

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
**AMENDED PRE-COUNCIL MINUTES**  
OCTOBER 28, 2010

The Common Council of the City of West Lafayette, Indiana, met in the Lower Level Conference Room at City Hall on October 28, 2010, at the hour of 4:30 p.m.

Mayor Dennis called the meeting to order and presided.

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

Absent: Dietrich.

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

Review of the Agenda

At the request of Police Chief Dombkowski, the Officer of the Quarter Award will be presented immediately after consideration of the minutes.

Councilor Bunder will present the Beautification Award.

Councilor Hunt asked Clerk-Treasurer Rhodes if there would be information about impact of the Circuit Breaker. In response, Clerk-Treasurer Rhodes reported that the Legislative Services Agency posted an update on October 21, but that the estimates in prior years have been underestimated. The City will know where it stands when the Auditor is ready to do the abstract billing in April. We do not yet have certified assessed valuation rolled to the Department of Local Government and Finance from the County.

Councilor Hunt asked if property taxes were due November 10. Clerk-Treasurer Rhodes responded that they are due on that date.

UNFINISHED BUSINESS

Ordinance No. 26-10 An Ordinance Amending The Procedures Of The City Of West Lafayette Human Relations Commission (Submitted by West Lafayette Human Relations Commission; Sponsored by Mayor Dennis and Councilor Hunt)

Mayor Dennis read Ordinance No. 26-10 by title and asked for comments or questions.

There was no discussion.

Ordinance No. 27-10 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #68, change required auto and bicycle parking standards in WL Village, and change height requirements in the CBW, R3W, and R4W zones) (Submitted by Area Plan Commission) *This ordinance was tabled by action of the Council at the September 30, 2010, Pre-Council meeting until the November 1 Council meeting, to allow for public discussion.*

Mayor Dennis read Ordinance No. 27-10 by title and asked for comments or questions.

City Engineer Buck reported that he attended the New Chauncey Neighborhood Association annual meeting last Monday and explained that, in 2005, Woolpert, Inc. was contracted to do a parking study of the Village area. The investigation was to determine whether there was a parking problem in the Village, whether there should be changes in how planned developments were handled, etc. The APC administrative officers meeting group began to discuss this subject several months ago, and brought recommendations to the APC Ordinance Committee. The recommendations have been revised a number of times, and Ordinance No. 27-10 is the result. The APC voted on this ordinance September 15, and recommended that this be approved to the City Council. City Engineer Buck presented two maps, both of which showed the University Proximate area, as defined by the zoning ordinance, which has a different standard for parking in residential zones and a different standard for density. Most of the areas affected are R3W zoning. There is one R4W zone approved by the Council a few months ago. In zoning codes, R stands for Residential, 1 indicates single family, 2 stands for duplex or condominium, 3 and 4 indicate multi-family, and W indicates the zoning is specific to West Lafayette. Within the University Proximate area, three regions are defined by their distance from campus. On the map, Region 1 is red, Region 2 is blue, and Region 3 is purple. These would have different vehicle and bicycle parking standards and height standards from the current University Proximate requirements. Areas between the zones would still be required to meet the University Proximate standards. Only the designated areas are affected by the ordinance. Region 1 parking requirement for commercial zones would be 0, residential parking required would be 1 space per bedroom, and maximum height for commercial structures would be 100 feet, with 35 feet for residential uses. In Region 2, the maximum height would be 100 feet, except for structures north of Stadium, where the maximum would be 65 feet, and the residential would be one parking space per bedroom. In Region 3, commercial parking would go to one parking space per each 250 square feet, similar to the requirements for an integrated center, such as Wabash Landing and the Levee; the parking for residential would be one parking space per bedroom.

City Engineer Buck stated that there had been concerns raised at the New Chauncey Neighborhood meeting about the land use plan study being concurrent with these changes, rather than having the land use plan first. APC Executive Director Fahey suggested that the change to the zoning ordinance would help inform the plan. If the planning process determines that some areas in the New Chauncey Neighborhood should have a mixed-use development, typically retail-commercial-office-residential, then knowing what the development standards are in CBW zones would help inform whether that would be an appropriate land use for the future. The planning process might determine that there should be mixed-use development at the Stadium-Northwestern intersection, but maybe it should be at low density or low lower standards than this amendment would allow in CBW. Then when most land use plans are translated to zoning, APC could indicate that CBW is not appropriate there, because the height is 65 feet; perhaps NBU zoning is more appropriate because of the limitation of the land use plan. APC Executive Director Fahey said that she felt that, knowing the plan for regulations would help make better decisions about the land use future of the planning process.

