

CITY OF WEST LAFAYETTE
COMMON COUNCIL
APRIL 5, 2010

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on April 5, 2010, 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, Dietrich, Hoggatt, Hunt, and Keen.

Absent: Thomas.

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, City Engineer Buck, Housing Program Coordinator Dixon, Police Chief Dombkowski, Street Commissioner Downey, Fire Chief Drew, Human Resources Director Foster, WWTU Director Henderson, Parks Superintendent Payne, and Marketing and Grants Administrator Shaw.

MINUTES: Councilor Keen moved for acceptance of the minutes of the February 25, 2010, Pre-Council Meeting, and the March 1, 2010, Common Council Meeting. Councilor Burch seconded the motion, and the motion passed *viva voce*.

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 Hoggatt introduced Boiler Blast volunteers Chan Huynh, President, and Jessica Williams, Director of Community Relations. They described the activities of Boiler Blast, a one-day community service program which has operated since 2004 and provides a way for Purdue students to give back to the community. This year the event is scheduled for April 10.

PARKS AND RECREATION

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

ECONOMIC DEVELOPMENT

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

PERSONNEL

Councilor Burch presented this report, noting that a wellness program will be introduced soon for City employees, a newly-formed health promotion committee will be scheduled during April. Raymond Ross has been hired as a driver/collector/processor in the Street Department. Department of Engineering Wendy Field has left the City to work at Purdue in Discovery Park.

BUDGET AND FINANCE

Councilor Dietrich stated that there was no report, but that the Budget and Finance Committee will meet in May.

REPORT OF APC REPRESENTATIVE

Councilor Keen noted that he would speak to Ordinance No. 08-10 later in the meeting.

SPECIAL REPORTS

Report on Commerce Trip to Washington, D.C. - Councilor Burch

Councilor Burch reported that she and Mayor Dennis participated in the Commerce annual trip to Washington, D.C. While there, the group met with Ms. Debbie Holt, Governor Daniels' Indiana lobbyist; the U.S. Chamber of Commerce representatives; Congressman Steve Buyer; Senator Evan Bayh; C-SPAN founder Brian Lamb; Senator Richard Lugar; and Congressman Brad Ellsworth, and toured the Potomac River Project at the Georgetown Waterfront Park, designed by Roberts Wallace & Todd, the principal architects on the Wabash River Project.

Mayor Dennis added that the trip is always a great experience.

Report of Petition to Area Plan Commission – Councilor Hunt

Councilor Hunt reported that on Wednesday, April 7, at 4:30 p.m., the Area Plan Commission Executive Committee will hear a request for a minor subdivision revision for a property on Northwestern Avenue and Meridian across from Mackey Area to purchase property from PRF. The petitioner is Faith Properties, part of Faith Baptist Church, represented by local developer Mike King. The property is a double lot with one house which straddles the property line. The City's current tax income from this property is \$4,178; if the church were to purchase the property, the City would lose that tax income. The plan is to erect a 5,000 to 8,000 square foot, two-story structure for religious counseling, a recreational center, and a parsonage. Councilor Hunt stated that the only approval for the minor subdivision revision is the meeting on Wednesday. Mr. Burns confirmed this statement. Councilor Hunt noted that the Council would have no input on the matter of the property revision.

Councilor Bunder indicated that the property is in District 3, represented by Councilor Hunt, but it also affects the New Chauncey Neighborhood. A land use study is currently underway for the New Chauncey Neighborhood. This matter is of interest to him and others in the New Chauncey area. Councilor Dietrich asked if the existing house would be torn down; Councilor Hunt said that was her understanding.

