

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
MINUTES  
MAY 3, 2010

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on May 3, 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, Keen, 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.

MINUTES

Councilor Keen moved for acceptance of the minutes of the April 1, 2010, Pre-Council Meeting, and the April 5, 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 presented this report.

PARKS AND RECREATION

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

ECONOMIC DEVELOPMENT

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

BUDGET AND FINANCE

Councilor Dietrich reported that the first meeting for the 2011 Budget would be held in mid-May.

PERSONNEL

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

REPORT OF APC REPRESENTATIVE

No report.

PUBLIC RELATIONS

West Lafayette Community Beautification Award

Councilor Hoggatt presented the May 2010 West Lafayette Beautification Award to Lee and Marguerite Trachtman of 3020 Salisbury Street.

Presentation: Ms. Betina Cochran and Director of Development Chandler Poole

Mayor Dennis' Administrative Assistant Cochran and Director of Development Poole showed two videos, which are now offered on the City website. Topics such as Quality of Life, Education, and Parks, are available in video formats by clicking on the specific item in the lower left of the homepage. Mayor Dennis thanked Ms. Cochran and Mr. Poole for their work in highlighting various aspects of the City.

SPECIAL REPORTS

Presentation: Findings and Recommendations of the Human Relations Commission Survey – Mr. David Rosenthal and Mr. Phil Subeck, Human Relations Commission

Mr. Phil Subeck outlined the objectives and findings of the West Lafayette Human Relations Commission's survey. Twenty-four percent of surveys were returned, 597 households of 2500 sent. Findings were positive, with a large majority (79%) indicating an awareness of the problem of discrimination in West Lafayette. About 14.5% thought discrimination was a significant or very significant problem. Twenty-eight percent of respondents identified a specific incident of discrimination, either experienced by themselves or by someone they know. Mr. Subeck said that the HRC would like greater public awareness of its existence and its procedures.

Mr. David Rosenthal addressed the areas the survey brought to light that need improvement. Only 36% of respondents were aware of the existence of the West Lafayette Human Relations Commission, particularly among Hispanics and Latinos (7% awareness), people of Middle Eastern descent (14% awareness), and those of Asian descent (16% awareness). By income level, those earning \$25,000 or less per year had only a 19% awareness. A goal of the HRC is to increase awareness by targeting the groups highlighted, ensuring that these groups recognize the HRC and its potential usefulness to them. Some of the groups that have low awareness are some of the groups most impacted by discrimination in our community. Of the types of discrimination, 41% were racial, 10.5% were age-related, 10% sexual orientation, and 8% were citizenship or visa status. The survey revealed that 62% indicated that they would consider reporting an incident of discrimination, but they did not know to what group to report the problem. Obstacles to reporting included fear of creating personal problems for themselves (11%). Recommendations are to increase awareness of the Commission, publicize the survey results and continue to promote findings, promote services of the Commission, and to talk to specific groups such as the Latino Coalition and local places of worship. Additionally, the published brochure will be distributed, and emphasis will be placed on the fact that retaliation of reported discrimination or assisting the Commission as a witness is unlawful. Mediation will be promoted, making a conflict less confrontational.

Mayor Dennis thanked Mr. Rosenthal, Mr. Subeck, HRC President Charlie Shook, and the Commission for its efforts and thoughtful approach in developing the surveys and compiling the data. He stated that elimination of the fear factor and getting to the services to those who need them is important.

Mr. Subeck said that one approach being developed is a website that represents the West Lafayette, the Lafayette, and the Tippecanoe County Human Relations Commissions. This joint

effort would be a source of information and direction to those who need information and should eliminate confusion about which Commission should be contacted.

Questions from Councilors Burch, Bunder, and Dietrich dealing with survey methods, selection of potential respondents, development of questions, contact of University students, guidance in contacts to report discrimination, and responses by councilmanic district were answered by Mr. Rosenthal, Mr. Subeck, and Mr. Shook. The survey was to provide the West Lafayette Human Relations Commission a general idea, not a scientific representation.

