

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
PRE-COUNCIL MINUTES  
December 1, 2011

The Common Council of the City of West Lafayette, Indiana, met in the Lower Level Conference Room at City Hall on December 1, 2011, at the hour of 4:30 p.m.

In the absence of Mayor Dennis, Council President Hunt called the meeting to order and presided.

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, Human Resources Director Foster, WWTU Director Henderson, Parks Superintendent Payne, and Director of Development Poole.

Council President Hunt reviewed the agenda. Councilor Keen reminded the Council that the Faith Ministries plans for the old Campus Inn/Champions Centre site would be on the agenda at the next APC meeting, December 21 at 7:00 p.m. in the County Office Building.

Councilor Dietrich asked if Councilors would be sworn in at the December 5 meeting. Council President Hunt answered yes.

Council President Hunt said that she had surveyed the Council, and that there would be quorums present at the Pre-Council meeting on December 29 and the Council meeting on January 3.

Council President Hunt said that Mayor Dennis wanted the Council to approve the 2012 Council Meeting Schedule. Councilor VanBogaert moved that the schedule as presented be adopted. The motion was seconded by Councilor Burch. The motion passed by unanimous voice vote.

#### ORDER OF BUSINESS

Council President Hunt asked that Ordinance 27-11 be discussed at this time.

#### UNFINISHED BUSINESS

Ordinance No. 27-11 An Ordinance Repealing And Replacing Chapter 116 (Storm Drainage And Sediment Control) Of The West Lafayette City Code (Sponsored by Mayor John Dennis)

Council President Hunt said that she read the document. She said she had talked to Assistant City Engineer Susong about her concerns and questions.

Councilor Burch asked if this ordinance applied only to contractors or new construction. City Engineer Buck answered that it applies to anyone who disturbs more than a half acre of land on a project, new development or redevelopment.

City Engineer Buck provided a revised page 12, which replaces the page 12 in the current ordinance. In paragraph (3), "will" is changed to "may."

Councilor Keen moved to amend Ordinance No. 27-11 by substituting Ordinance No. 27-11 (First Amended), which incorporates the changes Mr. Buck provided on page 12. Councilor Burch seconded the motion. The motion passed by unanimous voice vote.

City Engineer Buck said that Ordinance No. 27-11 (First Amended) is marked in such a way as to be clearer than what was presented at the November meeting. The City's original 2005 version differed from the other municipalities; there is no plan to diverge from this submitted plan. This is much more technical. The biggest change is going from one acre to half an acre of land-disturbing projects, making them required to meet the provisions of the ordinance, both for stormwater quality, the newer component, and stormwater quantity, the amount of runoff permitted to leave developed and redeveloped sites.

City Engineer Buck introduced Mr. David Eichelberger of Christopher B. Burke Engineering, LTD, who has helped to lead the efforts of the Tippecanoe County Partnership for Water Quality. Mr. Eichelberger provided background on stormwater, what the provisions are, the federal code and regulations from the Clean Water Act through the EPA level to IDEM, and the State rules.

Mr. Eichelberger said that the City of West Lafayette is subject to a federal regulation called the National Pollutant Discharge Elimination System, NPDES, Phase II, which is part of the Clean Water Act. He explained that Phase I is a federal regulation that applies to large cities such as Indianapolis and Columbus, Ohio. Phase II applies to municipal separate storm sewer systems, MS4s, in urbanized areas and affects certain counties and cities such as West Lafayette, towns, colleges, INDOT, correctional facilities, and others. In Indiana, the NPDES permit program is administered by IDEM, the Indiana Department of Environmental Management. In response to the Phase II federal stormwater regulations, IDEM adopted Rule 13, which regulates stormwater discharges associated with MS4 conveyance systems, such as storm sewers, curbs and inlets, ditches, streams, etc. It also adopted Rule 5, which regulates stormwater discharges associated with construction and land-disturbing activities, and Rule 6, which regulates the stormwater discharges associated with industrial activities. Rule 13 includes as a basic requirement the development of a stormwater quality management plan, which meets six Minimum Control Measures. Three of these Minimum Control Measures include illicit discharge, detection, and elimination; construction sites stormwater runoff control; and post-construction stormwater runoff control. These Minimum Control Measures require the development, implementation, and enforcement of a stormwater quality ordinance, including plan review by the City of West Lafayette. The City of West Lafayette Drainage Code, which was adopted in 1989, was expanded in 2005 to include stormwater quality, and that became Chapter 116 of the West Lafayette City Code, which is the West Lafayette Stormwater Code.