Mr. Al Altschaeffl [1100 Northwestern Avenue] asked whether the APC meeting was an Executive Session. Councilor Hunt confirmed that is an Executive Committee, not an executive session. He asked if public comment would be taken; Councilor Hunt answered that she was told that it was an open meeting. He stated that APC, as it interprets zoning regulation, will create parking problems, if not more traffic problems. If the City has no say in this matter, there is something amiss. Mayor Dennis responded that the legislative body has no say, but the citizenry is well-empowered to attend the meeting and speak. Mr. Altschaeffl asked whether the administration would also have responsibility. Mayor Dennis indicated it is not uncommon for the APC to seek input from the City, but that he has not received a call. Mr. Altschaeffl stated he hoped the City would oppose it

City Engineer Buck clarified that the procedure in the APC Executive Committee meeting is that public input will be allowed, but the meeting is more of a checklist procedure that has already

had a public process to it. The required meetings have been held, and the required plans have been submitted, they've advertised in the newspaper, they've posted signs. The lots meet the minimum areas for particular zoning. The question is not one of use, but is the ownership and the shape of the parcels of land that area specifically changing as a part of the Wednesday meeting. Depending on the proposed plan, the petitioner would have to submit an improvement location permit through the City Engineer's Office, which would be reviewed for zoning compliance, greenspace, lot coverage, building height, the density, and all proposed uses. The building size will have an impact on the parking, but the petitioner has not settled on this detail. It is possible that, depending on the size of the building or other factors, a rezone might be necessary, which the City Council would vote on. If a variance were necessary, then the Board of Zoning Appeals and the public would have the opportunity to make public comment. However, if the terms of the zoning ordinance are met as the plan is presented, the petitioner would be able to do the project.

Councilor Keen stated that he is on the Executive Committee of the APC, and that Wednesday's vote is not on the appropriateness of the plan, but whether the plan meets the technical requirements of the ordinance. If it does meet the technical requirements, the Council cannot vote against it. City Engineer Buck confirmed that the disclaimer statement is read that the beginning of each subdivision section review.

Councilor Bunder stated that he and Councilor Hunt are interested in this subject and that more information will be shared.

PUBLIC RELATIONS

West Lafayette Community Beautification Award

Councilor Burch presented the West Lafayette Beautification Award to Susan Haldeman of Prophets Ridge for her work on street improvements in her neighborhood. She planted 107 trees paid by the West Lafayette Tree Fund and additional City funds. There is now a landscape plan for the entrance to the subdivision, and the neighborhood association is committed to improve both public and private landscapes.

Ms. Haldeman stated that she and her neighbors are happy for the trees provided by the City and the West Lafayette Tree Fund and thanked the Mayor and to Development Department Marketing and Grants Administrator Shaw for their help in these projects.

FINANCIAL REPORT

Clerk-Treasurer Rhodes reported that Standard and Poor's, a bond rating firm, has upgraded the City's bond rating from AA- to AA. The restoration of the City's General Fund reserves and the ending of three years of shortfalls in City operations was cited in the analysis. The raise in credit rating sets West Lafayette apart, and is a tribute to the management of the City, its department heads, and employees. Spring tax bills are being printed at the County. The Budget and Finance Committee will soon have updated information on billings and be able to meet to start the budget review. The State Board of Accounts reports for March have been distributed.

Councilor Dietrich asked how frequently the bond rating reviewed. Clerk-Treasurer Rhodes answered that the rating was set in 2001, and there have been one or two reviews since then, but no change in the rating resulted. This was the first review in about four years. Rating agencies are scrutinizing issuers more thoroughly than ever. The range of questions and the information requested were more comprehensive than were asked previously, and the level of

detail was unique. Mayor Dennis thanked Clerk-Treasurer Rhodes for her hard work and mastery of minutiae and detail of the budget process and revenue streams.

LEGAL REPORT

City Attorney Burns noted that the March legal report is on file. There were no questions about the report.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

Ordinance No. 07-10 An Ordinance Providing For Temporary Loans From A Fund Having Sufficient Balance To A Depleted Fund (WWTU to General Fund and Parks & Recreation Fund) (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 07-10 by title.

Councilor Keen moved that Ordinance No. 07-10 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Clerk-Treasurer Rhodes explained that all 2009 temporary loans were repaid. This request is to allow borrowing for cash flow purposes for 2010 expenses, primarily payroll and vendor bills, and should last until the tax collection settlement process comes in to the General Fund and Parks & Recreation. She requested two readings at this meeting.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Bunder		Thomas
Burch		
Dietrich		
Hoggatt		
Hunt		
Keen		

Mayor Dennis announced that Ordinance No. 07-10 passed on first reading, 6-0.

Councilor Keen motioned to suspend the rules to consider Ordinance No. 07-10 again for final reading. The motion was seconded by Councilor Burch.

