

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
PRE-COUNCIL MINUTES  
APRIL 29, 2010

The Common Council of the City of West Lafayette, Indiana, met in the Lower Level Conference Room at City Hall on April 29, 2010, at the hour of 4:30 p.m.

Due to the delay of Mayor Dennis, Council President Hunt called the meeting to order and presided until he arrived.

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

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, Assistant Superintendent of Parks Ainsworth, City Engineer Buck, Police Chief Dombkowski, Street Commissioner Downey, WWTU Director Henderson, and Director of Development Poole.

Council President Hunt called on City Engineer Buck to discuss the street opening today. [Mayor Dennis arrived at 4:31 p.m.]

City Engineer Buck reported that 11:00 a.m. today was the ribbon cutting for the Sycamore Lane Traffic Calming Project. The project added sidewalks and put in curb bump-outs to slow vehicles to 30 miles per hour. The project was 90% paid with federal funds. Many residents were present for the event, and one commented, "It feels like a neighborhood now." Councilor Hunt asked if this project was initiated from local residents' concerns, through the Traffic Commission. Mr. Buck responded that that was the start.

Mayor Dennis arrived.

Councilor Keen reported that the Faith [Baptist Church] Subdivision minor sketch plan did pass unanimously at the Area Plan Commission's April 7 Executive Committee. This removed the lot line from the two properties [on Northwestern Avenue], to combine them into one lot. Councilor Keen stated that the vote was to address whether the proposal meets the technical requirements of the ordinance, nothing else; there can be no dissenting votes if the technical requirements are met. Councilor Keen reported that the Park Place Apartments on South Chauncey had its final detailed plans approved at the April 21 Area Plan Commission meeting.

Mayor Dennis stated that under Special Reports, there would be a presentation at the Council meeting from Mr. David Rosenthal and Mr. Phil Subeck, detailing the results of the West Lafayette Human Relations Commission survey.

Mr. Dan Teder [Reiling Teder & Schrier] announced that he has a rezoning, which will come before the City Council in June, after APC hears the matter in May. His client, Timberstone, had purchased all the developed lots in Lauren Lakes and now will purchase the undeveloped lots in that subdivision, subject to a rezoning. The rezoning would be from PD to R1 for about six acres, and PD to R1B for approximately 150 acres. The overall plan is not changing, but the amenity package is. Mr. Teder said that he would meet with the Councilors individually, to review the plans and maps. Mr. Teder will begin with Councilor Burch, since the property is in District 4.

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Mayor Dennis reviewed the agenda. Councilor Hunt advised that she invited Mr. Jim Treat of O.W. Krohn & Associates to review the 2009 Wastewater Utility Annual Financial Report.

UNFINISHED BUSINESS

Ordinance No. 09-10 (AMENDED) 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 (AMENDED) by title and asked for discussion.

City Attorney Burns said that the petitioner has requested that this ordinance be postponed. Mr. Burns had sent an email to Council members about this, and he suggested that questions regarding this matter be directed to Ms. Denise Barkdull of Ice Miller. Mr. Burns said that Ms. Barkdull believes they will have to make changes to terms of the bond, in order to satisfy a prospect. They will bring a revised document to the June Council meeting.

There was no further discussion.

Councilor Keen moved to table Ordinance No. 09-10 (AMENDED) until the June Council meeting. Councilor Burch seconded the motion.

Councilor Dietrich asked if the ordinance would still be on second reading. City Attorney Burns responded that there would be an amendment, but that the ordinance would be on second reading. The Economic Development Commission will meet on June 3 to review the amended ordinance.

The vote to table Ordinance No. 09-10 (AMENDED) passed unanimously by voice vote.

NEW BUSINESS

Resolution No. 05-10 A Resolution To Establish A Policy On The Criteria For Considering And Issuing Economic Development Revenue Bonds (Submitted by Councilor Hoggatt)

Mayor Dennis read Resolution No. 05-10 by title and asked for discussion.

Councilor Hoggatt stated that he emailed a revised document to Councilors and Director of Development Poole, and asked for feedback. He met with City Attorney Burns and Redevelopment Commission Attorney Brooks to review it, and received additional comments from Ms. Denise Barkdull of Ice Miller [bond counsel for Westminster]. He offered an amended version of Resolution No. 05-10 which reflects minor wording changes, minor reordering, and the addition of a section dealing with inducement resolutions. He also provided an annotated version of the resolution, so that the source of the revisions and language is documented.

Councilor Hoggatt moved to amend Resolution No. 05-10 by substitution with the newly-presented Resolution No. 05-10 (AMENDED). Councilor Burch seconded the motion.

City Attorney Burns noted that Ms. Barkdull wanted to make sure that the previous intent of the resolution is documented, that is, that Resolution No. 05-10 does not affect Ordinance No. 09-10 (AMENDED). Councilor Hoggatt stated that he deferred to Mr. Burns on this matter. Clerk-

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Treasurer Rhodes suggested that the statement just before the jurat could indicate that the effective date is August 1. Mr. Burns said that suggestion would be fine.

Councilor Hoggatt moved to add the effective date as August 1. Councilor Burch seconded the motion.

Clerk-Treasurer Rhodes reported that, historically, the City has had problems with this sort of inducement post-closure, years after the transaction, when the successors to the parties involved have no details of the matters. She said that project information in Item D, Other Information, would be very useful, as details would be enumerated in that section.

Councilor Burch asked about Item 1 in Applications and Review Procedures of the amended document, "in an amount of one percent (1%) of the amount of financing requested, but not to exceed Five Thousand Dollars (\$5,000)," whether that amount came from Indiana Code. Councilor Hoggatt answered that Indiana Code allows for the maximum of 1%, with the cap for the Indiana Code at \$10,000, but for the West Lafayette community, he recommended \$5,000.

