

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
**AMENDED MINUTES**  
JULY 5, 2011

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on July 5, 2011, 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, Hunt, Keen, Thomas, and VanBogaert.

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, City Engineer Buck, Police Chief Dombkowski, Street Commissioner Downey, Fire Chief Drew, Parks Superintendent Payne, Director of Development Poole, and Wastewater Collections System/GIS Supervisor VanAllen.

MINUTES

Councilor Keen moved for acceptance of the minutes of the June 2, 2011, Pre-Council Meeting, and the June 6, 2011, 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 VanBogaert presented this report.

PARKS AND RECREATION

Councilor Hunt asked Ms. Lynn Layden who coordinated the 2011 Art in Bloom Garden Tour. Ms. Layden discussed the successful program.

ECONOMIC DEVELOPMENT

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

PERSONNEL

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

BUDGET AND FINANCE

Councilor Dietrich reported that the budget process is about to begin. He asked the Council to stay after the meeting, to schedule the work sessions.

REPORT OF APC REPRESENTATIVE

Councilor Keen reported that Ordinance No. 15-11 regarding large wind farm systems is on tonight's agenda.

PUBLIC RELATIONS

West Lafayette Community Beautification Award

Councilor Hunt presented the Beautification Award to John and Karen Franzmeier of 1535 Summit Drive.

FINANCIAL REPORT

Clerk-Treasurer Rhodes reported that the spring settlement was received on time this year. All temporary loans were repaid as of June 30. One of the major factors that affects tax collections and has reduced the City's 2011 revenue by about 6.2%, over \$503,000, is property tax caps, also known as "circuit breaker." The reduction is bigger than last year, and that trend likely will continue. The City's current levy is about \$35,000 less than in 2007. The second factor is the unusual refund period of property taxes, which represented two to three years of pending appeals. Most of that was taken from the spring settlement, spread across all the entities in the County, a total of \$3.3 million in refunds. Of that, West Lafayette's was about 15%, a little less than \$500,000. There were some refunds last December. Between the December 2010 and June 2011 settlements, the total refunds in the County were nearly \$5 million. Clerk-Treasurer Rhodes stated that the hope the big bolus has passed through the system, and that there will be more stability in tax revenues. The June accounting reports have been distributed. In each Council folder is the handbook of Indiana's public access laws, which she obtained at the recent Indiana Attorney General's meeting at Purdue. The insert in the handbook has the changes that were made over the last year.

LEGAL REPORT

City Attorney Burns stated that the legal report has been filed, and Councilors have received copies. He offered to answer any questions.

Councilor Dietrich asked City Attorney Burns whether the State statute on "spice" affects the City's ordinance. City Attorney Burns responded that the State statute makes the City's beside the point in some respects, although it still can be enforced. It is a non-criminal penalty, so law enforcement may use the criminal penalty in State statute rather than the civil code violation. However, the City's is still on the books, not superseded, but takes a back seat at this point.

UNFINISHED BUSINESS

Ordinance No. 14-11 An Ordinance To Ratify And Adopt Corrections To Chapters 10 Through 67 Of The "West Lafayette City Code" (Submitted by City Attorney)

Mayor Dennis read Ordinance No. 14-11 by title.

Councilor Keen moved that Ordinance No. 14-11 be passed on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

City Attorney Burns stated that this is a clean up of the City Code, predominately scrivener's-type errors or other errors that have crept into the Code over time. It does not change any of the law in the City, it just clarifies and corrects. He asked for support of the ordinance.

Councilor Thomas asked if this ordinance is the first installment. City Attorney Burns answered that it is the first installment. The second installment will get into more substance. It probably

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will not be controversial, but will be more changing departmental procedures to match what the law is or *vice versa*. The Council should let Mr. Burns know if any of them have suggestions.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch	✓			
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			
VanBogaert	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYE and 0 NAY.

Mayor Dennis announced that Ordinance No. 14-11 passed on final reading.

**NEW BUSINESS**

Ordinance No. 15-11 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #73, special exception for large wind systems and wind farms) (Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 15-11 by title.

