

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

The Common Council of the City of West Lafayette, Indiana, met in Council Chambers at City Hall on August 26, 2012, at the hour of 4:30 p.m.

Mayor Dennis called the meeting to order and presided.

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

Absent: Thomas

Also present were City Attorney Associate Murtaugh, Clerk-Treasurer Rhodes, Police Chief Dombkowski, Street Commissioner Downey, Human Resources Director Foster, Fire Chief Heath, WWTU Director Henderson, Parks Superintendent Payne, Information Technology Manager Newman, Director of Development Poole, Deputy Fire Chief Schutter, and Assistant City Engineer Susong.

Mayor Dennis reviewed the agenda and asked for comments and questions.

MINUTES

Councilor Hunt noted that the surname of Lynn Layden, presenter of the Beatification Award, should be corrected in the draft minutes.

Clerk-Treasurer Rhodes stated that the correction would be made. She also asked if anyone could help with the spelling of names for any of the public speakers who spoke at the last meeting.

REPORT OF APC REPRESENTATIVE

Councilor Keen stated that the Faith West Planned Development Phase I and the Lindberg Village Planned Development Phase II passed final detailed plans at APC unanimously.

SPECIAL REPORTS

Councilor Hunt complimented Police Chief Dombkowski on the comment he made about the immigration ruling, published in the Journal and Courier on August 1, saying she respected it very much.

Police Chief Dombkowski came forward to explain his comment. He stated that last year a state law was passed that would have gone into effect, had there not been a stay on portions of it. It would have obligated local law enforcement to enforce federal immigration law at a City level. This law had similarities to the Arizona law that went before the United States Supreme Court. The ruling from Indiana Attorney General Zoeller was that portions of that law are not enforceable; therefore, they are asking the police to not enforce any parts of that law. Police Chief Dombkowski's published opinion had to do with the part of the law that would require local law enforcement to check immigration status of people who are stopped, should there be

suspicion that the person does not belong in our country, and take action at a City level. He felt that this could have damaged the relationship with the international student population in the City, pointing out that we, arguably, have the largest international population at a university in the country. He further stated that the Police Department is not interested in becoming federal immigration agents, nor do they have the resources.

Mayor Dennis agreed that Police Chief Dombkowski had made a good comment.

PUBLIC RELATIONS

West Lafayette Community Beautification Award

Councilor Hunt noted that Councilor Burch will be presenting the Beautification Award to a group at University Place.

FINANACIAL REPORT

Clerk-Treasurer Rhodes noted that the budget calendar is available.

UNFINISHED BUSINESS

Ordinance No. 14-12 An Ordinance Vacating An Alley in the City of West Lafayette, Indiana (Sponsored by Mayor John Dennis)

Mayor Dennis read Ordinance No. 14-12 by title and stated that this is Part B of 720 Northwestern.

There was no discussion.

Ordinance No. 19-12 An Ordinance Requesting An Additional Appropriation For The Motor Vehicle Highway Fund (Prepared by the Clerk-Treasurer) Public Hearing

Mayor Dennis read Ordinance No. 19-12 by title only.

There was no discussion.

NEW BUSINESS

Ordinance No. 20-12 An Ordinance Requesting An Additional Appropriation For The General Fund And Economic Development Income Tax Fund (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 20-12 by title only.

Clerk-Treasurer Rhodes explained that the appropriation for the Fire Department for 1977 Pensions, in the amount of \$76,380, is necessary to reflect the fact that we have had to change the plan to use the Fire Pension Fund unappropriated balances thought not be needed because it was thought that the State would be covering 100% of the old pension plan. It turns out that the plan has been revised based on two factors. One factor being the retirement of a firefighter under the partial lump-sum distribution program in June, which resulted in the immediate payout of over \$100,000. The other factor was the shortfall of pension relief payments of nearly \$150,000 for this year. Therefore, in order to protect the balance of the fund going forward for obligations over the next 18 months, it is requested for those obligations be paid out of the General Fund. Given changes in pension rosters and available appropriation balances, we need the appropriation of \$76,380. The budget has been worked with this included. The second appropriation is in the Economic Development Income Tax Fund for water. This is for the

hydrants, now called the firefighting protection fee, in the amount of \$20,000, which is the impact of the rate increase. This brings the total annualized cost for fire hydrants for the City to over \$306,000 a year, in terms of the upcoming budget.

