

CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES
MAY 28, 2009

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on May 28, 2009, at the hour of 4:30 p.m.

Mayor Dennis called the meeting to order and presided.

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

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, Parks Superintendent Payne, and Director of Development Poole.

SPECIAL REPORTS

Director of Development Poole will update the Council on the active tax abatements currently active in West Lafayette.

PUBLIC RELATIONS

Beautification Award

Mayor Dennis announced that Councilor Keen would present this. Councilor Hunt said that the winner is Medha Gore, who lives at the corner of Lagrange and Salisbury.

Councilor Burch asked to whom nominations are to be submitted. Councilor Hunt answered that she will take the nominations, preferably in writing or by email.

SPONSORED LEGISLATION

Mayor Dennis suggested that proposed legislation should be referred to an elected official or someone who is empowered by statute to be the sponsor of that legislation. Councilors would be encouraged to have their committees and citizens in their districts pass proposed legislation through the Councilors. He stated that he is not attempting to inhibit, prevent, or limit legislation, free speech, or democracy, just trying to keep the process clean and keep the system viable. City Attorney Burns added that he and Councilor Roales had talked about one pending piece of legislation. Mr. Burns said that the West Lafayette City Code does not have any requirement for sponsorship, but the Lafayette Code does. West Lafayette Code empowers elected officials and the City Attorney to sponsor legislation, but it says nothing about citizens. Obviously, any citizen has the right to petition the Council for legislative consideration. In Lafayette, if a citizen brings it without a sponsor, it goes immediately to committee, unless a council member wants to bring it back and put it on the table. Mr. Burns stated he thought it was a good idea for the Clerk's Office to suggest to citizens, even though it is not a requirement, that they seek an elected-official sponsor. Clerk-Treasurer Rhodes responded that the City Code is taken very literally by parties who wish to file legislation, even such that the APC refuses to file legislation electronically, when it would be advantageous, because the City Code requires a specified number of hard copies. The Council is free to have any standing rule that it wishes to adopt, but until the City Code is changed, anyone can file legislation. The Clerk would have nothing official to use, other than the City Code. City Attorney Burns countered that Clerk-Treasurer Rhodes would have to accept it, but should say, "The Council would like you to

have a sponsor. Here's the list." Clerk-Treasurer Rhodes said, if the motion came from the Council and were adopted, that would be a correct statement. When that happens, her office would relay that. Councilor Roales mentioned that he had looked at this issue, and anyone can sponsor legislation, but Robert's Rules of Order reports that only council members can make a motion to consider it, so it could be a standing policy of this Council that, unless a member of the Council sponsors it, there will be no motion to consider it. A Council member can always adopt it and be the first to motion for its vote, be the *de facto* sponsor at that point. Councilor Roales said that would be appropriate, until the Council can review and modernize the City Code. Mayor Dennis noted that the City Code certainly needs to be reviewed and revised. City Attorney Burns said that a Councilor could make a motion at a meeting, creating a standing rule that legislation will be considered only when there is a sponsor attached to it. Statutorily, there are some entities such as Area Plan Commission that have the right to file legislation, so they don't need any special rights. Mayor Dennis asked if such a resolution could be considered at this Pre-Council or at the Council meeting. Councilor Hunt asked if this should be on the agenda in advance. Mr. Burns said that a resolution does not have to be on the agenda. Clerk-Treasurer Rhodes suggested that, if a long-established practice is being changed, it should be on the agenda. Mr. Burns stated that the Council would be creating a standing rule, not changing the Code. Clerk-Treasurer Rhodes said that the City should make every effort to make sure that the change is done in a way that the citizens would be well informed and not create a Catch-22 situation, when it came time to file. She suggested that someone should prepare a paragraph, so that her office can provide that to citizens. Mr. Burns will generate this paragraph for Council approval. Councilor Hunt asked whether a City department could offer legislation. Councilor Roales said his philosophy is that it is important for an elected official to stand behind policymaking. Councilor Keen agreed with Councilor Roales.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

Ordinance No. 7-09 An Ordinance To Name Depositories For The City Of West Lafayette (Submitted by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 7-09 by title and asked for comments or questions.

