

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
MINUTES  
May 7, 2012

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on May 7, 2012, 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.  
Absent: None.

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, Public Works Director Buck, Police Chief Dombkowski, Street Commissioner Downey, Human Resources Director Foster, Fire Chief Heath, WWTU Director Henderson, Parks Superintendent Payne, and Director of Development Poole.

#### MINUTES

Councilor Keen moved for acceptance of the minutes of the March 29, 2012, Pre-Council Meeting, and the April 2, 2012, Common Council Meeting. Councilor Burch seconded the motion, and the motion passed by voice vote.

#### 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. He noted that 22 percent of the West Lafayette Wastewater Utility power was generated on site in April, with a Duke Energy savings of \$5,346.00.

Councilor Bunder reported that work is continuing on Cumberland Avenue, Phase 1 and Phase 2 and the roundabout at Manchester. Reith-Riley has finished the grading of the ditch and is 60% complete on this phase of the storm sewer. On Yeager Road, Milestone Contractors are working on Phase 1 of the construction. They are installing the storm sewers and have started the grading for the new road. He shared that if you have small children that like to watch big trucks it is anticipated that 210 concrete trucks per day will be travelling down 52 Bypass to Northwestern Avenue to Cherry Lane to begin pouring concrete for the 231 Corridor.

The West Lafayette Sanitation Department has requested bids for 3,500 48-gallon recycling carts and 1,500 96-gallon recycling carts.

#### PUBLIC SAFETY AND ORDINANCE

Councilor Keen presented this report, which will be on file in the Clerk-Treasurer's Office. During the month of April, the West Lafayette Police Department received over 2,200 calls for service, an increase of 18% over March. Several drug arrests were made including that of a drug manufacturing operation, operating within 1,000 feet of the Morton day care center. Seven thousand dollars of cash was also seized in that arrest.

Grand Prix festivities and events were well attended. Every officer in the West Lafayette Police Department worked over the Grand Prix weekend to ensure a safe environment. A significant officer presence in partnership with the Purdue University Police resulted in the fewest alcohol arrests over Grand Prix weekend in recent history. The Department's D.A.R.E program graduated 165 fifth graders from Happy Hollow School this month. Officer's participated in Harrison High School's Every 15 Minutes education program prior to prom, as well as the City's Shred It Day event, where over 6,000 pounds of documents were collected and shredded.

The West Lafayette Fire Department responded to 144 total calls in April. They participated in an event on April 9, 2012 which was mutual aid assistance to Wabash Township Fire Department in battling the fire and accompanying high winds at Copper Beach Condos that day. A department-wide training event in April resulted in all firefighters being trained in Technical Rescue Awareness. There is one significant promotion which the Personnel Report will include. The Fire Department now owns a Polaris Ranger 4x4 800 Crew Cab with a unit that will allow the West Lafayette Fire Department to reach all miles of trails within City of West Lafayette trail areas. They will have the capacity to put out small fires and provide medical assistance on the trails with this vehicle. The vehicle was provided through a grant from Firehouse Subs.

Mayor Dennis added that the vehicle will be at the West Lafayette Farmers Market for people to see. He noted that it is equipped with water and foam for fires and medical equipment as well.

#### PURDUE RELATIONS

Councilor VanBogaert presented this report. He reported that Purdue University's five commencement ceremonies will be held this Saturday and Sunday with over 4,500 students graduating across the schools. According to Purdue's Center for Career Opportunities, more than 90% of 2012 Alumnae will be entering their "life destinations of choice", which is the highest level of either employment, graduate school placement, or public service since 2008.

Maymester courses begin May 14<sup>th</sup>, 2012 and run for four weeks.

Councilor Bunder asked if a "life destination of choice" is a job. Councilor VanBogaert said it includes jobs, Americore, graduate school and other ventures.

#### PARKS AND RECREATION

Councilor Hunt presented this report, which will be on file in the Clerk-Treasurer's Office. She said on behalf of the Parks Department she would like to thank several volunteers for taking care of our community. The Chauncey Men's Cooperative has taken care of Tommy Johnson Park. There were 100 volunteers at the Detrash the Wabash event on April 21st. Alpha Tau Omega Fraternity members weeded and cleaned litter from the West Lafayette Police Station as part of their Earth Day project on April 22th. Starbucks store managers from several counties helped plant 40 shrubs in the Celery Bog Nature Center on April 26th. Children from Burgett's Learning Center helped plant 12 trees near the entrance to the Celery Bog Nature Center during the Arbor Day event on April 27<sup>th</sup>.

Congratulations to all participants in the annual Morton Spring Dance Recital on April 28<sup>th</sup>.

Sagamore West Farmers Market opened in Cumberland Park on May 2<sup>nd</sup>, with 50 vendor spaces rented to date. The market will be open every Wednesday from 3:00-6:30 p.m. through October.