Presentation: 2009 Annual Financial Management Report of the Wastewater Treatment Utility – Mr. Jim Treat, O.W. Krohn & Associates

Mr. Jim Treat [O.W. Krohn & Associates, LLP] reviewed the 2009 WWTU Annual Report, which was in the same format as the 2008 report and also the March 31, 2010, first quarter report. The 2009 Annual Report showed net assets of about \$70 million in Utility Plant and service at December 31, 2009. Other Accounts Receivable was at \$2.3 million in 2009, which reflects temporary loans still outstanding to the City's General and Parks & Recreation Funds in anticipation of tax draws. These were paid back in the first quarter of 2010. There is stability in the cash and investment balances. Long-term debt is all SRF (State Revolving Fund) loans (about \$37.2 million), which increased about \$3 million because of draws. The total payment on those is about \$3.1 million annually. The Net Assets of the Utility grew by about \$3.1 million, mainly through the net revenues, some contributed assets, and grant money. Operating Revenues were \$9.1 million in 2009. Some of the changes were highlighted. Outside of Purdue University, residential and commercial sales were up about 2.5% over the previous year. Purdue payments to the Utility decreased 9%, approximately \$300,000, which was somewhat offset by the increase on the residential side. That item will be monitored further; the lower number was used in all the projections. The statements reflect the inclusion of sanitation and pollution prevention activities, which were previously reported by Street and Sanitation Department. This added about \$625,000 in revenues and about \$610,000 in operating expense. Interest income reflects the economy, from \$331,965 in 2008 to \$142,615, due to the poor interest rates on relatively short-term investments. On the Statement of Cash Flows, the decrease in cash balances does not reflect the repayment of the loans to the City. There was some decrease in the Improvement Fund because of use of cash for the unforeseen Cherry Lane sewer collapse. In viewing the Detail of Operation and Maintenance Expenses, overall, Mr. Treat said, there is a noticeable jump in operating expenses, from \$3.3 million to \$4.5 million, but a significant portion of that is related to the addition of the sanitation and pollution prevention activities. Both land application and consulting fees increased; the hope is that these will reduce in 2010. Bond and debt ordinances require certain balances for debt service reserves and for repayment of the bonds. The City is in compliance with its bond covenants as related to the restricted cash funds, especially in the Bond & Interest Fund and in the Debt Service Reserve Fund. The recommended level for the Operating Fund exceeded what was recommended. Those items look strong. Mr. Treat reviewed the charts showing statistics, Dollars Billed by Customer Type for 2009, Gallons Billed by Customer Type for 2009, Count by Customer Type for 2009, and Purdue University Billing History. About 40% of the revenues and volume comes from Purdue, with the next biggest group being multi-family housing (24%), followed by 19% for owner-occupied residential. Purdue volumes appear to be erratic, without steady growth in the flows. The constant is that the University is a big part of the Wastewater operations. The Schedule of Gallons Treated and Billed shows that the average daily gallonage treated in 2009 was 7.8 million gallons. The Utility is designed to handle 9 million gallons per day, so analyzing capacity additions will be useful at this time, as the Utility is doing. The History of Customer Connections (excludes Purdue) shows that about 88 customers were added in 2009, mostly residential. The graph of the Monthly Bill for 5,000 Gallons, which

compares wastewater utilities in Indiana communities of similar size and surrounding towns, shows West Lafayette at a lower tier. Only the sewer fees are included but about half of the municipalities have also adopted stormwater rates (yellow highlights). The baseline for both projected revenues and expenses is the 2010 budget, with the only change being the FOG revenue and deferral of stormwater fee revenue pending the discussion of implementing that program. Inflationary increases in expenses are projected from 3% to 5%, depending on the category, which will cause about \$100,000 in additional expenses over the five-year period. The current Capital Plan was reviewed, with Mr. Treat noting that improvements to the collection system in Purdue Research Park to open a new section in that area, Soldiers Home Lift Station improvements, and completion of the Western Interceptor are the big projects on the horizon in the next two years. The Purdue Research Park project, estimated at \$2.7 million, and the Soldiers Home Lift Station may be qualified for SRF financing at \$3.5 million. SRF interest rates are currently 2.81%, very favorable financing. The ongoing analysis deals with the prospect of using SRF money to finance those two projects and what that does to cash flows, without having to increase rates. The additional payment would be \$240,000 to \$245,000 per year. Mr. Treat used that payment, together with the ongoing SRF payments, beginning in 2011, to determine that the bond coverage would be 140% to 150%, even with no increases in sanitary fees. This is a strong bond coverage percent. Mr. Treat said that for SRF, the minimum coverage required is 125%, and West Lafayette's is well above that minimum. The other big projects in the Capital Plan, biosolids handling and capacity expansion to the Plant, could be another \$5 million or \$6 million in projects in the next three or five years. Until those are better defined, they are included in cash expenditures. What is shown is a balance between financing some of the current projects at reasonable rates, with payback of the debt service under the current rate structure, and beginning to use some of the Improvement Fund from prior rate increases. There are substantial reserves, and plans may be developed for using some of those, but there are ample reserves, even without a rate increase. The oldest SRF bonds from 1994 will be paid off in 2016, resulting in \$1.3 million of revenue now used for debt service, which will become available. The analysis is ongoing, to ensure that all assumptions and options and their impacts are considered.

