

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
PRE-COUNCIL MINUTES  
June 28, 2012

The Common Council of the City of West Lafayette, Indiana, met in Council Chambers at City Hall on June 28, 2012, at the hour of 4:30 p.m.

Mayor Dennis called the meeting to order and presided.

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

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, Information Technology Manager Newman and Director of Development Poole.

Mayor Dennis opened the meeting by making an explanatory comment about the Pre-Council meeting, saying that it serves as an administrative process to review the agenda and to make sure questions from the Council are addressed.

Mayor Dennis reviewed the agenda and asked for comments and questions.

Councilor Hunt commented on how impressive the Green Power Report from WWTU Director Henderson is.

Councilor Dietrich suggested that the Council consider changing its procedure for budget review. As an alternative to the Council sitting through a line-by-line review with every department when there has been little or no increase, the Council could instead hold one meeting at which any department head could explain changes resulting in an increase or budget anomaly different from the past that the Council should know about. He asked if there would be consensus to take this approach. Clerk-Treasurer Rhodes said the deadline for filing the budget is July 26 so any budget work session should be scheduled after the July 4th holiday and no later than the beginning of the budget filing week. The Councilors agreed to discuss this further.

Councilor Hunt is nominating Mary Beth Miller to a term on the West Lafayette Public Library Board and Councilor Bunder is nominating Marshall Parr Durr to the Go Greener Commission. Background information has been distributed on the two nominees.

Lynn Layden of the West Lafayette Tree Fund will be presenting a posthumous award to Hugh Henry.

### UNFINISHED BUSINESS

Ordinance No. 13-12 An Ordinance Requesting An Additional Appropriation For The General Fund And The Fire Pension Fund PUBLIC HEARING

Mayor Dennis read Ordinance No. 13-12 by title.

There was no further discussion.

NEW BUSINESS

Ordinance No. 14-12 An Ordinance Vacating An Alley In The City Of West Lafayette, Indiana (Sponsored by Mayor Dennis) PUBLIC HEARING

Mayor Dennis read Ordinance No. 14-12 by title. Mayor Dennis indicated he may re-order the consideration of this item on the agenda to come after Ordinance No. 18-12, which deals with the rezone matter that is related to the alley vacation.

Mr. Dan Teder (Reiling Teder & Schrier) representing the petitioner, Stadium Capital, LCC, reported that utilities and the City Engineer's Office have no objection to the alley vacation.

There was no further discussion.

Ordinance No. 15-12 An Ordinance Amending City Code Chapter 23 – Nepotism Policy (Sponsored by Mayor John Dennis) TO BE CONSIDERED FOR FIRST AND SECOND READING AT PRECOUNCIL MEETING JUNE 28, 2012

Mayor Dennis read Ordinance No. 15-12 by title.

City Attorney Eric Burns addressed the need to have two readings on this ordinance at this meeting. This resolution is required by a State mandate to adopt a nepotism policy effective July 1. It was the subject of some discussion at the Indiana Municipal Lawyers Association meeting he attended last week. He recommends that the Council enact this resolution by July 1, necessitating two readings at the Pre-Council meeting. It only imposes additional requirements on elected officials. The City's existing nepotism and ethics policies require in some aspects more stringent controls on elected officials. The way the State enforces this mandate is that if this policy is not adopted, the State will not approve the City budget. The mandate imposes no burden on the taxpayer or on citizens; it is solely a burden on elected officials. This resolution is exactly the State law format with the exception that the City Judge and City Clerk-Treasurer would not, by State statute, have to be covered, but both of those elected officials have chosen to be covered.

Councilor Hunt said that while she prefers to give voters a chance to respond, this law has been reported in the newspaper and she has heard no complaints.

Clerk-Treasurer Rhodes noted that notice had been given on the agenda that this ordinance would be considered for vote at the Pre-Council meeting 10 days in advance of this meeting.

Councilor Keen moved to suspend the rules to allow a vote to be held on Ordinance No. 16-12 at this Pre-Council meeting and to allow two readings at the same meeting. The motion was seconded by Councilor VanBogaert.

Mayor Dennis asked for a voice vote on the motion. The Council approved the motion on unanimous voice vote.

Councilor VanBogaert moved to consider Ordinance No. 16-12 on first reading. The motion was seconded by Councilor Keen.

Councilor Bunder asked what went wrong that the Council is in this situation.

City Attorney Burns responded that nothing went wrong, it was the way the State rolled out this mandate by first indicating it was going to send out forms, but then sending the notice out as a budgetary matter, resulting in a delay in getting this to pre-Council.

Clerk-Treasurer Rhodes said that the meetings at which Indiana Association of Cities and Towns (IACT) first discussed this were held on the last two days in May when sample ordinances were distributed. The most cost effective approach in her view is not to argue with the bureaucracy as to the date when we should enact this mandate. She would appreciate the Council's support for passage at this meeting.