On May 19<sup>th</sup>, from 9:00 a.m. to 5:00 p.m., "MindBOGgling" (a celebration of Celery Bog Nature Area) will be held, with an evening program from 7:00 to 9:30 p.m.

Weather permitting, the West Lafayette pool will open for the season with its annual Splash Bash on May 25<sup>th</sup>, at 1:00 p.m.

#### ECONOMIC DEVELOPMENT

Councilor Thomas presented this report, which will be on file in the Clerk-Treasurer's Office. He shared that staff continued to work with ADA Consultants, LLC on the Community Development Block Grant program 2012 Action Plan. It is available for review and public comment until May 15<sup>th</sup>, after which it will be sent to the Department for Housing and Urban Development (HUD) for their review and approval.

City staff conducted monitoring visits to all the public service agencies which receive the city awards, as well as New Chauncey Housing, Inc. There were no negative findings.

The City received a letter from the Department of Natural Resources concerning the upcoming sidewalk and curb projects to be done on Connolly Street, DeHart Street, and Yeager Road. The letter indicated the state is in agreement with the City that no adverse effect will occur due to these projects.

A groundbreaking ceremony was held for Farmers and Merchants Bank at Wabash Commons. A ribbon-cutting ceremony was held for the Dow AgroSciences Seed Laboratory in the Purdue Research Park. Dow's initial employment estimates were to hire 40-45 employees. They now have 53 employees.

There will be a groundbreaking for the permanent structure for Fire Station #3 on Wednesday, May 23, 2012 at 3:00 p.m.

The Development Department worked with the Mayor and the Purdue Research Foundation to procure a commitment from Automotive Research Indiana Labs to open an Engineering Testing Facility for Caterpillar in the Purdue Research Park. Estimated employment is 40 jobs once the project is completed.

The Development Department continues to be a partner in planning the Purdue Boilermaker half-marathon scheduled for October 20, 2012. Tuxedo Brothers have been selected to run the event.

#### PERSONNEL

Councilor Burch presented this report. She extended congratulations to Antony Schutter who was promoted to Deputy Fire Chief – Inspector and Investigator. His duties include training and day-to-day operations for shift personnel. He is currently in classes and setting up training schedules for the rest of this year.

There were two new hires. Kristi Smith joined the Engineering Department as Office Manager on April 11<sup>th</sup>. She has experience working with a local developer as an executive assistant for the construction team.

Lisa Sinha joined the Police Department as a School Crossing Guard on April 10<sup>th</sup>. She is guard at the intersection of Cumberland Avenue and Barlow Street. She has children in the West Lafayette Community School Corporation.

The Health Promotion Committee sponsored two events to promote healthy living. One was a biometric screening for employees. A walking program for employees was also initiated.

#### BUDGET AND FINANCE

Councilor Dietrich presented this report. He reported that the budget process has begun for 2013. There was a Budget Committee meeting on Thursday to look at numbers and the process will continue.

#### REPORT OF APC REPRESENTATIVE

Councilor Keen presented this report. He noted that the Area Plan Commission will hold a meeting on May 16<sup>th</sup> at 7:00 p.m. Two items on the agenda might be of interest to West Lafayette residents. One is the Gary Schroeder development at Northwestern and Meridian and the other is the John Basham project at 326 South Chauncey Street.

#### SPECIAL REPORTS

Mayor Dennis congratulated Dick and Connie Grace for their house being placed on the Indiana Historic Register last week. He noted that Dick and Connie take great care and pride in their home.

#### PUBLIC RELATIONS

##### a. Police Officer of the Quarter Award

Police Chief Dombkowski addressed the Council and public and noted that the Police Department does not always give Officer of the Quarter awards. They give them out when there is an officer has been nominated by a commander for going above and beyond the call of duty during a quarter. Professor Corrigan, President of the Police Merit Commission, joined him to present the award. Officer Matthew Thompson was nominated and voted for as the Officer of the Quarter. He was involved in 9 drug related cases during the quarter, involving 11 arrests. This led to drugs and a loaded .38 caliber handgun being taken off the street, including some Schedule One narcotics. Chief Dombkowski noted that Officer Thompson is involved in making our streets safer on a nightly basis, and we are a better community because of his service.

Officer Thompson thanked the Mayor and the Police Merit Commission for the award. He also thanked his wife for putting up with his job-related schedule changes and late nights and his fellow officers who work with him on a daily basis.

Chief Dombkowski declared that Officer Thompson is a true public servant. He is an army reservist and has been deployed in the past. He recently received word that he will be deployed to Afghanistan again in August. Chief Dombkowski said the Department will really miss him and will keep his family in their prayers.