Councilor Hunt asked Clerk-Treasurer Rhodes to explain this on Monday, similar to the presentation she made at a recent Budget and Finance Committee meeting.

Clerk-Treasurer Rhodes said that this change is recommended, to ensure that the City complies with depository and CD procedures prescribed by the State. This ordinance will give the City advantage in banking matters. Later, the City's investment policy will be offered, but it will not supersede this part.

There was no further discussion.

Ordinance No. 8-09 An Ordinance Establishing The Go Greener Commission Fund (Submitted by Diane Damico)

Mayor Dennis read Ordinance No. 8-09 by title and asked for questions or comments.

Councilor Dietrich asked if there were other City funds controlled by non-elected officials. Clerk-Treasurer Rhodes answered that the City does have non-elected officials who control funds, for example, Redevelopment Commission and the Park Board. Some City bodies such as the Police Merit Commission control funds or make changes to appropriations approved by the

Council. Councilor Keen noted that he did not see this as a City fund *per se*, because the City is not depositing into the fund. The fund is being established for deposits of donations, grants, and sales. Mayor Dennis interjected that the Go Greener is a City-sanctioned entity by ordinance, and the City has statutory obligations for compliance. City Attorney Burns questioned whether there are other entities that are not State-sanctioned. Clerk-Treasurer Rhodes responded that the Tree Fund operates within the Parks donation fund and is spent without appropriation.

Clerk-Treasurer Rhodes raised the issue that these boards and commissions who fund their activities with monies from a variety of non-City sources are setting a new City standard. They are hybrids between restricted donation funds and special revenue grant funds that the Council establishes. Having separate funds allows for clear accounting for cash transactions.

Councilor Roales asked whether it was legal to spend money without appropriation. Clerk-Treasurer Rhodes explained that these act like restricted donation funds. Business donations are sometimes called grants, but really are local awards. Those can be spent without appropriation for the specific purpose for which the money was given, and that is common. What is unusual is the fundraising activity that is or may be occurring. Money which is not federal or State funds, not tax money, may be spent without appropriation. City Attorney Burns asked if the State Board of Accounts regulates these funds. Clerk-Treasurer Rhodes responded that all funds have to be appropriated, with the exception of donations, special kinds of revenues given for specific purpose that are not tax funds. She added that it is an option for a City to allow that to be unappropriated. Quite a few funds are unappropriated. Councilor Roales asked for a listing of these funds and the activity in them over the last year. Clerk-Treasurer Rhodes answered that she would provide the listing, but she also would like to review the monthly reports with the Council, so that they can see where the unappropriated line items are. Mayor Dennis suggested that a Budget and Finance Committee meeting would be an appropriate forum for this discussion.

Clerk-Treasurer Rhodes stated that she thought it would be helpful to point out, as when the Council passes the budget, only a small number of funds is approved, compared to the long listing of funds, which shows on the statements of funds. The budget is a limited portion of the total expenditures of the municipal jurisdiction.

Councilor Keen stated that he felt that a separate fund is a clean way to keep track of monies that are designated. Councilor Roales said he didn't know if there was even a small pocket of activity that wasn't being reported, and indicated that he is interested in learning how many of these funds there are, what the activity level of them is, etc. Clerk-Treasurer Rhodes replied that each month, Councilors receive a statement of funds, on which there is a column that reflects expenses to date. The column on that report, compared to the budget, will nearly always reflect a much larger number, partly due to Utility funds, but part represents accounts that do not operate with a budget. For example, millions of dollars flow through payroll clearing accounts; those are unappropriated. It would not be possible to function with them as accounts that need appropriations. Clerk-Treasurer Rhodes asked the Council to consider having her do a brief overview of the categories of funds the City has, and showing the Council the information that should create a better understanding of how the finances work in the City. Councilor Thomas asked if this could be done at the Budget and Finance Committee meeting in June.

