental property rating systems, he stated that work is still being done on a community guide for new graduate students that the PGSG is trying to get more students to use. There is a website run by the University with the Director of Off-Campus Housing, Ashley Darnell. He stated that it is true that there is a negative bias to ratings but it helps to see the number of people who decide to complain.

► Kay Miller (8143 Old State Road 25 N) stated that she is returning to the Council to provide an update and ask for assistance in opposing the proposed stone quarry north of Americus. She explained that the West Lafayette Council is important in Tippecanoe County activities as it appoints two representatives to the Board of Zoning Appeals (BZA), which will hear a request for variances and a special exception to the zoning ordinance for an industrial mining complex. She explained that support can be in the form of a resolution or a letter to be read at the BZA. She described the possible environmental impact of the quarry on the area and the aquifer system. In response to a question from Councilor Keen, she stated that the BZA meeting has been rescheduled and will be no sooner than September.

► Mr. Baiel suggested a Bike with the Mayor video. He encouraged the Council to attend the Faith West tax hearing. Mr. Baiel stated that he has been using the OpenSpending platform to help visualize the proposed budget and has made it available on his website. He stated that he has taken to picking up trash during walks in the New Chauncey area, inspired by the concrete cleanup done by Thomas Kesler, and he hopes to expand the effort.

► Councilor Hunt reported that the Meet and Greet event is on August 26, explaining that a group goes out to the new rentals to provide information. A magnet on "How to Party Without Getting Busted" catches attention. She noted that at the Faith West hearing on August 7 public hearing will not be taken, but some have made written comments.

City Attorney Burns added that it is written comments unless someone is called as a witness.

ADJOURNMENT

There being no further business at this time, Councilor Keen moved for adjournment, and Mayor Dennis adjourned the meeting the time being 7:57 p.m.