

CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES
February 2, 2012

The Common Council of the City of West Lafayette, Indiana, met in the Lower Level Conference Room at City Hall on February 2, 2012, at the hour of 4:30 p.m.

Mayor Dennis called the meeting to order and presided.

Present: Bunder, Burch, Hunt, Keen, Thomas, and VanBogaert.

Absent: Dietrich.

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

Councilor Keen reported that the Muinzer Project will be up for first reading on the APC Meeting Agenda. Councilor Burch asked if Faith West Project will also be on the agenda and Councilor Keen responded that it would not.

Mayor Dennis observed that during the Special Reports section of the Common Council Meeting, Development Director Poole will be giving his Redevelopment Commission 2011 Year End Report and Jim Treat will be presenting to the Council the Wastewater Utility Budget.

Councilor Hunt reported that she will be re-nominating Joe Krause to the Greater Lafayette Public Transportation Corporation Board. He rides the bus all the time and is already on the Board. She also reported there was a vacant spot on the Police Merit Commission and that she will be nominating Nina Kirkpatrick to the Police Merit Board. Nina has already been serving an unexpired term on the board to fill in for someone on sabbatical.

Resolution No. 03-12 A Resolution Requesting The Transfer of Funds (CCD) (Prepared by the Clerk-Treasurer).

Mayor Dennis read Resolution No. 03-12 by title and asked for comments or questions.

Clerk-Treasurer Rhodes explained that the purpose of this resolution was to transfer appropriations to necessary accounts to pay for the city's share of the new Information Technology Manager's salary. Mayor Dennis introduced the new Director, Anthony Newman and welcomed him.

Mayor Dennis asked about the possibility about getting I-pads for each of the Council members in an effort to get rid of the paper packets which are sent out and prepared each meeting. The prospect will be taken under consideration. Clerk-Treasurer reported that City Code requires each member to be given a copy, but that it doesn't matter whether the copies are electronic or paper form.

There was no further discussion.

COMMUNICATIONS

Clerk Treasurer Rhodes introduced her new Administrative Assistant, Deputy Clerk-Treasurer Lesley Turner.

MetroNet

Steve Biggerstaff of MetroNet addressed the Council on the FTTP(Fiber To The Premise) fiber network project. Mr. Biggerstaff reported that MetroNet is an Indiana based and operated company. The proposed Economic Development Infrastructure project would bring fiber directly to the premise of all businesses and homes within our city and the entire community, facilitating access to systems which he said will spawn entrepreneurship, distance learning, the ability to work remotely from home in various business entities, e-books, etc, and thus bring in companies to our city who are looking for locations with that kind of infrastructure in place. Mr. Biggerstaff stated the company was still sizing the project for our city, which will determine bond size. The total cost of the project for our city is expected to be in the neighborhood under \$15 million. It was noted that the purpose of the bond is to attract vendors, not to fund the project.

Mr. Biggerstaff noted some of the more recent communities his company had built out, including Lebanon. He said one of the advantages of the system is it brings only fiberglass, no copper goes to the house. Fiber can also easily be expanded to meet growing needs. The current company standard offers 75 MB to each structure, but is going up each year. He reported a recent large project his company did in Connersville for an ISP Company. The business was threatening to pull out of the community because it did not have the infrastructure needed, and the fiber network infrastructure being implemented quickly convinced them to stay.

Mr. Biggerstaff stated that MetroNet was asking for a TIF district around the fiber itself, not for a geographical area, and for personal property tax. He said that is what is used to set the amount of the bond. The bond should be approximately 10% of the investment cost. When the bond is issued the company then purchases the bond. He shared that the study being done shows capital costs, etc. and the investors are willing to back the cost of the study. Questions were asked about timing of the project and it was reported that the Redevelopment Commission approval would come in late February, and then the resolution would come to the Common Council for formal vote.

The company is working on building two separate sites per the City of West Lafayette request, one for Greater Lafayette and the other for the City of West Lafayette. Councilor Bunder inquired as to why the City was requesting a change to separate projects and TIF districts. Several responses indicated the request was due to a need for financial separation so that the City of West Lafayette could protect its financial interests if there were any future issues with payments or financial liability. Both having the City's own bond, and control over financing and liability is an advantage to the City of West Lafayette. The management of the project will still be under one entity, and the money from the two TIF districts would go into a common fund. However, money in one TIF district will not and cannot be used to fund something in another TIF district, so there is a defined degree of separation.

Councilor VanBogaert asked several technical questions which IT Director Newman and Mr. Biggerstaff addressed, including regarding ratios of aerial or underground power, plans for redundancy to protect from service outages, what the upper threshold of splitting the LPT levels is, if the council would be provided an engineering map of the TIF district being requested for

the fiber system. Mr. Biggerstaff responded that generally there is a 200 home limit on each service. Councilor VanBogaert explained that when there is a passive network, there is a basic location where they push out service across the lines. There is a place where that line splits to go to various locations. Councilor VanBogaert asked about what the bandwidth would be at those locations where the splits occurred, and what the bandwidth caps are. Mr. Biggerstaff was unsure of those limits.

Mayor Dennis asked about the possibility of having an active network installed and both IT Director Newman and Councilor VanBogaert stated it was much more expensive to install an active network, as opposed to a passive network. Mr. Biggerstaff said an active network would be cost prohibitive to the project. Councilor VanBogaert commented that with a TIF district offer the City should be able to expect some incremental upgrades from the company. Councilor VanBogaert asked for clarification on the process moving forward for the Council and City. Mayor Dennis and Clerk-Treasurer Rhodes clarified there would be a declaratory resolution made, a TIF district declared, an engineering study, and then a vote on the final decision on the project. Mr. Biggerstaff stated that the engineering study would include length of fiber to be installed, amounts and costs of fiber, locations to be affected, and a timeline for the project.

Councilor Hunt asked Attorney Burns about safety concerns, with regard to the City's financial obligations if there is a financial failure in this project. Attorney Burns noted that Mr. Biggerstaff had addressed that concern in stating that MetroNet takes on the bond itself so there would be no financial obligation, and also noted that the city could negotiate about having first right of refusal in order to look at potential buyers, should MetroNet decide to sell off the utility, or the city could decide to make it a city utility that it hires out the operation of to a company it can trust.

Tax Exempt Entity Taxation

Linda Phillips, Tippecanoe County Assessor was present at the meeting to answer questions about state laws regarding assessment and taxation of Not for Profit entities. Clerk-Treasurer Rhodes asked what happens when a tax exempt entity operates a for profit business, for example, an entity that would have a tax exempt function in one building and a restaurant in another building. Assessor Phillips explained that Not for Profit determinations are made by the local Property Tax Assessment Board of Appeals (PTABOA) under the authority of Indiana Code 6-1.1-10-16 which states very clearly that a property may be granted Not For Profit Exemption only if the property is not used by the Non Profit entity to make a profit. Assessor Phillips noted that in some cases the State Tax Court has ruled that Not for Profit entities may make a profit, and profitable entities may have charitable purposes, so the determination is really on a case by case basis. Beyond the PTABOA decision, entities may appeal a decision to the Indiana Board of Tax Review (IBTR), and beyond that to the Indiana State Tax Court. She explained that in 2009 the State Codes were changed drastically, and some entities do have split valuation where part of the property is Not for Profit and part does not have that exemption applied.

Clerk-Treasurer Rhodes inquired about situations with retirement communities claiming Not for Profit status. County Assessor Phillips stated that the PTABOA generally holds that a property has to be owned, occupied and operated by a tax-exempt organization.

ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment and Mayor Dennis adjourned the meeting, the time being 5:30 p.m.