Councilor Keen moved that Ordinance No. 15-11 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor Keen explained that the current ordinance allows a one-year window from the time that a permit for wind systems is issued to the time when a turbine is operational. In the case of wind farms, only one of the turbines would have to be operational before the special exception would expire. Invenergy, the company asking for the change, wanted to increase the window from one year to three years originally. Through a series of discussions, that time was lowered to two years. During the APC's final meeting, it was lowered to 18 months. There was some public opposition to allowing any extension from the current one year, especially going to three years or even two years, given the impact of time on the opponents' properties. After a permit is issued, there would be a period when micro-siting and construction would be occurring, which would leave the adjacent property owners with uncertainty as to where the turbines would be located, forestalling any construction or changes on their properties. Councilor Keen said that he was one of the two dissenting votes, agreeing with the property owners that the time was excessive. Most wind energy companies can and do get their turbines in one year or less. He cited the CityBus case, for which approval was granted about three months ago, and the three turbines are installed and in use.

Councilor Hunt said that she did not know that Councilor Keen was one of the two dissenting votes. She asked Councilor Keen how many comments were against the ordinance at the APC meeting. Councilor Keen responded that only 10 of the APC representatives were present, and

it takes eight votes to pass. Councilor Keen said that there were 10 or 15 people who spoke against the ordinance. The only person who spoke in favor of it was the Invenergy representative.

Councilor Hunt asked City Engineer Buck what the impact of this ordinance would be on the City of West Lafayette. Mr. Buck responded that wind energy conversion systems currently require special exception. They are not allowed anywhere in the County. They are allowed with special exception, which involves a Board of Zoning Appeals (BZA) hearing in areas zoned Agricultural (A)—of which there are none in the City of West Lafayette, Office Research (OR), and I3. There is a small part of the Research Park that is I3. Mr. Buck said he believed that all the I3 and R zoning in West Lafayette is owned by Purdue Research Foundation. Microsystems, such as one would put on an individual house, cannot be any taller than 15 feet above the tallest part of the building, are allowed, so long as they meet the height and size requirements and generate 10 kilowatts or less. Those are not considered wind energy conversion systems. The two classes of wind energy conversion systems (WECS) are small wind farm and large wind farm. The distinction between them is requirements of height and how much power they generate. There are requirements for setbacks and separation. They take a lot of room, and will not be built on parcels of the typical size in West Lafayette anyway. Once wind turbines are installed, the separation has to be maintained, new residences and buildings cannot be built within a specified circumference around those. The concern for West Lafayette is very small on this issue. Mr. Buck said he does not foresee any requests for special exception for the areas where they could potentially ask for.

Councilor VanBogaert asked if this would be grandfathered for those who have already been granted special exceptions. City Engineer Buck answered yes, but that there are none in West Lafayette. There may be one on the south end of the County, which is the one that started the discussion. This ordinance deals with the length of time of a special exception.

Councilor Dietrich asked what the default is for the City if the Council does not pass the ordinance. City Engineer Buck said that the time limit would remain at a year. There would be a difference between West Lafayette and the rest of the County.

Councilor Keen emphasized what City Engineer Buck said, that the concern for West Lafayette is minimal. It applies to large wind systems, not the small ones, and there is very little area in West Lafayette eligible to install this sort of large system. The concern for West Lafayette is minimal.

City Engineer Buck said the turbines affected by this ordinance are 140 feet high, have 140 feet clear between them. Property in the Research Park north of Kalberer Road might fit six or eight, but they would not be able to build on the property. That is the only feasible area that could be affected in the City.

Councilor Hunt said that she just found out about this, as it was not discussed at Pre-Council. She asked Councilor Keen if, in his opinion, it would be best to vote this down, on the minor chance that it might happen, the City would be protected. Councilor Keen answered that he would vote against the ordinance for two reasons. The first is that he voted against it at APC, as he disagrees with the premise. The Invenergy representatives were not persuasive in their reasoning for the need for additional time. Reports from other people at the meetings were that projects such as this could be done in a year or less. Councilor Hunt said an example is CityBus. Councilor Keen responded that the CityBus turbines are not considered large, but the concept is the same, only on a smaller scale. Councilor Keen said his other reason for voting

against it is that there is a chance, however small, that someone would decide to build such a system. West Lafayette's window would be 12 months, as opposed to 18.

Councilor Burch asked Councilor Keen if Invenergy has filed an environmental impact statement. Councilor Keen answered that the company has done all the preliminary work, as part of the permitting process. He was not certain whether the environmental impact study has been completed, but it is part of the process. It was part of Invenergy's argument that they needed the extended time to complete the environmental impact study.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch		✓		
Dietrich		✓		
Hunt		✓		
Keen		✓		
Thomas		✓		
VanBogaert		✓		

Clerk-Treasurer Rhodes stated that the vote was 1 AYE and 6 NAY.