##### b. West Lafayette Community Beautification Award

Councilor Dietrich announced that this month's Beautification Award goes to Larry and Cindy Svajgr at 337 Leslie Avenue. Prior to 1950, the lot they live on was part of the West Lafayette High School Arboretum. In the early 50's the School Board

sold the lot to developers for new homes to be built among the towering trees. The Svajgrs moved to this address in 1989. They added many new trees to the landscaping and plants that do well in shade. Ornamental grasses and hardy hydrangeas are favorites of the couple. The house used to be the Mather house. Councilor Dietrich expressed appreciation for the care and pride the couple takes in their home and gardens.

Mrs. Svajgr said they are proud to live in the West Lafayette community and consider it to be a citizen responsibility to make their yard as pleasing to the neighbors as possible.

#### FINANCIAL REPORT

Clerk-Treasurer Rhodes stated that the financial reports have been filed with the Council. She noted that the State Board of Accounts Auditor has arrived and begun the audit. The Budget Committee met and reviewed the investment reports for last year and the first quarter of 2012. They discussed the beginning year cash position for the City. There will be many more budget meetings in the process.

#### 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 Bunder inquired about the People's Welding item on the report. Attorney Burns responded that there was an agreed order entered among the City, Purdue Research Foundation (PRF) and the owners of People's Welding which granted them some limited access which was acceptable to all parties. That should settle the situation and it should be the last time there will be an entry in that regard on the legal report.

#### UNFINISHED BUSINESS

None

#### NEW BUSINESS

Ordinance No. 10-12 An Ordinance Providing For Temporary Loans From A Fund Having Sufficient Balance To A Depleted Fund (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 10-12 by title.

Councilor Keen moved that Ordinance No. 10-12 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Clerk-Treasurer Rhodes explained that this was the second request for loans for the purpose of needs of the Parks and Recreation Fund. The Council already approved a loan of \$300,000 at the beginning of the year. The Parks Fund will need a second loan from the West Lafayette Wastewater Utility for another \$300,000. Clerk-Treasurer Rhodes asked for two readings of this ordinance tonight so that the Parks Department can continue to pay their bills until the tax revenues are received in June.

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 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 10-12 passed on first reading.

Councilor Keen moved to suspend the rules to consider this ordinance again at this time for final reading. The motion was seconded by Councilor Burch.

The motion to consider Ordinance No. 10-12 on second reading passed by unanimous voice vote.

Mayor Dennis read Ordinance No. 10-12 by title.

Councilor Keen moved for passage of Ordinance No. 10-12 on second and final reading, and asked that the vote be by roll call. The motion was seconded by Councilor Burch

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 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 10-12 passed on second and final reading.

Ordinance No. 11-12 An Ordinance Authorizing The City Of West Lafayette, Indiana To Issue Its “Economic Development Revenue Bond, Series 2012 (Faith West Project)” And Approving Other Actions In Respect Thereto (Sponsored by Mayor Dennis)

Mayor Dennis read Ordinance No. 11-12 by title.

Councilor Keen moved that Ordinance No. 11-12 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis asked Thomas Brooks, Jr, Attorney for the Economic Development Commission, to give an overview of the request for a revenue bond.

Attorney Brooks explained that Faith West Properties, Inc has made application with the City for an economic revenue bond in an amount not to exceed \$7 million. On May 24<sup>th</sup>, at noon, there will be a public hearing, after which the Economic Development Commission will hear the request for bond. Pastor Steve Viars from Faith Church and Todd Ponder, the City's bond attorney from Ice Miller in Indianapolis, were both present to answer any questions.

Councilor Bunder asked which of the organizations of the Corporation that were listed in the early material submitted to the Council actually gets the bond money. Attorney Ponder responded that the application was made by Faith West Properties, Inc. and they will be the recipient of the bond money.

Councilor VanBogaert asked if there were any limitations on how many bonds would be issued in a one year period. Attorney Ponder said there were not. 501(c)(3) Bonds can be issued on an unlimited basis by the City if other organizations that come forward with projects that need to be done during the year. There is no maximum amount. Part of the reason for that is that each of not-for-profit 501(c)(3), the borrowers are completely responsible for repayment of the bond. There is really no financial consequence to the City, so the number of 501(c)(3) bonds which can be issued is unlimited.

Councilor Bunder asked if the 501(c)(3) bonds can go to a 509(a)(3). Attorney Ponder responded that they cannot. The borrower must be a 501(c)(3) corporation.

Councilor Bunder referred back to his earlier question regarding who can receive the bond money and noted that Faith West Properties, Inc. is listed as a 509(a)(3). Attorney Ponder explained that Faith West is part of a consortium of entities with a number of corporate entities involved. As a result of that, there will be a legal ruling given from a lawyer, who is borrower's counsel. However, Faith West will be a 501(c)(3) by the time the bond is issued, and short of that, there will be a legal opinion delivered by their counsel to the effect that they can still claim their 501(c)(3) status as part of an affiliate that is a 501(c)(3). There is case law that supports doing it that way.