Councilor Keen questioned the impact on the Improvement Fund of payments on the 2004A and 2006B bonds in 2016, when the principal on those will begin to be paid. Mr. Treat said that it would be about \$300,000 net gain, when the 1994 bonds are paid and the principal payments begin on the 2004A and 2006B bonds.

Councilor Hunt asked when the issue of Plant capacity would be addressed. Wastewater Utility Director Henderson responded that United Consulting has been retained to look at the capacity of the Plant. Part of what the company is doing is reviewing which processes need to be the focus at what time, and possibly do smaller, targeted projects, rather than doing one huge project. The 1993 20-year plan is nearly at its end, so it is time to project Plant needs into the future. In 2006, IDEM provided an early warning, alerting the City to the capacity ceiling.

Mayor Dennis thanked Mr. Treat for his hard work.

#### FINANCIAL REPORT

Clerk-Treasurer Rhodes said that by now, everyone has received tax bills. The impact of the Circuit Breaker as a cap on property taxes is fully phased in this year. West Lafayette's tax rate is about 35% of the five taxing districts, so the City absorbs about that amount of the Circuit Breaker credits, that is, the taxes not collected on property, because they're in excess of the cap. The reduction in tax revenue to the City is about \$472,000, more than double what had been forecast. The 2010 tax levy had a \$220,000 increase in revenue; that was in the Budget

Order. However, the Circuit Breaker credits have wiped that out and further reduced the levy another \$250,000. The 2010 budget can still be funded as adopted. The Mayor has ordered a review of revenue and expense forecasting, and is working with the department heads, so that the City can respond to the change in current revenues. The Redevelopment Commission will also be considering the effect of Circuit Breaker on its increment revenues, which will be about a third of the total reduction across the City. Circuit Breaker reductions total about \$733,000, with \$472,000 affecting the City budget, and the remainder affecting increment to the TIF Districts. The Clerk-Treasurer stated that Mr. Treat would provide analysis to the Redevelopment Commission, so that decisions can be made on which projects can be funded. The City's property tax revenues continue to decrease, as a part of a permanent change in funding municipal government. Property taxes will not provide a stable revenue stream in the years ahead. Other recurring revenue sources may be necessary to fund the level of spending that is determined to be necessary. SBOA reports for April have been distributed; some inactive accounts have been eliminated to reduce printing costs.

#### LEGAL REPORT

City Attorney Burns reported that the legal report is on file in the Clerk-Treasurer's Office.

#### 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) ***[NOTE: At the April 29 Pre-Council meeting, this item was tabled until the June 7, 2010, meeting of the Common Council.]***

#### 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.

Councilor Keen moved that Resolution No. 05-10 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor Hoggatt reported that he had distributed a color-coded amended version. He moved to amend Resolution No. 05-10 with the color-coded copy.

Councilor Burch seconded the motion.

There was no discussion.

Clerk-Treasurer Rhodes called the roll call vote:

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

Mayor Dennis announced that the amendment by substitution of Resolution No. 05-10 passed, 7-0.

Mayor Dennis read Resolution No. 05-10 (AMENDED) by title.