Mayor Dennis announced that Ordinance No. 15-11 failed.

Resolution No. 09-11 A Resolution To Update The City Of West Lafayette Investment Policy (Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 09-11 by title.

Councilor Keen moved that Resolution No. 09-11 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Clerk-Treasurer Rhodes explained that, over the last few months, she has discussed with the Council the need to update the City's investment policy, to take into account changes in public funds statutes since 2001. The next resolution accompanies this, in that the particular option, which is the subject of the next resolution, is also named in this resolution: CDARS, certificate of deposit account registry service. A mark-up copy of the investment policy was circulated, and the Council was asked for feedback. There is another draft attached to this resolution, with additional explanatory information, which allows the investment policy to stand alone without reference to State Code to understand the parameters. There are issues cited that refer to several Titles of the Indiana Code. Clerk-Treasurer Rhodes requested that the Council approve the updated investment policy, to comply with State statutes and to utilize the investment options that are available.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

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	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch	✓			
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			
VanBogaert	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYE and 0 NAY.

Mayor Dennis announced that Resolution No. 09-11 passed on first and only reading.

Resolution No. 10-11 A Resolution Authorizing Investment of Public Funds In Certificates of Deposit (Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 10-11 by title.

Councilor Keen moved that Resolution No. 10-11 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Clerk-Treasurer Rhodes stated that the CDARS option, to which she referred in discussion of Resolution No. 09-11. This option was enacted in State statute in 2010, and there are already 31 public entities who have invested more than \$1.5 billion in it. It has been tested in Indiana and has worked well. Clerk-Treasurer Rhodes said it would offer the City more competitive options for deposits, as well as to have all the deposits fully insured through the federal government. The primary goal of the safety of public funds will be maintained and yield a market rate of return on the investments. She asked for Council support.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✓			
Burch	✓			
Dietrich	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			
VanBogaert	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYE and 0 NAY.

Mayor Dennis announced that Resolution No. 10-11 passed on first and only reading.

### COMMUNICATIONS

► City Engineer Buck reported that Lindberg Bridge construction is going well. Beams are being set at the rate of six to 14 per day. There are five beams per span, and each span is about 48 feet long. Construction is nearly to the midway point, and the channel between the south and north parts of Celery Bog has been opened. Deck panels are being installed, and soon the rebar for the inside of the concrete will be wired. The bridge is about a quarter-mile long with three deck pours. That will be a labor-intensive part. After that, there will be railing installed on each side, with a pedestrian rail on the north side of the bridge. The hope is to complete construction and have the road open before Purdue begins in August, definitely by the first Purdue football game. There will be incidental construction to wrap up, which is required to be completed by October 1.

► Mayor Dennis stated that he has received many names for nomination to the Historic Preservation Commission. He thanked the Council for their input and contact information.

### CITIZEN COMMENTS

► Jan Myers (1909 Indian Trail) said that she had talked a few months ago about the trees disappearing along River Road. She said she recently noticed that an 18-inch Catawba tree in the 400 block of Chauncey had disappeared. There were maples removed for Lindberg Bridge, and some white birches removed for 231 Relocation. Indiana is one of three states known for its hardwoods, Michigan and Wisconsin being the other two. Florida has a forward-thinking program on trees, where no entity in the State of Florida can remove a tree without contacting a consortium of artists. That group will bring a portable sawmill and, on site, if the tree is worthy, remove it at no cost to the government entities. Taxpayers pay something to have trees taken down. Ms. Myers brought four examples of wooden bowls, which her husband made from locally-reclaimed removed trees. They were a honey locust bowl from the County, a red cedar from Salisbury and Rockland, a maple from District 2 near the Unitarian Church, and an ash from Indian Trail. She said there are many uses for trees removed, not only wood-turned bowls, but also other things.

Councilor Dietrich asked Ms. Myers if there were a consortium locally that would be interested in this sort of project. Ms. Myers said she would be very glad to put Councilor Dietrich in touch with that group.

► Jim Hass (663 Pawnee) asked whether the water company is waiting for a rate increase approval to remove the dead tree in front of their premises on Happy Hollow Road. It is a large, potentially hazardous dead tree.

### ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting, the time being 7:12 p.m.