Councilor Bunder said he does not believe that the Faith West project is not the same as the Westminster project. He believes that this is a religious entity which is receiving a discounted bond rate because of the approval of the City. He reiterated that as he stated at Pre-Council, when the City approved the Westminster bond there was no direct relationship to the Presbyterian Church, no Presbyterian Seminary, no Presbyterian Ministry Center, no Presbyterian Campus Ministry, no Presbyterian Counseling Center, and no Presbyterian Dormitory. Councilor Bunder said that when this project is built, and we heard it is possible to subdivide the project so that monies go only to the parts of the project that are not religious, he would argue that that is impractical at the very least. He said as an Episcopal priest he is delighted to have another Christian ministry in West Lafayette, but as a West Lafayette City Councilman he is not sure the City should lend its faith and credit to any church. He said he continues to feel that we don't have to do this and should not.

Karen Griggs (100 Thornbush Drive) stated that she very strongly objects to this. She said the first reason was that it would violate the Constitution of the United States. She said the City should not make any economic development revenue bond that in respect of an establishment of religion. The separation of church and state is the first principal of the foundation of our nation. She stated that pilgrims fled England to create a new nation without a state religion. She said she felt that the environmental assessment in the handout is incomplete and erroneous. She thinks it should be complete and may cause an environmental effects statement which would delay the project two years. She said she had personally done environmental assessments and this one is just slop. She said the Westminster case is not a precedent, and that actions taken by the Council in the past do not permit this bond issue. She clarified that she felt two wrongs don't make a right. She felt that any church, synagogue, mosque or cathedral should go to its members and private finances for its projects. She stated that the City should not assist financing for any religious groups, when public needs such as libraries and Klondike fire stations need to be built.

Councilor Dietrich said that when the Faith West project was first brought to the Council they were told that the parts of the project which will be religious and non-religious in nature had not been decided yet and asked if that was still the case.

Attorney Ponder said he had a number of thoughts going through his head in response to some of the comments, but in answer to Councilor Dietrich's question he believes that has been decided. The contractor is going to literally submit separate bills for different portions of the facility. It will be a very clear allocation in terms of the bond money being spent on certain parts of the facility and Faith West money being spent on other parts. About 40% of the total project cost is coming out of pocket by Faith West, which is more than enough to cover any spaces in this facility which will have any use that would be problematic to anybody. Beyond that, he said he would reiterate that even if you assume religious use to some extent of these spaces, there is nothing in the constitution or otherwise which would prevent this type of bond from being issued. There are no City dollars being utilized in the process of this project. The City is merely functioning as a conduit issuer because tax-exempt bonds have to be issued by a governmental entity. Faith Church could not go out on its own, not being a governmental entity, and issue a tax-exempt bond. Once the bond has been issued, the repayment of that bond is 100% the responsibility of Faith West. There will not be a single City dollar at risk or utilized in connection with this project. There is an abundance of case law relating to the issue of generating bonds for not-for-profit organizations, many of which do have a religious affiliation. Here in the State of Indiana, just as an example, virtually all of the private colleges we have are 501(c)(3) organizations and virtually all of them have a religious affiliation of some sort. Every single one of them has done multiple bond issues. It is perfectly established as a practice and has been going on for decades.

Councilor Dietrich asked if there was a comment addressing the environmental report that Ms. Griggs commented on. Pastor Steve Viars was asked to address the concern.

Pastor Viars said he first wanted to respond to the practicality of keeping the money spent for various parts of the project separate. He said in fact it is quite practical. Faith Church did the exact same thing when they built Faith East. The beauty of this is they already have the model of Faith East in which the money disbursements and accounting were kept separate. He said the contractor actually submits two sets of bills and two sets of lien waivers. They are paid from two different sources. The carve-out is real. Since the

generous members of Faith Church are giving nearly \$5 million in cash, it will pay for the entire first floor which is the ministry floor of Faith West.

Councilor Dietrich asked which is the 40%, the bond, or the church money. Pastor Viars responded that it is a \$7 million bond and the church is putting in \$4.85 million of cash.

Councilor Dietrich asked if the City can assume then, that 40% of the project will be taxable income for the City. Pastor Viars responded that it would not since these are two different things.

Councilor Dietrich asked in what way they were different. He said if 40% of the project by Pastor Viars own recognition, is from the church funds, he didn't understand why that part isn't taxable.

Councilor VanBogaert responded that the City is not the taxing jurisdiction.

Attorney Burns said the City could be, but he thinks the question that is being raised is the use issue. As far as the 40% of funds that the church has raised, within that 40% the question then becomes, "What is the use of it?" Some uses will be taxable and some will not be taxable.