Mr. Eichelberger summarized that the federal stormwater regulation, which is NPDES Phase II, is administered at the State level by IDEM through Rules 5, 6, and 13, and with the local regulatory mechanism, which is the current Stormwater Code that has been in place since 2005. The City has Stormwater Code currently in place, so that when a new development or redevelopment occurs within the community, the City can make certain that the development or redevelopment meets certain policies and standards, to ensure that the City remains compliant with Rules 5 and 13 at the State level, and with NPDES Phase II at the federal level. That is where the City is right now.

Mr. Eichelberger said the Council is aware of the Partnership team that has representatives from the seven units in the County, combining resources to get through the Phase II issue together. The City has realized cost savings from these efforts such as public education, development of the Stormwater Code, and training, among others. In 2010, the Partnership decided to update the Stormwater Code and technical standards. A Partnership committee, with representation from West Lafayette, worked with Christopher B. Burke Engineering to update the Stormwater Code. Local design firms were asked to review and provide input. There was a training session for many of the local design firms and local developers, who were asked to review the major changes. The updates reflect national trends, to incorporate lessons learned since the 2005 code was created; to provide better design criteria for the various stormwater quality measures that are required; and more explicitly to include

low-impact development as an option for builders and the engineering and survey firms that were doing the design work. The inclusion of low-impact development allows builders and engineers to pursue green infrastructure, to collect and convey stormwater runoff from the developments. It is not required, but the old Code did not say you could not do it, but it did not explicitly say that you could do it. Once you explicitly say you can do it, you have to explain some things.

Mr. Eichelberger explained that Ordinance No. 27-11 repeals the current Code from 2005, and replaces it with the updated Code that will be adopted by all the other Partnership units within the first few months of 2012. It is the same Code with the changes mentioned. He offered to answer questions.

City Attorney Burns asked how similar the current codes of the Partnership units are. Mr. Eichelberger said that they are very similar. Procedures may vary among the units, but the technical standards are the same.

Council President Hunt asked why the Tippecanoe River was not included in the list of recreational waters. Mr. Eichelberger answered that the list came from the Indiana Department of Natural Resources, but that he would check on this matter.

Council President Hunt said that she knew that a lot of work went into the document, both in development of it and in proofing. She complimented all who were involved.

City Engineer Buck explained that the Partnership has existed for many years, and that many thousands of hours have been invested by all the Partner units. This is similar to the Unified Zoning Ordinance. The City benefits from the Unified Stormwater Ordinance, because of the public outreach and education, control measures, and other collective efforts. The Partnership has won awards for its cooperative work. The results from the development community are significant, since there is consistency in the technical standards.

Council President Hunt asked City Engineer Buck if definitions of "Notice of Intent" and "Notice of Termination" would be included in definitions. Mr. Buck said that they would be added, as they are meaningful to the ordinance.

There was no further discussion.

Ordinance No. 26-11 An Ordinance Requesting An Additional Appropriation And Transfer Of Funds For The Police Pension Fund (Prepared by the Clerk-Treasurer) **PUBLIC HEARING**

Council President Hunt asked for comments or questions.

There was no discussion.

#### NEW BUSINESS

Ordinance No. 28-11 An Ordinance Amending The Perimeter Parkway Fund (Prepared by the Clerk-Treasurer)

Council President Hunt read Ordinance No. 28-11 by title and asked Clerk-Treasurer Rhodes to provide background on this ordinance.

Clerk-Treasurer Rhodes explained that she and City Engineer Buck have discussed the management issues with the funding of this large project, which will extend several years with many phases. When

a special revenue fund was created in 2007, it was created to require appropriation because there was some thought that matching City funds or other revenues might be deposited in this fund, and bills would be paid only from one fund. Over the past years, since the Perimeter Parkway Fund has been functional, the City has been using another method, in which the appropriation has remained in the originating source of funds. In the past, it was the Economic Development Income Tax Fund. Now it is primarily the Levee/Village Allocation Surplus Fund, as the large dollars are flowing with the construction. All that is being deposited into the Perimeter Parkway Fund now are restricted contributions from Purdue and grant reimbursements for expenses incurred. Neither of those revenue streams requires an appropriated fund to expend them. There could be two separate funds, but Clerk-Treasurer Rhodes recommends keeping one fund, since neither revenue source requires an appropriation. It becomes a laborious process to track the fund, because the magnitude of the project requires a series of change orders. As each of those changes occurs, money comes from Purdue and grant reimbursements are received, and the appropriations approved and made earlier in the year no longer match expenditure obligations. She asked the Council allow the Perimeter Parkway Fund to remain in very narrow use and be unappropriated. The control of the appropriation remains with the elected or appointed bodies that have control over the funds that are the City match.