The motion to consider Ordinance No. 07-10 on second reading passed by unanimous voice vote.

Mayor Dennis read Ordinance No. 07-10 by title.

Councilor Keen moved that Ordinance No. 07-10 be passed 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.

COMMON COUNCIL MEETING MINUTES, APRIL 5, 2010, CONTINUED

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Bunder		Thomas
Burch		
Dietrich		
Hoggatt		
Hunt		
Keen		

Mayor Dennis announced that Ordinance No. 07-10 passed on second and final reading, 6-0.

Ordinance No. 08-10 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #64) (Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 08-10 by title.

Councilor Keen moved that Ordinance No. 08-10 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor Keen stated that this is an omnibus amendment and mostly housekeeping—cleanup of language in parking setbacks for residential areas, correcting a formatting error in microwind systems, and approving an increase in the filing fee for improvement location permits. The amendment passed APC 11-1, the one dissent being Councilor Keen, primarily because of the increase in the filing fees.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Bunder	Keen	Thomas
Burch		
Dietrich		
Hoggatt		
Hunt		

Mayor Dennis announced that Ordinance No. 08-10 passed on first and only reading, 5-1.

Ordinance No. 09-10 An Ordinance Authorizing The City Of West Lafayette, Indiana To Issue Its "Economic Development Revenue Bonds, Series 2010 (Westminster Village Project)" And Approving Other Actions In Respect Thereto (Sponsored by Mayor John Dennis)

Mayor Dennis read Ordinance No. 09-10 by title.

Councilor Keen moved that Ordinance No. 09-10 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Ms. Denise Barkdull [Ice Miller LLP], bond counsel for Westminster, explained that economic development revenue bonds are permitted by the federal government for governmental entities to issue tax-exempt bonds for their own projects such as roads, buildings, etc. Additionally, in limited circumstances, the federal government allows governmental entities to issue tax-exempt

bonds to benefit private companies or nonprofit entities in their jurisdictions to better their communities. There is provision in State law for the City to issue tax-exempt bonds and loan that money to a private company in the community to allow them to expand, develop additional jobs, etc. The ordinance is a proposal, the first step in the process, for the City to issue tax-exempt bonds, meaning that the interest rate will be lower than what would be borrowed in traditional means. The money would be loaned to a private company, in this case, Westminster Village, for an expansion of which the bonds are solely repayable by the company, with no responsibility of the City for repayment, and no involvement in any default situation. Westminster Village is asking the City of West Lafayette to issue \$20 million of bonds for their expansion, which includes a 15-bed, Medicare approved skilled nursing addition, as well as a reconfiguration of their premises, renovation of their social center, refinancing existing debt, and land acquisition for anticipated future expansion. Bank bids have been sought, and they anticipate that one or more banks will purchase the bonds. The West Lafayette Economic Development Commission will meet on April 29 and have a public hearing to consider this, and then the Council will have second reading in May.

Mayor Dennis noted that this is not an uncommon situation. The City of Lafayette has done this for TRW several years ago. Tippecanoe County did it for the Faith Christian Center.

Mr. Tom Pearson [Chairman, Westminster Board of Directors] described the project and showed a diagram to illustrate it.

Mayor Dennis repeated a quote that Mr. Pearson used, "We are currently serving the Tommy Dorsey generation and getting ready for the Bob Dylan generation."

Councilor Burch asked where the Economic Development Commission would be meeting on April 29. Mayor Dennis answered that it would be in City Hall.

Councilor Dietrich raised concern about Section 3 of the ordinance which references a future public hearing and what the findings will be—no conflicts, no competitive affect on other facilities—when no public input has been provided. Ms. Barkdull said that 99% of the bond transactions she works on with private borrowers, the process is followed and the bond is approved. If that does not occur on April 29, the documents will change and the ordinance will be modified. Councilor Dietrich expressed concern that reporting results of a public hearing that will not occur for three weeks is not acceptable. Ms. Barkdull said that this has no effect, particularly on first reading. Councilor Dietrich said that he was reluctant to approve, even on first reading, something that was incorrect, whether there was no impact. He felt there should be some mitigating words, so that it is clear that there could be something at the public hearing that might disrupt this.