Councilor Dietrich asked if the clarification is that the dollars that built the structure do not determine what is taxable. Attorney Burns said they do not. He further noted that the other 60% is clearly not taxable as a 501(c)(3) but the portion of the 40% that will be taxable is determined by the use of each space.

Pastor Viars noted that on the environmental issue raised, multiple planned developments have been passed on this site, by this Council already, that had the approval of environmental issues on developments that were far more dense than what this project will entail. Faith Properties has a similar engineering firm that is working on presenting their findings to the drainage board and that sort of thing, and will make sure that those issues are handled and handled well.

Pastor Viars also stated that as a Baptist he was all about separation of church and state. Roger Williams was talking about separation of church and state one hundred years before Thomas Jefferson was born. He said Faith Church would never get involved with something if they felt there was a wrong relationship between church and state. He said on the other side of the issue, Attorney Ponder had brought to their attention that there actually may be possibility here of discrimination against a religious group. If a secular organization can come to the Council and make a request for similar uses and receive funds, and Faith West was denied that simply on the basis of being a church, it would be an egregious example of discrimination on the basis of the church being religious. He said he agrees that they certainly don't want to cross the line of church and state, and he knows that everyone in this room certainly would never want to be in the situation where they were crossing the boundary of discriminating solely on the basis of it being religious.

Councilor Hunt asked for clarification of Faith West getting a ruling from their attorney regarding the 501(c)(3). Pastor Viars responded that Faith is actually organized into ten separate legal corporations, which might sound outrageous, but when you have a skate park you need to be carefully organized. Beyond all of that, the church was advised years ago when it got into more community-based ministries to separate its assets from its risks.

Anything that does ministry has no assets, does not own a building, and does not have cash. Anything that has an asset does not do ministry. Faith West Properties, Inc. is a property holding company owned by Faith Church. It is an auxiliary corporation of their 501(c)(3) in order to help them do the kind of community ministry they do. Pastor Viars noted that on the way to the meeting tonight, there was an ambulance and a fire truck in front of Vision of Hope, which is Faith Church's faith-based residential treatment center for at-risk girls struggling with unplanned pregnancies, drug and alcohol abuse. Girls are invited to the center from all over the country and it is a very high risk endeavor. There is a Vision of Hope ministry for the ministry aspect. There is a separate property holding company that owns that building. They do not mix the risk and assets. He said Faith West would invite everyone from the West Lafayette community onto their site and will try to serve them in every way possible. Many who come will be people who are struggling with great difficulties, but it will involve inherent risk and so the church will need to keep the assets separate from the risk in West Lafayette as well.

Councilor Hunt asked if the Council will get the ruling from the lender when the church does. Attorney Ponder responded they would, and the ruling is actually a precondition to the deal, in order to make the case that it is a viable 501(c)(3), and if there isn't an affirmative ruling, the Faith West project will not be eligible for the bond.

Councilor Bunder noted that there is a list on page 2 of the economic revenue bond (ERB) application of those things which will be constructed by ERB funds and those things which will not be.

Councilor Burch said she felt that Faith West will be a welcome addition to West Lafayette and she will support this ordinance.

Anna Biela, (3655 DeSoto Drive), asked if the 18 new jobs listed on the application as being generated by the project will be exempt from City and State laws regarding discrimination in hiring practice since they are a religious organization. Pastor Viars responded that the church is exempt from the Human Relations ordinance as it is written and by whatever body passed it. He said at Faith East many of their employees are members of the seminary staff. It will be the same at Faith West. There are a number of people who are training for ministry so the bulk of the jobs will go to those who are also part of the training and have to meet the requirements for that training. Faith also has a large number of volunteers, including those who are in trouble with the law from the probation department and work at Faith to do their community service. In practical terms, there are all sorts of people from all walks of life, and the church is glad to have them as they are trying to impact them with the good news of Christ. He said they want everyone to come so they can love them and see what happens.

Ms. Beila said considering this is an economic development bond, she finds it somewhat unusual that a bond that is supposed to increase the economy of the City would be creating jobs only for a specific group of people. If the City is going to represent and endorse this she feels it had best be benefitting the community at large. If they are going to be largely tax-exempt and discriminate in their hiring, she doesn't see how it meets the policy of being of general benefit to the city. She also said she agrees with Ms. Griggs that the bond issuance violates the first amendment. Whether or not actual City money is going to this, if the City endorses it they are violating the establishment clause and the First Amendment and she believes that any benefit that comes from this could not possibly outweigh the importance of the wall of separation between church and state.

Councilor Hunt asked for clarification if the church was exempt from the City's own ordinances. Attorney Burns said the HRC Ordinance does have exemptions in hiring for various organizations, including religious organizations and others.