Councilor Dietrich questioned what percentage of this the State is funding if not 100%.

Clerk-Treasurer Rhodes explained that it is a variable percentage, and the shortfall of the fire pension this year was approximately one-fourth of the \$600,000 of pensions to be paid. The State eliminated all levies at the local level and said it would directly fund 100%, based on our reports to them.

Councilor Dietrich asked how many firefighters are on this current plan.

Clerk-Treasurer Rhodes responded that there is only one firefighter still under the old plan; he is not yet retired.

Councilor VanBogaert questioned the source of the revenue, if it would match how those funds are ordinarily funded.

Clerk-Treasurer Rhodes replied that we currently fund the bulk of the 1977 pension obligation out of the General Fund in the Police and Fire Departments. The fire protection fee is funded out of the Economic Development Income Tax (EDIT) Fund.

Councilor VanBogaert asked if it is correct that the source of this supplemental appropriation is reserves, and Clerk-Treasurer Rhodes affirmed that it is.

Councilor Dietrich asked if this meant that this would be a recurring cost to the City until that firefighter's retirement.

Clerk-Treasurer Rhodes responded that the lump-sum payment was a single payment, and that firefighter is now added to the pension roster. This means that the overall monthly pension costs will increase, but we will not see another one-time payment. The program was eliminated in June 30, 2012.

There was no further discussion.

Ordinance No. 21-12 An Ordinance Setting The 2013 City Budget And Setting The 2013 Tax Levy On Property And Tax Rate (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 21-12 by title, and explained that it is a spending plan for 2013. He verified that all members had received all documentation.

Councilor VanBogaert commented that there are a number of readings on the calendar, as there was last year, and once filed with the Department of Local Government Finance (DLGF), he understands that there certain things that cannot be changed. He asked for clarification if there is any latitude for amendment in the Council process, or of this is simply a review process with a dichotomous vote,

Mayor Dennis replied that at this point, you can change the budget, but it cannot go up, it can only go down, but you can shift.

Clerk-Treasurer Rhodes further explained that once the budget is advertised it cannot be any higher. The budget is advertised by fund, not by department. This means that things can be changed in departments within the General Fund after the advertisement, but the total fund amount, the expenditure, cannot be any higher. The first advertisement will need to be published between August 10 and August 18 in order to adopt the budget on the current schedule previously accepted by the Council, which is set for regularly scheduled meetings to ensure that we have a quorum and the highest attendance possible. The advertisement also includes the funds to be raised, or the levy. As shown on Form 4B, the 18-month budget form provided to the Council, the levy is deliberately advertised higher than expected so there is flexibility to make adjustments among the funds that get the levy, up to the point we do budget adoption. It also protects us from changes in revenue that may occur. We do not yet have estimates from the Auditor on our certified assessed valuation or estimates of revenue for the new year. The deadline is August 1, which is after our filing, but typically the Auditor does not have the information to provide for when we file. The DLGF advises local finance officers to use this mechanism, to publish higher in terms of the levy and tax rate that we expect to receive. I provide an estimate of the expected tax rates and revenue in the Form 4B which I have modified for you. It marches from what we publish, to what we may adopt, to what we will actually receive after circuit breaker is processed in spring of 2013. The statutes specify that this is the Mayor's budget and I am filing it as his "chief mechanic." The budget cannot be raised any higher than what will be advertised in the next couple of weeks.

Councilor VanBogaert asked if it is fair to say that if it is the Mayor's budget, as to his approval on the changing of items — although he has no desire to do this — if the Council were to adopt an amendment to the ordinance, the Mayor's signature would be required on that.

Clerk-Treasurer Rhodes responded that once he has filed the budget, by statute no item may be increased without his agreement. It is not a matter of a veto or not. He has to actually agree to raise items. The Council doesn't have the ability to do so without his approval.

Councilor VanBogaert asked if that would include shifts of funds that would not raise the overall expenditure level for the fund. A move from paper clips to pencils in the Engineering Department is not a raise, if it is equal?