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. 15-12 passed on first reading.

Mayor Dennis read Ordinance No. 15-12 by title only.

Councilor Keen moved to consider Ordinance No. 15-12 on second and final reading. The motion was seconded by Councilor VanBogaert.

There was no 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. 15-12 passed on second and final reading.

Ordinance No. 16-12 To Rezone Certain Real Estate Within The City Of West Lafayette, Indiana And Designating The Time When The Same Shall Take Effect (State Street Corner, LLC PD)(CBW to PDMX)(Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 16-12 by title and asked for comments or questions.

Councilor Hunt asked Fire Chief Heath to provide safety assurances regarding the plan for a restaurant in the basement.

Fire Chief Heath responded that the establishment will meet all codes for fire suppression systems, and will be safer than the 100-year old building that is there now. The entrances and exits have been widened. There will be a bigger, well marked landing area for people waiting to get into the restaurant. There will be no dance floor or live music. The hours of alcohol sales are 11 a.m. to 1 a.m., so that eliminates the opportunity for breakfast club. Fire Chief Heath expressed his confidence in the safety of the situation.

Councilor VanBogaert asked if the requirements related to the hours for sales of alcohol and the live music are being placed on this project as part of the planned development.

Fire Chief Heather answered affirmatively.

Councilor VanBogaert said that he is all about fire safety, but he thinks it is a bad idea. Since this is a prime location that will serve the student population, there are safety precautions that can be taken, but these two particular provisions are being overly cautious. He expressed his disappointment.

Mayor Dennis explained that in the event of a situation where we are not able to access and egress things adequately, then it is going to be a situation that we are going to regret overall.

Councilor VanBogaert said when "No Live Music" is said, it implies a vision of a concert with lots of people pressed up against the stage and causing a crowd situation. This would exclude having the three-piece Purdue Jazz Band. He feels we should be addressing a direct consequence of alcohol sales, not coming out too far ahead of the actual situation.

Mayor Dennis said that while he respects Councilor VanBogaert opinion, that is the decision for now.

Mr. Teder, representing the petitioners, State Street Corner, LLC, owner Shane O'Malley, said that the Where Else Bar currently in this location will be moving to Chauncey Hill permanently. The establishment planned for this development is different than what has typically been seen in the Village. It will be more like Sergeant Preston's but with more of a restaurant emphasis. So in that regard, the tenant is satisfied with what has been decided. While they would have liked longer hours for alcohol sales, they were happy with all the rest and willing to compromise on the 11 a.m. standard.

Councilor VanBogaert said in looking at Sergeant Preston's or the Black Sparrow Pub in Lafayette, being similar establishments to what is going to be located in the project, they both have extended alcohol hours and live music without presenting a situation where you have condensed crowds that—in some sort of hyperbole—could be considered a fire hazard.

Mr. Teder said that the difference is that in this project the location is the basement which offers more concerns for police and fire. He has come to appreciate the big difference between being in the basement and being on the first floor.

Councilor VanBogaert said he feels that at a policy level this is solved with occupancy, with wider exits, with having an advanced sprinkler system, and by making sure you don't allow a group of people to congregate in a certain place there. He feels that the conditions on live music and alcohol sales are a ham-fisted way to solve this problem.

Mr. Teder responded that the police have some concern on occupancy, particularly how to enforce it in the basement, as to where do people go, and how do you get them out. The compromise was made. The Where Else Bar will still exist just at a different location.

Councilor Hunt said that the thought of a bar in the basement is a problem if, as Fire Chief Heath discussed, you would have people racing out and the Fire Department racing in. This is a more intense and crowded situation in a basement. Councilor Hunt is very pleased with the extra safety.

Mr. Teder said this project received a unanimous favorable vote from Area Plan Commission (APC). Some public objection to the project was based on some misinformation. People cannot park in the alley. CVS would be allowed there under the current CBW zoning as well.

Councilor Hunt reported that Councilor VanBogaert, Councilor Thomas, Councilor Keen and herself were at the APC meeting and heard the concerns.

Councilor Bunder asked about traffic.

Mr. Teder said that they had conditional approval from the West Lafayette Traffic Commission, and subsequently Tim Balensiefer (TBird Design) spoke with Police, Fire, and City Engineer Dave Buck and made more changes. For the first 6 months, up to when the shell is built, it will be more intense. After that, the last 6 months, there will be more pedestrian availability and better flow through the area. However, there is going to be some period of time when there is going to be some difficulty. Northwestern will go down to two-lane, and there will not be parking along either side of that street. To have some progress, there will have to have a little pain, but it won't be for one to one and one-half years. It will be 6 months because that's what it takes to get it erected, get the roof on, and the shell on. After that, it is more interior work, so that will reduce what they will need for space in the public way. This will allow more traffic and make it safer for pedestrians, to have scaffolding, to allow pedestrians to get closer and walk around. The alley is still available for the pedestrians as well. The input from City staff is appreciated. This project will need to go back to the Traffic Commission for further approval as well as to Public Works Director Buck, and the Police and Fire Departments.