Attorney Ponder added that that was true at all levels of government, including the federal level, under Title 7. If a given job, by its very inherent nature, requires that a person has to have a certain philosophical background, or whatever it may be, then that is considered a bona fide occupational qualification for such a job. If you are a religious organization, you don't have to hire someone who is an atheist to be the president of your organization. federal, state, and local laws all make that sort of exemption.

Tom Arnett (374 Elston Road) stated he was a resident of Lafayette, but works in West Lafayette. He asked about the products to be produced on the second page of the bond application. He asked why the International Student Family Ministries and the Covenant Student Ministry Housing do not have carve out notation as to whether they would be constructed with EDR bond funds, as other items on the list do. Attorney Ponder explained that what Faith West is doing as far as carve out notations goes above and beyond what the law requires in these matters. Going back to the college example, if you build a dormitory at Grace College in Winona Lake, it is done with tax-exempt bond issues. It's the same type of thing. Where the law has drawn the line to be very conservative about these things, is using tax-exempt bonds to fund a chapel, for example. But even in that case, a good argument could be made that that would be perfectly legitimate for reasons Pastor Viars mentioned before. There is an issue here about discriminating against religious institutions. If any other 501(c)(3) of any stripe can come before you and borrow money for their project, why should a 501(c)(3) that happens to be a religious organization be denied that same benefit. And again, it is not a governmental subsidy of any kind. All the City is really doing is facilitating their ability to access the tax-exempt bond market. YMCAs, colleges and dozens of other organizations with religious affiliations use this kind of financing all the time for their projects. It has been done routinely in the State of Indiana for decades and really throughout the country. He said we frankly don't have a First Amendment issue here at all. He noted that although it is an emotional topic for some people, the law is clearly on the side of the Council being authorized to do this.

Rachel Tobias (620 Elm Drive) asked about the second page of the bond application, where it mentions student mentoring programs under items produced. She asked for clarification of what those mentoring programs mean. Pastor Viars responded that the church has had the opportunity to have a Biblical Counseling Center for over 30 years in our town. There are 24 individuals, many of them with earned doctorates, who provide more than 3,000 hours of free counseling services every year to the community. As part of that ministry they serve students from Purdue. The Counseling Center at Purdue has a terribly long waiting list and is overrun with students requesting counseling. Many students who come needing counseling can't wait for months and months. And many times the people who need counseling most are the ones who can afford it the least. After Faith Church counseling, which is very intensive, comes to an end, Faith has found it is not good to stop it cold, and so the mentoring program is a less frequent, less intensive follow up to the counseling. Many college students do better in college if they have a concerned adult or couple who will come alongside them, get them to a better place, and provide them with accountability.

COMMON COUNCIL MEETING MINUTES, May 7, 2012, CONTINUED

Attorney Brooks reminded everyone that the Public Hearing on this matter will be May 24<sup>th</sup> at noon.

Councilor VanBogaert asked if there was an address for people to send written comment if they are unable to attend that meeting. Attorney Brooks responded that they can be sent to the Clerk-Treasurer's Office.

Tom Arnett (374 Elston Road) asked if Faith West were not able to pay their bond, is the City at any risk to do so. Attorney Burns responded the City is under no risk or obligation to repay any of it.

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 6 AYES and 1 NAY.

Mayor Dennis announced that Ordinance No. 11-12 passed on first reading.

Ordinance No. 12-12 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. 12-12 by title.

Councilor Keen moved that Ordinance No. 12-12 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Clerk-Treasurer Rhodes explained that the Cumulative Capital Development Fund was established in 1984. It was adopted to be implemented at the maximum rate of \$0.05 per \$100.00 of assessed valuation. In subsequent years that rate was changed at general reassessment by the Department of Local Government Finance (DLGF). The rate normally was adjusted down so that there would be no windfall or increase of revenue from the rate applied to higher assessed valuation, unless the Council intended to retain the rate. The Common Council of the City of West Lafayette, under Mayor Margerum, did reestablish the rate after every general reassessment. However, in 2002, after the process of trending was adopted by the State, the DLGF began to adjust the rate every year. The City of West Lafayette did not undertake a schedule at that time to readopt the rate, as it had in the past. The County has experienced some volatility in assessed valuations of property. The assessed valuation of the City swung considerably while trending was implemented and various changes occurred in the Office of County Assessor. The Cumulative Capital Development rate as now been adjusted to \$0.0261 per \$100.00 of valuation. The ability of the City to fund infrastructure projects, particularly

road projects, depends on the Cumulative Capital Development Fund, which can be used anywhere in the City. The Council is being asked to readopt the Cumulative Capital Development Fund rate at \$0.05 per \$100.00 assessed valuation. The procedure to do so is identical to what was involved in establishing the rate, except there is no phase-in. There will be a vote on first reading tonight, a public hearing on second reading, a submission to the DLGF, an additional publication, and a 30-day period to wait for objections before the rate would be adopted as part of the 2013 Budget. This rate does not go into effect until property taxes payable in 2013.