Councilor Bunder reminded the Council that it is good news that the Council must take this action. It should comfort funding agents that the Go Greener Commission will use the money appropriately and for the purpose intended. Clerk-Treasurer Rhodes reminded the Council that the executive-type functions such as purchase order control for grant expenditures are in place

and are followed.

There was no further discussion.

Ordinance No. 9-09 An Ordinance Vacating A Portion Of South Chauncey Avenue In The City Of West Lafayette, Indiana (Submitted by Daniel A. Teder)

Mayor Dennis announced that Ordinance No. 9-09 has been withdrawn by Mr. Teder, the attorney for the petitioner.

Ordinance No. 10-09 An Ordinance To Establish The Cumulative Capital Development Fund And Readopt West Lafayette City Code Provisions Concerning The Fund (Submitted by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 10-09 by title and invited Clerk-Treasurer Rhodes to speak regarding this matter.

Clerk-Treasurer Rhodes distributed handouts from IACT regarding the budget process and the CCD Fund, as well as a history of the Cumulative Capital Development Fund in the City of West Lafayette. CCD Funds are traditionally used for infrastructure needs, as well as the operating needs of the Parks Department, as allowed by State statute. The Fund was established in West Lafayette in 1984 and was effective in 1985. There was a three-year phase-in of the rate, the maximum being \$0.05 per \$100 of assessed valuation, and a necessary renewal of the fund by the Council every three years. In 2002, there was a change in the statute; it no longer needed to be renewed every three years, but the rate was reestablished the rate at the \$0.05 level, primarily due to reassessment. The Department of Local Government Finance administers the rate adopted by the Council, and makes an adjustment downward, based on the four-year trends of assessed valuation. The rate adjustments are supposed to raise about the same amount of money each year, even though there is a growing community. The only remedy the City has to increase funds is periodically to reestablish the fund, which reestablishes a rate. The new rate becomes the benchmark from which DLGF makes adjustments. The City's assessed valuation is down almost 20% for 2010, because of the large Homestead deductions. The field representative for the DLGF has reported that the City should see a reduction for collections for CCD, perhaps \$60,000 lower than what we received in '08. That lower level will set the benchmark for further reductions in the years to come, because the Homestead deduction likely will come off in 2010. Trending is viewed as a mini-reassessment by the DLGF, causing them to adjust the rate down based on trending information. Municipalities have been unable to convince the DLGF to address the situation with the adjustment of the rates. DLGF's solution is that the municipalities can reestablish the CCD Fund each year. Even if a municipality establishes the CCD rate at \$0.05, the maximum, it will not be the rate collected, as that rate will be adjusted downward. Unless the Council takes action from time to time, there is no increased revenue for any growth in the City, even growth that is related to new assessed valuations rather than just changes in values of existing assessed valuation. About \$160,000 of Parks operating budget is in CCD. The impact of this ordinance would be to raise the tax rate. Currently, as you can see, the tax rate is about \$0.0294. If the Council were to readopt the \$0.05 rate, the increase would probably be about \$0.04. So the increase could be about \$0.01 increase in the rate. This can be considered every year; it does not have to be done this year. The rate will continue to be decreased in years to come, if the Council takes no action. The action has to be taken in time that the filing can occur by August 1 with the Department of Local Government Finance.

Councilor Roales asked for clarification on the timeline. Clerk-Treasurer Rhodes answered that the ordinance will need two readings, because a public hearing is required. If the first reading is in June, the second reading will be in July after advertisement of the public hearing. There is a preliminary filing with DLGF between the first and second readings, and another filing after Council passage.