Councilor Keen moved that Resolution No. 05-10 (AMENDED) be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor Hoggatt stated that, with the current request from Westminster, it was obvious that there was a policy void in this area. In the interest of making it easier for the Council and for businesses applying for economic development revenue bonds to understand the step-by-step process, Councilor Hoggatt condensed State and federal statutes regarding this topic into Resolution No. 05-10 (AMENDED) into a user-friendly document. He worked with Ms. Denise Barkdull of Ice Miller, bond counsel for Westminster, to understand what other communities do with this type of bond issue.

Councilor Dietrich asked, on page 4, item e of the amended Resolution No. 05-10, whether the City would generate a listing of acceptable attorneys. Councilor Hoggatt responded that the intent is to ensure that an applicant does not try to “piggyback” on the City Attorney. This is the model that Westminster used, hiring bond counsel. If the City were not comfortable with a particular bond counsel, the City could request that the applicant get another bond counsel.

Councilor Dietrich questioned whether the City assumes some liability if the City has the option to determine that a specific bond counsel is acceptable. City Attorney Burns responded that the practical answer is that any practicing attorney in the State could do this, but there would be insurance and other considerations, which would keep inexperienced counsel from serving as bond counsel. Mr. Burns suggested that anyone who came forward to serve as bond counsel should be asked what the limits of liability for that individual are. In this Westminster case, \$25 million would be necessary, and that sort of coverage is difficult to obtain. The market for bond counsel is set by who can get that sort of bonding; generally, that will be a large firm with expertise in this area. In Indiana, there may be six firms which could do it, and three that do it with any regularity.

Councilor Dietrich asked if the words, “acceptable to the City,” should be removed. City Attorney Burns answered that the City does want an acceptable bond counsel, because the bond counsel is the interface with the City. While the City has no liability for any underlying costs or the debt itself, there is an interface, so the City wants a qualified individual involved. It is in the City’s interest to avoid entanglements that could be caused by an unqualified individual. He suggested that the words be retained.

Councilor Hunt asked City Attorney Burns about the limits of liability. Mr. Burns answered that it would be more than what the face principal amount would be, due to interest and other costs in addition.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

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

Mayor Dennis announced that Resolution No. 05-10 (AMENDED) passed on first and only reading, 7-0.

Councilor Dietrich acknowledged Councilor Hoggatt's work, which was considerable. Councilor Hunt added that the work was thought-provoking and necessary; she thanked Councilor Hoggatt for his efforts.

#### COMMUNICATIONS

None.

#### CITIZEN COMMENTS

► Mr. Thomas Kesler [479 Maple] said that he was pleased to see in *The Journal and Courier* recently that the Neighborhood Resource Team was in New Chauncey on the weekend of Grand Prix. Mr. Kesler reported that he hiked a portion of the neighborhood early one morning that weekend, and he saw several yards that showed evidence of great parties. Two or three days later, he walked past the same properties, and they were significantly improved. He was glad to see that happen. While he has never gone to the Grand Prix, he attended the EV [Electric Vehicle] Grand Prix, a new event at Purdue, the week before the Grand Prix. He said that he went because it was an historical moment in our transportation future. Finally, Mr. Kesler noted that he participated in Boiler Blast. One of the locations that he, his wife, a group of students, and a neighbor with a truck worked at was the west wall of the Public Library. He got the litter out of the landscaped area at the base of the wall. On that day, he found a large spot of oily goo, and when he checked on it a few days later, he noted that a wire was hanging from an adjacent building. He informed the City of those two elements of that spot, and he will follow up to see what might be done at that location.

Councilor Hunt asked whether the City sends a thank-you letter to the Boiler Blast students. Mayor Dennis responded that it was a good idea.

► Ms. Melissa Wood, a former Purdue student, read a statement as part of a settlement agreement:

Neither Jerry and Patti Weida nor any employee of Weida Apartments was aware of our intent or our over-occupancy until sued by the City of West Lafayette. We apologize to the Weidas and Weida Apartments for involving them in a lawsuit with the City as a result of our deviant behavior. We ask the Council to make changes to the ordinance holding occupants solely responsible for over-occupancy such as ours. We also ask that the Council make changes to the ordinance that gives the over-occupants a warning and an opportunity to correct the violation. Thank you.

ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting, the time being 7:53 p.m.