Mayor Dennis added that the ambition of the City over the last several years has been to take on and complete several needed road projects. There are many more yet to be done. Another need is for the City to become ADA compliant. Several projects that will be assisted by this change in rate will help the City become closer to being ADA compliant.

Councilor Dietrich asked if the \$0.05 per \$100.00 assessed valuation was re-adopted this year, would they need to readopt the rate each year. Clerk-Treasurer Rhodes responded that because of the changes in assessment practices, it would be necessary to readopt it every year, as it is in most cities that have the CCD rate. In fact, that has become the common practice in most of the municipalities.

Councilor Bunder asked if this will feel like a tax increase. Mayor Dennis responded it would be.

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 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 12-12 passed on first reading.

Resolution No. 06-12 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 Department of Development)

Mayor Dennis read Resolution No. 06-12 by title.

Councilor Keen moved that Resolution No. 06-12 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Director of Development Poole explained that there were a number of public hearings with regard to this request. The Community Development Block Grant (CDBG) amount this year is \$382,549, down 6% from last year. Ten public service agencies, New Chauncey Housing, Inc., the Engineering Department and some small administrative costs are covered by this grant. The administrative costs were trimmed down to 18% to assist in putting as much money to use from this grant as possible. He asked for approval as the final step in the process before the next round of funding.

Councilor Thomas asked if it ends up there are funds that cannot be used by a public service agency, could there be a different outcome than last time. Director Poole expressed his hope that the situation would not occur again, but reminded everyone that last time it was just a matter of getting caught in a time crunch to get people under contract in time to utilize the funds when the first awarded agency closed down. This time the public service agencies chosen for the funds are well established and they don't expect any problems.

Councilor Dietrich asked Director Poole to name the other public agencies receiving funds. Director Poole said they include Lafayette Urban Ministry, Mental Health American, YWCA, The Center at Jenks Rest, Lafayette Transitional Housing, which has two programs, Food Finders Food Bank, Riggs Community Health Bank, Tippecanoe County Childcare, and Family Services.

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 AYES and 0 NAYS.

Mayor Dennis announced that Resolution No. 06-12 passed on first and only reading.

Resolution No. 07-12 A Resolution To Approve The West Lafayette Public Library Capital Projects Fund Plan (Prepared by The Clerk-Treasurer) **PUBLIC HEARING**

Mayor Dennis read Resolution No. 07-12 by title.

Councilor Keen moved that Resolution No. 07-12 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Nick Schenkel, Director of West Lafayette Public Library, explained that this is a continuation of a fund the library has had for a number of years, and which the City Council has approved for a number of years. There will be no increase in tax rate. The

rate will be \$0.0133 per \$100.00 assessed valuation. The funds will be used in maintaining the library's parking garage, which is well used. The fund also pays for computer services for the library. Starting in the year 2013, there is a small budget amount set aside for repairs to the library building which will be eight years old. Director Schenkel asked for a positive vote for approval of the West Lafayette Public Library Capital Projects Fund Plan.

Mayor Dennis expressed his appreciation for all that Director Schenkel does for the library and the community.

Councilor Keen moved that a Public Hearing be opened. Councilor Burch seconded the motion. Taking the consent of the Council, the Mayor convened the public hearing.

Karen Griggs (100 Thornbush Drive) said she supported the West Lafayette Public Library Capital Projects Fund Plan.

Jan Myers (1909 Indian Trail) said her first degree was in library sciences and she is very concerned that a library that is less than ten years old has not complied with ADA since the day it opened. She reported that she recently attended a library board meeting and was amazed that they did not know this. She said she has a few suggestions which are immediate solutions which do not require anything out of the Capital Projects Fund. One is to change the timing on the automatic door to be open for much longer so that people do not get trapped in between the two doors. There also needs to be a separate button for the second door, but that will require a capital fund expenditure. A second suggestion, which would not require funding, is to move the "freebie" publications out of the doorway since these are not accessible. Thirdly, all of the literature racks are too high to be reached by a person in a handicapped vehicle, and the low racks do not appear to be used. Three things need to be addressed with Capital Funds: lower the high check-out desk, there is no ADA transition plan, and the elevator is not done correctly.

There was no further discussion.

Councilor Keen moved to close the public hearing. Councilor Burch seconded the motion. Taking the consent of the Council, the Mayor closed the public hearing.

Mayor Dennis announced the Council was back in regular session.

Mayor Dennis read Resolution No. 07-12 by title.

Councilor Hunt asked if the Council appoints a member to the Library Board.

Mayor Dennis confirmed they do and it is a four year term.

Councilor Hunt said she believed we were one year into that term.