Councilor VanBogaert said that Clerk-Treasurer Rhodes had explained this earlier in the week in an email to him. He asked for elaboration on the specificity with which the funds from grants or from Purdue are restricted, whether they are designated projects, rather than being fund items. He wanted to know how much judgment is there on the use of the funds outside of elected bodies. Clerk-Treasurer Rhodes responded that the revenues from Purdue only come when there are approved contracts and change orders. The approval of contracts and change orders primarily are under the Board of Works, because the Redevelopment Commission delegated that responsibility to the Board of Works, although the Redevelopment Commission retained some review in this case. These contracts and change orders operate like all others, where the City has an obligation, and any changes to that obligation have to be approved. The body which approves disbursements—the Board of Works, the Park Board, or the Redevelopment Commission—approves the specific disbursement against the contract. That remains in place, and is like all other contracts in the City. The grant reimbursement only comes from INDOT when an invoice is submitted, having been certified by the City Engineer that it is an expense true and correct in response to a contractual obligation. INDOT reviews the paperwork and releases the money. The money is deposited in the Perimeter Parkway Fund, and it goes through the same review by the disbursing body, the Board of Works, in which they examine the documents and the Clerk-Treasurer audits. The disbursement then takes place. All the funds in this case are provided to the City by contractual obligations that are approved by the Board of Works.

Councilor VanBogaert asked if, prior to the disbursement process, the grant reimbursement is generated from an invoice, would the appropriation mechanism be selecting the project that would be invoiced. Councilor VanBogaert said he would want to limit passing along Council control over significant projects that would be paid from found money. When projects that require contracts that require invoices and grant reimbursement are discussed, the grant reimbursement is at the end of that. He asked if the City were losing some editorial control on what projects are selected. Clerk-Treasurer Rhodes responded that the decision to embark on a project involves, as Perimeter Parkway Project did, approval of the Council for the Economic Development Income Tax appropriations. Ultimately, because the City does not have funds to support major road projects in any fund, this involved approval from the Redevelopment Commission. The decision to initiate a project is very much part of who controls the funding for a project. After a project is bid and the bid is accepted and set, the Council does not have responsibility for approval of change orders. In West Lafayette, that is executive/administrative function of the Board of Works. It is apart from the legislative body. City

Attorney Burns restated Councilor VanBogaert' question, whether this ordinance cedes any power, and the answer is no, it does not. Councilor VanBogaert said it is not there to begin with.

City Engineer Buck said that the Council did approve the Transportation Plan and the amendments to that plan that went through the Area Plan Commission. Those approvals authorized these federal funds to be obligated to this project. This fund was established for the flow-through of that money. The entire project is called the Perimeter Parkway; it has many phases. Mr. Buck said that there is a table that outlines the phases of this work over the next 30 years. The Council has approved the plan and the funding. Clerk-Treasurer Rhodes asked how frequently the Transportation Plan is updated. City Engineer Buck responded that an entire new plan is issued every five years. Clerk-Treasurer Rhodes said these plan updates require Council approval. Mr. Buck said that the 2040 plan is currently under development. Part of that plan is the Transportation Improvement Project (TIP) prioritization that shows yearly projects in a five-year rolling window. Within a year, there might be several amendments for shifting funding and priorities within a particular project. Councilor Keen added that the APC just approved an amendment to help fund Yeager Road. Council President Hunt said that the APC Executive Committee has West Lafayette representation, as do all the APC member units.

There was no further discussion.

Resolution No. 15-11 A Resolution Appropriating Insurance Recovery Received For Damage To City Property (Prepared by the Clerk-Treasurer)

Clerk-Treasurer Rhodes explained that, as she reported at the last Council meeting, her office had received another insurance recovery check for damage to City property in this past summer's storm as well as vehicle damage recovery. Vendors are waiting to be paid.

There was no further discussion.

Resolution No. 16-11 A Resolution To Approve Updates To Certain Policies Contained In The Personnel Manual For West Lafayette City Employees (Submitted by the Human Resources Director)

Council President Hunt said that the Mayor requested to withdraw Resolution No. 16-11.

Councilor Keen moved that Resolution No. 16-11 be tabled until the January Council agenda. Councilor Burch seconded the motion. The motion was unanimously passed by voice vote.

#### COMMUNICATIONS

► Council President Hunt announced the Lafayette-West Lafayette Christmas Parade would be held at 2:00 p.m. on Sunday, and that there would be skating at the Riverside Skating Center.

► Councilor Dietrich asked if there was a Beautification Award in December. Council President Hunt answered that there would be no Beautification Award for a few months.

#### ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Council President Hunt adjourned the meeting, the time being 5:07 p.m.