Councilor Keen said that in this particular project, part of the traffic issues will be from the reconstruction of the sewer system in the area. His understanding is that more of the traffic issues will be related to this necessary sewer project.

Councilor Bunder asked if a one-way street should be changed, and commented that the Traffic Commission addresses these kinds of issues.

Mayor Dennis stated that Public Works Director Buck, Fire Chief Heath, and Deputy Chief Leroux have all now indicated that they were satisfied with the plans. Mayor Dennis said in the event that any problems arise, the City will respond to remedy the issues.

There was no further discussion.

Ordinance No. 17-12 To Rezone Certain Real Estate Within The City Of West Lafayette, Indiana And Designating The Time When The Same Shall Take Effect (John R. & Connie L. Basham)(R3W to R4W)(Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 17-12 by title and asked for comments or questions.

Councilor Hunt commented that this is a density issue.

Mr. Teder, representing the petitioners, John and Connie Basham, responded that the zoning ordinance is somewhat antiquated in that it is based on the size of the bedrooms. In order to build bigger units, you have to go to an R4 zoning to build the project. Mr. Basham wants to build 18 units with 36 beds. To do that, the units would be close to 1,200 sq ft. In R3 zoning, more units can be built but they have to be smaller. The market today is that students want larger units, more amenities, and fewer roommates. A variance has been filled to have one parking space per bedroom. We also have a condition from the Board of Zoning appeals (BZA) as well, that there can only be a maximum of two bedrooms; we cannot come back later and make these into 4 bedrooms in the future. This project makes it less dense than it could be. The APC is considering combining the R3W and R4W zones in the future.

There was no further discussion.

Ordinance No. 18-12 To Rezone Certain Real Estate Within The City Of West Lafayette, Indiana And Designating The Time When The Same Shall Take Effect (Stadium Capital, LLC)(720 Northwestern PD)(CBW to PDMX)(Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 18-12 by title and asked for comments or questions.

There was no discussion.

Ordinance No. 19-12 An Ordinance Requesting An Additional Appropriation For The Motor Vehicle Highway Fund (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 19-12 by title and asked for comments or questions.

There was no discussion.

Resolution No. 10-12 A Resolution To Amend The Comprehensive Plan For Tippecanoe County To Include The Metropolitan Transportation Plan For 2040: Completing Our Streets (Submitted by Area Plan Commission)

Mayor Dennis read Resolution No. 10-12 by title and asked for comments or questions. He introduced John Thomas (Assistant Director, APC) from Area Plan Commission, who is present to answer any questions.

Mr. Thomas addressed the Council, explaining that this plan is the sixth revision of the long-range transportation plan for this community. The first plan was in 1978. It is updated every 5 years. Most of the highway recommendations come from past projects; there is nothing new. It does contain specific recommendations for trails, sidewalks, and bicycle facilities. There is also a section on transit. While transit planning is done by CityBus, the plans contain a high level assessment of some of the issues that transit will need to face in the next few years.

There are two new policies. One policy is a complete street policy that requires all projects that receive federal highway assistance must address trails, sidewalks, and bicycle facilities—at least to take them into consideration. Complete street policies are being adopted by several jurisdictions across the country, underscoring the need for alternatives to motor vehicles. The second policy is one where we set aside 10% of all of our standard highway money we receive in the community, called the STP funds. We receive about \$4 million per year. The plan sets aside 10% of these funds for trails, sidewalks, and bicycle facilities that are independent and separate from a regular highway project. It is our way of saying that yes, trails, sidewalks, and bicycle facilities are important. We are setting aside some of our normal highway funds to build those over and above what would be done in a particular highway project. There has been extensive public input on the plan. We have also had input from the Go Greener Commission and the West Lafayette Bicycle and Pedestrian Committee.

There was no further discussion.

Resolution No. 11-12 A Resolution Requesting The Transfer Of Funds (Police) (Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 11-12 by title and asked for comments or questions.

There was no discussion.

COMMUNICATIONS

► Councilor Hunt urged the public to help water the street trees and the trees in yards. She asked WWTU Director Henderson about meters for measuring outside water usage. WWTU Director Henderson explained that everyone is on the summer rate now, so the loaner meters are not necessary now.

ADJOURNMENT

There being no further business at this time, Councilor Keen moved for adjournment. Mayor Dennis adjourned the meeting, the time being 5:08 p.m.