Councilor Keen asked that Section 3 might be removed without ramification. Ms. Barkdull answered that there could be changes, based upon the facts between the first and second readings.

Councilor Hoggatt added that he had similar concerns. While he has no issues with Westminster or the process, due diligence is important. He quoted the physicist Richard Feynman who said if he could not explain a physics concept to an incoming freshman, he did not understand it well enough to teach it. Councilor Hoggatt said that he approaches the City Council very similarly. He questioned whether the issue was tabled until the Council meeting in May or in June, when more information about what banks would be issuing the bonds, etc. would be available, the public hearing would have occurred, and he would have time to educate

himself on the State and federal statutes. Ms. Barkdull answered that the proposals to the banks are due April 16, so the information will be available by the EDC and the second reading. She noted that Westminster hopes to break ground by June 1, to take advantage of the construction season. Mr. Pearson added that the project will take a fair amount of basic construction, and the timeline would be tight to get the outside work done before Fall. Additionally, the bids for money and construction will have a limited life.

Councilor Keen reported that he did not want to put a damper on the project. He suggested striking Section 3 and adding it back before the second vote. Councilor Dietrich found that to be acceptable. City Attorney Burns asked Ms. Barkdull if this would keep the timeframe. Ms. Barkdull responded that it did. Mr. Burns suggested that the second WHEREAS and Section 3 be removed.

Clerk-Treasurer Rhodes said, from an historical perspective, that of the many bond issues executed by the City since she has been finance officer, the wording is typical, in that bond counsel comes with a proforma piece of legislation or lease. It is approved initially by the Council, sometimes with blanks for dates, with the understanding that this will be completed when documents are finalized. The process typically requires a coordinated effort of several bodies which may meet less frequently, as is the case with the EDC and the Council, which only meets once a month. In order to make this the least expensive for both the City and the petitioner, these proforma documents are prepared. They have no effect until the final vote and all bodies have acted on them. She assured the Council that nothing unusual or untoward is happening with this bond that hasn't happened at least half a dozen times already. Often it is a financing deadline or interest rate lock that drives the schedule.

Councilor Dietrich moved to remove the second WHEREAS and Section 3. Councilor Keen seconded the motion.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote to amend Ordinance No. 09-10:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Burch	Bunder	Thomas
Dietrich	Hoggatt	
Hunt		
Keen		

Mayor Dennis announced that the motion to amend Ordinance No. 09-10 passed, 4-2.

Councilor Hoggatt asked for clarification that this needed to be done in 2010, because there is no \$30 million cap that might be in place next year. Ms. Barkdull clarified that in past years, if a local government issued tax-exempt bonds for a 501(c)(3) entity such as Westminster, it would count against the City's ability to issue bank-qualified bonds. Bank-qualified bonds are bonds that a bank can purchase and get all the benefits of tax-exempt bonds. If non-bank-qualified tax exempt bonds are issued, banks will not purchase them, because they get a very disadvantageous treatment of that interest income on their bank's taxes. When Congress adopted the stimulus bill in February 2009, they expanded the amount and kinds of bonds that can be issued as bank-qualified. In previous years, there was a limit of how much a City—and the City faces the same thing in its own bonds, that there's only a certain amount of bank-qualified bonds that they are authorized to issue. The stimulus bill increased the bond amount from \$10 million to \$30 million that a city can issue for its own bonds and any 501(c)(3) in its

jurisdiction, but that the nonprofit amount is not included in a City's allocation of \$30 million. Each nonprofit gets its own \$30 million exception for qualified bonds, and the City gets its own also. At this time, the bill expires at the end of 2010, although it might be extended.