Councilor Bunder reported that, of the 40 people at the New Chauncey Neighborhood meeting, 39 thought the land use plan should occur before the rezone. They would still like to have a voice in determining what that zoning would be, as a part of the land use plan. APC Executive Director Fahey responded that a zoning amendment would not be part of the land use plan, that the plan is policy. In this case, knowing what the law will be will help inform the policy, so that good policy can be created. She added that, once the neighborhood plan is completed, then a

review of the entire neighborhood could be made, to determine appropriate zoning. At that time, if there are concerns about the developments in these zones and where the zones might be applied, APC could entertain another zoning ordinance amendment. APC Executive Director Fahey said that it is very frustrating to go through a public process since last April, when everyone was given numerous opportunities to participate in this matter, to the extent that the APC Ordinance Committee put off a decision for a month. There were invitations directed to New Chauncey Neighborhood, and still no one showed up, and no one attended the Planning Commission meeting. Every other jurisdiction has adopted the ordinance, which should not affect West Lafayette's decision, but is a fact. She stated that early participation would be much more helpful. Councilor Bunder added that Councilors have the same problem.

APC Executive Director Fahey explained that the Council has three options for this ordinance: The ordinance could be approved, it could be rejected, or it could be amended. If it is amended, it is returned to the Area Plan Commission with a statement of the reasons for APC consideration. If the ordinance is rejected or amended, the APC has 45 days to consider the rejection and report to the Council. If the APC approves the Council's amendment to the ordinance or does not act in 45 days, the ordinance stands as the Council passed it. Councilor Hunt asked if APC would return the ordinance to the Council, if APC does not act within 45 days. APC Executive Director Fahey answered that, if APC did not act, the Council would not get the ordinance back, what the Council changed would stand. But if the APC disapproves the rejection or the amendment, the Council action on the original rejection or amendment stands, only if the Council can affirm it by another vote. Councilor Hoggatt stated that Council vote has to happen within 45 days. APC Executive Director Fahey confirmed that statement. APC Executive Director Fahey further explained that, if the Council does nothing within 90 days of the date of the certification letter, then the ordinance is approved, because the APC recommended approval.

Councilor Hoggatt asked for clarification from City Attorney Burns that in a zoning ordinance, there must be a majority action of all Councilors, so it must be four votes for the ordinance or four against it. Any other vote is a default action, which would mean that the ordinance would be automatically approved. City Attorney Burns confirmed that it would be passed, rejected, or amended with four votes.

APC Executive Director Fahey said that the Council does have some options. Councilor Hunt reported that the date of the certification letter is September 16.

APC Executive Director Fahey stated that, in her opinion, the ordinance has more to do with the Village and the Hilltop-to-Hilltop Downtown options than it does with New Chauncey Neighborhood. The ordinance related to the northern piece of the map does affect New Chauncey Neighborhood. Part of the effort is to enable West Lafayette to be part of the overall downtown, increasing heights in multi-family buildings. The height requirement was restricted because the Fire Department did not have the equipment to fight fires to the full three stories above ground; now that is not an issue. It would make the West Lafayette portion of the Hilltop-to-Hilltop Downtown much more like the Lafayette downtown.

Councilor Hoggatt quoted an *Exponent* article, in which City Engineer Buck was quoted as saying, "It seems like there's a shortage of parking in the Village, but, in actuality, there's ample parking," and asked Mr. Buck if that were a correct quote. City Engineer Buck responded that it was. Councilor Hoggatt asked if the basis for the quote were the Woolpert study. City Engineer Buck answered that it was. Councilor Hoggatt said that several people in the Village area told him that the quote does not seem right. Councilor Hoggatt stated that he has read about half of

the Woolpert report, and has not yet gotten to the survey portion, but he has found discrepancies in the data in the report, and his confidence in the report is waning because of that. He cited the example of Block 12, which is the Town Center block or Region 1 on the map, bounded by South Street, Chauncey, Columbia, and Northwestern. In this block are 37 one-bedroom apartments. Page 20 of the report, Table 7A shows that there are 49 residential parking spaces, but Councilor Hoggatt reported that there are only 15 spaces. City Engineer Buck said that is a good example of one of the things they are concerned about, because of all the layering over the years. There is an off-site parking agreement which has 49 spaces in a service lot, where Chauncey Square now stands, and those 49 spaces are in the parking garage in Chauncey Square. Councilor Hoggatt said that the spaces are double-counted. City Engineer Buck stated that they are not double-counted, they are actually counted on the block for Chauncey, because that is where the site is. Mr. Buck added that, when Woolpert did the study, Chauncey Square was not even under development, so that block was not counted. There was additional discussion about commercial parking in the area.