Councilor Burch asked if the resolutions that the Council passes are binding or nonbinding. City Attorney Burns responded that they are binding as long as they stand. Resolutions are as binding as ordinances, for as long as they stand, particularly when requiring procedures.

Councilor Dietrich questioned, in Section III - Project Impact Report, Item b, whether that item is "leaning on" nonprofits for payments in lieu of taxes. He felt that it was a *quid pro quo* comment and should not be a part of this document. Councilor Dietrich said that, if a nonprofit wants to make a payment in lieu of taxes as a good neighbor, that is a good thing, but the City should not hold an organization beyond what the State law requires. Councilor Hoggatt said that he agreed with Councilor Dietrich, and that the reason it was added was that it had been discussed at an earlier meeting, and perhaps Councils in the future might want that information. Section III is an information request, not requirements. Councilor Hoggatt said he would strike that item, if the Council prefers. Clerk-Treasurer Rhodes stated that she supports the inclusion of this item, that the City would be setting the expectation that the arrangement for payments in lieu of taxes is beneficial to the City. The request for economic development revenue bonds passes through the Economic Development Commission and the Council. Clerk-Treasurer Rhodes said expectations should be known from the start. Councilor Dietrich responded that the question could be asked, but it should not be listed in the criteria. Councilor Hoggatt remarked that Section III provides the Economic Development Commission and the Council with information that they might use. Councilor Dietrich suggested that this Item b could be listed as a line item on the application form, along with the other details, and he would be more comfortable with that. Clerk-Treasurer Rhodes said the taxpayers in the community expect that the question of whether nonprofits will make payments in lieu of taxes will be asked, since there is so much tax-exempt property in the City. City Attorney Burns asked if the application itself was going to be drafted by the EDC. Councilor Hoggatt said that the application is the last two pages of the document and would accompany a letter or project report. Councilor Dietrich said that, if it is a requirement that payment in lieu of taxes will be made, it should be so stated. Clerk-Treasurer Rhodes said that Section III is for information to evaluation, not outline of the requirements. Councilor Dietrich said that, to him, is part of the criteria. City Attorney Burns asked if Councilor Dietrich had a suggestion as to where Item b should be placed. Councilor Dietrich responded that he did not, at this time, but perhaps my Monday he would have. Mayor Dennis said that it would be good to clarify location of the statement, because the reality of it is that there is a benefit to the City when it comes to payments of in lieu of taxes. The City is in a position to

inquire. Councilor Hunt said that she was glad the issue was raised, because the type of facility Westminster uses City services very heavily, and this matter should be in the open. Councilor Dietrich said in a perfect world, all nonprofits would contribute as though they are paying taxes, but that does not happen. The City needs to be prepared and state how this item will be dealt with. Clerk-Treasurer Rhodes explained that asking for a piece of information does not mean that that one element isolates the others. A heavy user of public safety or other resources calls for a different discussion than a facility that is not a high-demand user of very expensive public services. Councilor Dietrich said he thinks that Item b is misplaced and wrong for the City. Councilor Hunt asked Councilor Keen about the hearing about Faith Baptist Church project at Meridian and Northwestern, at which Councilor Keen asked if the church had any plans for plans for payment in lieu of taxes. The church did not answer. Councilor Hunt asked if the question is a common one. Councilor Keen said that it has historically not been a routine question. While he understands Councilor Dietrich's concerns, he [Councilor Keen] agrees with Clerk-Treasurer Rhodes, that the City is paying to provide services to nonprofit facilities and the facilities should consider giving back to the City. Further, Councilor Keen stated that Clerk-Treasurer Rhodes is correct in that Section III provides information for the City to evaluate whether the project meets the criteria that are set forth. Councilor Dietrich said that is a matter of semantics. Councilor Keen stated that the statement puts the issue forth. Councilor Hoggatt suggested a compromise: Changing "This Project Impact Report will contain sufficient information for the City to evaluate whether or not the proposed project meets the criteria..." in the opening paragraph of Section III to "The intent of this Project Impact Report is for informational purposes for the Economic Development Commission and Common Council, for evaluation of the EDRB request, and should at least include the following..." Councilor Hoggatt asked Councilor Dietrich if that would satisfy his concerns. Councilor Dietrich said he would like to see the change in writing.

Councilor Dietrich suggested, in the General Information in Section III, the type of jobs or the pay range should be included. Councilor Hoggatt replied that that information is in the Project Impact Report, Section A, page 5.

Councilor Dietrich asked about Environmental Impacts under General Information in Section III, whether clarification or definition of "pollute the air" is necessary. City Attorney Burns suggested that the term "emissions" may be better, changing the question to "Does your facility produce any emissions into the air that do not meet EPA standards?" Councilor Hoggatt stated he would make the change by Monday's Council meeting.

Mayor Dennis asked Councilor Hoggatt to withdraw his motion and Councilor Burch to withdraw her second, presenting the amended version of Resolution No. 05-10 at Monday's Council meeting.

Clerk-Treasurer Rhodes requested inclusion of the employer identification number [EIN] on the application. Councilor Hoggatt agreed to add that item.

By consensus, the motion was withdrawn.

There was no further discussion.

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COMMUNICATIONS

Councilor Dietrich asked Mayor Dennis if, at the Council meeting, he would limit school-issue related comments, since Monday is the day before Primary Election Day. Mayor Dennis responded that he would keep the meeting moving.

CITIZEN COMMENTS

None.

ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting, the time being 5:12 p.m.