Councilor Hoggatt asked whether, if a similar nonprofit asked for bonds next year, the City would use 2/3 of its capability. Ms. Barkdull said yes, except that it resets annually, so the City would need to look at its own plans are, but as of this year, the Westminster situation is independent and has no effect on the City's ability to borrow. Councilor Hoggatt reported that he agrees with the Westminster project, but that he wants to think more about whether the City should have a policy for determination for types of projects. This project creates a precedent, and the City should have a set of guidelines. He feels this is a rushed project. Ms. Barkdull replied that this year, because each nonprofit entity has its own entity has its own allocation, literally every nonprofit in the City could ask for bonding, if they had borrowing capacity, credit worthiness and capital improvements to finance. There would be no limitation on it. The reality is that, if the City hasn't faced this, in the future there may not be, as there are not a lot of nonprofit entities doing large multi-million-dollar projects where they need this capacity. She reported that her firm works with nursing homes, solid waste, multi-family housing, etc., a number of places where one can borrow on a tax-exempt basis. If the bill reverts to the prior limitations, if the City receives requests in future years, the City should make determinations of policy. The circumstances with this project in 2010 is that there is not a limit, and it has no affect on the City. Ms. Barkdull offered to answer questions over the next month. City Attorney Burns summarized that in 2010, it's a "come one, come all" situation; if it is not reapproved next year, the situation becomes tougher.

Councilor Bunder confirmed that Westminster is a 501(c)(3) but still makes payments in lieu of taxes to the City of West Lafayette, and not all nonprofits do this. Mayor Dennis reiterated that Westminster is a good neighbor.

Councilor Hoggatt said he did not want to be misunderstood. His concern is for lack of a clear policy.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote on Ordinance No. 09-10 (Amended):

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Bunder		Thomas
Burch		
Dietrich		
Hoggatt		
Hunt		
Keen		

The Mayor announced that Ordinance No. 09-10 (Amended) passed on first reading, 6-0.

Resolution No. 03-10 A Resolution To Approve The West Lafayette Public Library Capital Funds Project (Prepared by the Clerk-Treasurer) **PUBLIC HEARING**

Mayor Dennis read Resolution No. 03-10 by title.

Councilor Keen moved that Resolution No. 03-10 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

West Lafayette Public Librarian Nick Schenkel stated that the Library's capital projects fund is a three-year rolling plan. The resolution is a request for renewal of the capital projects fund. The Library activity continues to increase. Circulation of books and audiovisual materials, in addition to electronic materials, is higher than ever. More cardholders use the Library. Now that West Lafayette Public Library Board has authorized joining Evergreen Indiana, so there is access to 3.4 million items. About 160,000 items are in the Library itself. The intent is to hold the line on property taxes collected for the West Lafayette Public Library for 2010 and 2011. The focus for the Library capital projects is the parking garage and computers.

Mayor Dennis asked if the Evergreen Indiana membership required a software upgrade. Mr. Schenkel answered that it did, and the State Library paid the cost.

Councilor Burch congratulated the Library on its grant from the Bill and Melinda Gates Foundation. Mr. Schenkel said the grant is \$7,000 over two years, to be matched by the Library, to be used for increasing public access for the West Lafayette community.

Clerk-Treasurer Rhodes noted that, for the record, the Library has previously acted to approve the capital funds project, and this meeting has been advertised as a public hearing.

Mayor Dennis opened the public hearing. There were no comments. Mayor Dennis closed the public hearing.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Bunder		Thomas
Burch		
Dietrich		
Hoggatt		
Hunt		
Keen		

The Mayor announced that Resolution No 03-10 passed on first reading, 6-0.

Resolution No. 04-10 A Resolution Appropriating Insurance Recovery Received For Damage to City Property (Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 04-10 by title.

Councilor Keen moved that Resolution No. 04-10 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Clerk-Treasurer Rhodes explained that this resolution is a do-over to reflect the specific fund from which repairs are most appropriate.

There was no further discussion.

COMMON COUNCIL MEETING MINUTES, APRIL 5, 2010, CONTINUED

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Bunder		Thomas
Burch		
Dietrich		
Hoggatt		
Hunt		
Keen		

The Mayor announced that Resolution No 04-10 passed on first reading, 6-0.

COMMUNICATIONS:

► Councilor Hunt distributed to the Council the new brochure regarding recycling, which was printed by the Wildcat Creek Solid Waste District. The brochure tells readers where to take specific items for recycling. These are available in the back of the room for the public.

CITIZEN COMMENTS: None.

ADJOURNMENT:

There being no further business at this time, Councilor Keen moved for adjournment and Mayor Dennis adjourned the meeting, the time being 7:48 p.m.