Councilor Burch asked Director Schenkel if any grants have been applied for.

Director Schenkel responded that the Library Board took the concerns of the previous speaker very seriously and has appointed a committee to respond to written complaints and suggestions that the library proceed down certain avenues. They have also inquired with a company about installing more automatic door buttons. Nothing was listed

specifically in the budget for those concerns but they can be addressed as part of the \$11,000 budget for building repairs. He asked if that answered the question.

Councilor Burch said “Yes and no,” and reminded Director Schenkel of the Bill Gates grant the library had received in the past. She asked if they had applied for any new grants for various projects. Director Schenkel responded that they had just received a grant from the Indiana State Library to ramp up their media services connected with computer services.

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 AYES and 0 NAYS.

Mayor Dennis announced that Resolution No. 07-12 passed unanimously on first and only reading.

Resolution No. 08-12 A Resolution Appropriating Insurance Recovery Received For Damage To City Property (Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 08-12 by title.

Councilor Keen moved that Resolution No. 08-12 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 insurance reimbursement appropriation is required to utilize insurance recovery within 12 months to repair and replace property damage. The first item, Police Department Repair Services, is to repair damage to a police car. The related insurance recovery is \$734.85. The second item, in Cumulative Capital Development Fund, is continuing coverage for lightning strike damage last summer. It was a very large lightning strike. The related insurance recovery is \$24,314.90.

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 AYES and 0 NAYS.

Mayor Dennis announced that Resolution No. 08-12 passed on first and only reading.

COMMUNICATIONS

► Councilor Bunder reminded everyone to put out a bag of canned goods for the Letter Carrier Food Drive on Saturday. Mayor Dennis added that tomorrow at 10:00 a.m. there would be a press conference with letter carriers about that same topic.

► Mayor Dennis noted that while he was in Japan and China for two weeks, the Department Heads in the City did a great job of keeping things going. He shared that it was an amazing trip, they learned a lot, and had great experiences. They met with several companies interested in investing in our community. They celebrated the 25<sup>th</sup> anniversary of SIA while he was there.

He noted one of the things he experienced while he was in China which he really valued was the number of parents of Purdue University students he met who expressed their appreciation for the information they receive from Purdue University and West Lafayette about our community. Their fears about sending their children overseas to an unfamiliar community and environment have been put at ease because of the information our City has made available to them assuring them that the City is welcoming, multi-cultural and safe. Students and alumni returning to China talk about what a fantastic experience they had here. Parents can send their children here without fear and worry. Mayor Dennis said the trip, overall, was very productive, enjoyable and worthwhile.

► Councilor Hunt reminded everyone that the Primary Election is tomorrow and City Hall will be closed. The voting places are listed in the newspaper and on the County website.

► Director of Development Poole invited everyone to attend the dedication of the sculpture, “Point of Departure”, Friday morning at 9:00 a.m. outside of Greyhouse Coffee & Supply Co. in the Village. He thanked Greyhouse Coffee for donating the sculpture to the community.

CITIZEN COMMENTS

► Christopher Kulesza (411 Harrison Street) introduced himself as the newly elected Purdue University President of Purdue Graduate Student Government. He said he was elected alongside Blake Hylton, Vice President, who is in the Mechanical Engineering Department. He said he is in the Political Science Department, and studies state and local politics. He noted there were over 500 people in attendance at the spring picnic, and

had a very successful Graduate Student Appreciation Week. He added he was looking forward to working with the Council over the next year.

► Thomas Kessler (479 Maple Street) thanked the City for always responding quickly when he finds graffiti on walks to and from work. He said he sent an email reporting vandalism on saplings and thanked the Parks Department for watching the saplings in town. He also noted that he came across a large storm drain grate completely off the drain at DeHart Street and North River Road. Anyone making a sharp right turn would have put their tire in the open hole. He replaced the grate but wanted to make the City aware of it. He also noticed at the West Lafayette Farmers Market, that one of the police officers was wearing lime green gloves, which he said were very visible. He encouraged other officers with the duty of directing traffic there to also wear lime green gloves. He thanked the City for putting dumpsters back in New Chauncey Neighborhood for the end of the Purdue semester. Mr. Kessler asked, since Mayor Dennis was in Japan whose cities have a reputation for being a very clean country, did he bring home any take away about managing litter in a city. Mayor Dennis responded that he did. Both Tokyo and Beijing were very clean cities.

► Councilor Hunt thanked Mr. Kessler for picking up masonry and concrete debris.

► Jan Meyers (1909 Indian Trails) encouraged the City to be more careful in disposal of trees that are removed and noted all the potential benefits from utilizing the wood for firewood, wood carving and furniture, mulch, or even historic preservation. She said this can be done even with ash trees that are removed.

#### ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting, the time being 8:03 p.m.