Councilor Hoggatt said that when counting is done by bedroom, the parking spaces are on a contractual agreement with Town Center Apartments. There are apartments that have no parking, and others that have more than one parking space available. The monthly towing reports are evidence of a parking problem in the Village. Police Chief Dombkowski interjected that there are two separate issues, retail and residential, and that the Woolpert study is from 2006 and is outdated. That entire block has been changed since that study. Councilor Hoggatt replied that the plan is now to make zero parking spot requirements for businesses in that area, which means that parking for people trying to go to businesses will get worse in that area, not better. The residential component is one thing, and then there are the business parking issues. City Engineer Buck summarized that this is one of the issues, whether the City wants a downtown, which is what this ordinance is, where parking is not necessarily convenient but available, or to continue to make rules on a case-by-case basis as Planned Developments. Councilor Hoggatt said that Planned Developments have been successful in the past, and that the City could make parking rules on a case-by-case basis, but the Planned Development has other tools available. City Engineer Buck responded that the City has been successful with Planned Developments, but not without controversy and not without tremendous amount of staff time in the Engineering Office and at Area Plan Commission. Each set of rules is different, and each change requires staff time to research. The Village area is a downtown, whether we want it to be or not, and it should not have a suburban parking standard, which is what it has today. This ordinance is a start in the right direction.

Police Chief Dombkowski stated that his department struggles with timed parking requirements, and for him, the issue is not just quantity of spaces but also the length of time people are parked. Councilor Hoggatt stated that parking in that zone is all regulated by time. City Engineer Buck added that this is similar to the issues of proximity to the Courthouse in Lafayette, but that it is proximity to campus. The mix of parking—30-minute, 2-hour—is needed, so that turnover is created. Councilor Hoggatt said that people in the area are not convinced.

Councilor Keen said the points have been well made, but parking is not automatically be reduced, because businesspeople want parking for their businesses and will do what they can to get parking for those businesses. Councilor Hoggatt responded that parking is an expensive business venture, and Planned Developments negotiate for fewer parking spaces. That would argue against developers creating more spaces. Councilor Keen stated that developers would not necessarily be building any more spaces, but they would also not throw them away. Councilor Hoggatt asked, if they are not throwing them away, why make the requirement zero, why not set a requirement. City Engineer Buck stated that that is how a downtown works.

Mayor Dennis said it was abundantly clear that there is a difference of opinion. Councilor Hoggatt stated that he was representing what he hears from his constituents, who see a quote in the Exponent that reports that the parking shortage is a myth. For example, he reported that he does not have a parking spot for his one-bedroom apartment. The assumption is that none of the people with no parking has friends who drive to study or visiting relatives. He said there is a domino effect. The near campus area is going to have a completely different quality of life and way of living than outside that area. The constant separating Purdue and Purdue students from West Lafayette sends mixed messages, when the City says, "Be part of our community, let's integrate more," yet we set up these things to create these high density, multi-story buildings. They do not have parking for their friends, they cannot have a friend come over and study for finals, and if their friend does come over and study for finals, it is towed, and now the friend has \$180 parking fee to get their car out the night before their final. They cannot have their wives come to visit or their girlfriends or their boyfriends, etc. Councilor Hoggatt said that, while he appreciates the goals, but he is trying to represent that. He is not convinced that the people in that area, and New Chauncey Neighborhood and their concerns, are completely convinced about that shift towards toward West Lafayette and that quality of life difference between the two groups. He asked that the input be heard on Monday, and have more time to go over the rest of the Woolpert study to review the overlapping things and the conclusions.

Councilor Hoggatt motioned to table the final vote for Ordinance No. 27-10 to the December 2 Pre-Council meeting.

Mayor Dennis asked what the timeline requirement for approval is. Councilor Hunt answered that December 16 would be approximately 90 days from the letter.

Councilor Bunder seconded the motion.

Councilor Hunt asked for clarification that public input would be heard on Monday. Councilor Hoggatt confirmed public input on Monday, with more information gathering and meetings with Director of Development Poole and City Engineer Buck before the final vote. Mayor Dennis questioned whether extending the timeline has any adverse affect on the ordinance. City Attorney Burns said he has not looked at the calendar, but there seems to be a sufficient time.