Clerk-Treasurer Rhodes responded that the statute should be reviewed but she believed it refers to an item. If you are asking if the budget adoption is by major category – personnel, supplies, services and capital – or if it is filed with the State by fund, she defers to the legal opinion. The instructions that the finance officers have been given is that the statute covers the budget detail that has been filed.

Councilor Dietrich asked if the budget is filed by fund, that movement within the fund is acceptable, so if something goes up, another part would have to go down.

Clerk-Treasurer Rhodes said she was talking in terms of the cap on the published amount, which cannot be exceeded, no matter the desires. After the point it is published, which is after first reading, the cap cannot be exceeded.

Mayor Dennis said he was uncertain as well as to whether it is the total, by major category, or whether it gets down to the individual item.

Councilor VanBogaert said he thinks it would be easy to have it clarified. The budget process is interesting and complicated in this regard, and he knows that we have an extensive calendar of Council oversight on the budget, but if we lack the authority to actually change the budget, it would seem to take a lot of meaning out of our rubber stamp on that process.

Mayor Dennis said in a way the Council does have the authority. It can vote the budget down. In that case, we would revert to last year's budget.

Councilor VanBogaert said he understood that, but that is the nuclear option.

Mayor Dennis agreed, but he invited Councilor VanBogaert to come to talk to him.

Councilor VanBogaert said in a practical measure, he does not have designs on specific actions to that point. He commented that the Mayor has been very good about that, and they have talked this over. He thinks it is important for the integrity of the Council as a body to be aware of its authority in this process because if we are going to have oversight on the budget, we need to know what tools we have in that capacity.

Clerk-Treasurer Rhodes referred the Council to the Form 4Bs that have been provided. The Council controls the operating balance and the levy. It controls other lines through its power to reduce budgets or to approve additional appropriations. The Council has authority to address the budget from very different approaches. It is not a rubber stamp.

Councilor Dietrich asked for confirmation that in fact the Council has control as the year goes on with the budget, in reallocating and moving money around.

Mayor Dennis said as the fiscal body, you do not have operational control, but when it comes to issues like the budget, the Council must agree.

Councilor Dietrich said at least four of us.

Councilor Burch said she has questions on some line items in the budget since we have not met with department heads. She asked when would be the time to address these.

Mayor Dennis responded that she should talk with him, either now or later, whenever she wants.

There was no further discussion.

Resolution No.12-12 A Resolution Appropriating The Necessary Funds Resulting From The 2012 Community Development Application Of The City of West Lafayette Under Title I Of The Housing And Community Development Act of 1974, As Amended (Prepared by the Department of Development)

Mayor Dennis read Resolution No. 12-12 by title only. He explained that this is to approve the spending plan for CDBG.

There was no further discussion.

Resolution No.13-12 A Resolution To Reduce The 2012 Budget (Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 13-12 by title, and then asked Clerk-Treasurer Rhodes for an explanation for this Resolution.

Clerk-Treasurer Rhodes reviewed resolution No. 13-12 (Amended) which had been provided to the Council. Clerk-Treasurer Rhodes explained that the reduction is in the Fire Pension Fund in the amount of \$100,000 due to the matters discussed previously regarding the unexpected lump-sum distribution for Ordinance No. 20-12. The Rental Housing Inspection Fund reduction of \$5,500 is so that we can work the 18-month budget. This is the first full year for the Rental Housing Inspection Fund, and as we fine-tune it we expect to have reversions on several items. This reduction in the 2012 budget allows us to fund the 18 months of appropriations at the maximum level permitted. This is one of the tools the State gives us to make this 18-month budget possible and is included in part of how we work the budget.

There was no further discussion.

Resolution No. 14-12 A Resolution Requesting The Transfer of Funds (Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 14-12 by title only.

Clerk-Treasurer Rhodes explained that this allows us to fund the interns who are working in the Information Technology Department through the summer.

There was no further discussion.

Resolution No. 13-12 [Continued]

Clerk-Treasurer Rhodes stated that Resolution No. 13-12 was originally filed without the Rental Housing Fund and requests amendment by substitution to include it. The Council has received copies of the amended resolution, and this is the document they had just discussed.

Councilor Keen moved to amend by substitution Resolution No. 14-12 (Amended). The motion was seconded by Councilor Burch. The motion was approved by voice vote.

ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment. Mayor Dennis adjourned the meeting, the time being 4:55 p.m.