Mayor Dennis stated that the reality is that taxes would be raised if this ordinance passed. Councilor Burch announced that, in these economic times, she could not justify raising taxes. Mayor Dennis asked whether the Council could revisit this issue next year, if it does not take action this year. Clerk-Treasurer Rhodes replied that the Council could indeed consider this item next year. CCD will continue until the Council eliminates it, but the DLGF will be lowering the rate each year, with no Council action. Mayor Dennis announced that this is not the year to raise taxes, as the City government needs to reflect the community that it serves. He is not in favor of passage of the ordinance. Councilor Burch said a tax increase could not be justified at this time.

Councilor Roales asked for clarification that CCD collections would probably decrease \$60,000 with no Council action. Clerk-Treasurer Rhodes confirmed that statement. Councilor Roales questioned Clerk-Treasurer Rhodes on what her best estimate would be for the rate the City would get, if the ordinance were passed. Clerk-Treasurer Rhodes replied that the action has to be taken for the 2010 budget, and whatever the rate DLGF sets, that is a benchmark for 2010 and beyond. The drop in the AV will lower collections, which will provide a lower level from which adjustments are made. It is her estimate that there will be a two-year recovery period from the large drop in AV that results from the Homestead deduction. The Clerk-Treasurer pointed out that the City has not received its 2009 budget order at this point, so it is not possible to speculate with any degree of certainty. It is a matter that can be taken up every year, but the Council will see the impact two years before it can take action to raise CCD funds.

Councilor Keen asked what the trade-off is for not passing the ordinance. Clerk-Treasurer Rhodes said if the CCD is not re-established and the Council chooses to do it next year, then the City has an additional year of reduced revenue, based on the information available now. If the Council takes no action next year as well, the Council has permanently lowered the City's base. There is a considerable unappropriated balance in the CCD Fund, with significant commitments going forward. This is part of the mix of Council decisions to be made when budgets are determined.

Councilor Keen asked for confirmation that the vote on this ordinance will not affect City services *per se*. Clerk-Treasurer Rhodes replied that CCD funds infrastructure and a portion of the Parks operating budget. Other avenues of revenue can be explored, as well as expenditures and reserve funds. Mayor Dennis stated that there would not be an overall adverse impact. The City will have to continue to be careful about spending and the projects undertaken. Councilor Burch asked if the projects underway could continue. Mayor Dennis confirmed that statement.

Councilor Hunt questioned the amount of the Parks budget funded from CCD. Clerk-Treasurer Rhodes answered that it is \$150,000 this year, about \$160,000 the last two years, approximately 18% of the CCD budget.

There was no further discussion.

Resolution No. 8-09 A Resolution Authorizing The Filing Of An Application With The U.S. Department Of Housing And Urban Development, For Community Development Block Grant Funds, As Provided In Title I Of The Community Development Act Of 1974, As Amended (Submitted by the Department of Development)

Mayor Dennis read Resolution No. 8-09 by title and asked for comments or questions.

There was no discussion.

Resolution No. 9-09 A Resolution Appropriating Housing Loan Funds On Hand Resulting From Repayments Of Loans Previously Made By The West Lafayette Department of Development (Submitted by Department of Development)

Mayor Dennis read Resolution No. 9-09 by title and asked for comments or questions.

There was no discussion.

COMMUNICATIONS:

► Councilor Roales suggested that the budget meetings be consolidated into one longer meeting, as it would be easier in his schedule. Councilor Thomas stated that it would be challenging to keep focus after two or three hours. Consensus was that the three meetings would remain as scheduled.

► Clerk-Treasurer Rhodes asked for the Council to let the department heads know how they want to receive budget presentation materials. Consensus was that paper copies were preferred, and that the material should be available on the City website.

► Councilor Bunder reminded the Council that, as part of postponing Ordinance No. 3-09, which proposes changes to the City's rental housing code, there are to be three study groups. The overoccupancy group is meeting. The other two, fees and fines, and reporting on deposits, have not been assigned. Mayor Dennis assigned Councilor Dietrich to pick two or three others and convene the group on fees and fines, and Councilor Roales to convene a group to recommend reporting on deposits.

ADJOURNMENT:

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting, the time being 5:24 p.m.