City Attorney Burns asked whether this had been posted for a public input session. Clerk-Treasurer Rhodes answered that it was posted as public input. City Attorney Burns confirmed that it is not a public hearing.

Mayor Dennis stated that the vote was on the motion to postpone the vote on Ordinance No. 27-10 until the December 2 Pre-Council meeting.

Councilor Bunder asked whether it is legitimate to include the Purdue parking garages and spaces in this plan and why. Purdue employees buy their A or B stickers that permit parking from 7:00 a.m. to some later time, with public parking after that time. He asked how that restriction impacts this issue. Councilor Bunder's second question was how this impacts the controversy the City had over towing. He stated that, a couple of years ago, there was a long conversation about how valuable parking spaces were, and how enforcement of towing regulations needed to be immediate, whether in a residential or commercial situation. He asked how reducing parking spaces serves the public interest, whether there would be more towing, more complaints.

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Councilor Hunt stated that the northern part of Region 3 is in her district, and she and others are concerned about tall buildings.

Councilor Burch asked Councilor Bunder if his constituents were concerned that there would be more parking and taller buildings in New Chauncey Neighborhood. Councilor Bunder answered yes.

Councilor Hunt reported that one of her constituents sends her weekly emails about parking in front of his house.

There was no further discussion.

Mayor Dennis stated that the vote was on the motion to postpone the vote on Ordinance No. 27-10 until the December 2 Pre-Council meeting.

Clerk-Treasurer Rhodes called the roll call vote:

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

Clerk-Treasurer Rhodes announced the vote was 4 AYES, 1 NAY, 1 ABSTENTION.

Mayor Dennis stated that the motion to postpone the vote on Ordinance No. 27-10 until the December 2 Pre-Council meeting passed.

Councilor Bunder asked City Attorney Burns the procedural question: He will try to remove the height increase out of the Northwestern Avenue site, but wanted to know when it was appropriate to do that. City Attorney Burns answered that Councilor Bunder's opportunity would be on December 2.

There was no further discussion.

**NEW BUSINESS**

**Ordinance No. 28-10** An Ordinance Regulating Open Burning Within The City Of West Lafayette (Sponsored by Mayor Dennis)

Mayor Dennis read Ordinance No. 28-10 by title and noted that Fire Chief Drew and City Attorney Burns generated this ordinance, in response to significant input from the community.

Fire Chief Drew explained that this ordinance is in reaction to citizen requests for firepits, as well as input related to the open burning, which is in City Code Section 67, which deals with refuse, garbage and weeds. More properly, this belongs in the fire protection, Section 63. About 40 years ago, open burning had been an issue, and the community was concerned about smoke

from leaves and burning trash, so the prohibition against those and open burning in general was enacted. Mayor Dennis added that bonfires were also an issue and a nuisance.

Councilor Burch asked if burn pits are permitted. Fire Chief Drew answered yes, and added that fires must be within the design of the pit, no overloading.

Councilor Thomas asked what the definition of overloading is, as he has neighbors who have a fire pit which, when lit, shakes his house. Fire Chief Drew answered that two feet wide is the common fire pit size.

Councilor Hunt asked Fire Chief Drew if such things as grills on wooden balconies, such as caused a fire about two years ago on Waldron Street, are prohibited. Fire Chief Drew yes, grills on wooden balconies are prohibited by State code.

There was no further discussion.

Ordinance No. 29-10 An Ordinance Requesting An Additional Appropriation – Rainy Day Fund (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 29-10 by title and asked for comments or questions.

There was no further discussion.

Resolution No. 13-10 A Resolution Requesting The Transfer Of Funds (Parks Nonreverting Capital – Pool Fund to Parks and Recreation Fund) (Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 13-10 by title and asked for comments or questions.

There was no further discussion.

#### COMMUNICATIONS

► Councilor Hunt reported that she received a note from the West Lafayette Junior/Senior High School for the November 11 Veterans Day Program. The ceremony will begin at 10:00 a.m. and last about 45 minutes. Councilor Burch added that it is a nice program.

► Street Superintendent Downey announced that Street Department employees would take Monday, November 1, off, instead of Tuesday, Election Day, so there will be no leaf or brush pickup on Monday. Mayor Dennis stated that he has received many compliments about the leaf pickup program, and he thanked the Street Department for their efforts.

#### ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting, the time being 5:22 p.m.