CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
DECEMBER 3, 2012

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on December 3, 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, Thomas, and VanBogaert.

Absent: Keen

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 Burch moved for acceptance of the minutes of the November 1, 2012, Pre-Council Meeting, and the November 5, 2012, Common Council Meeting. Councilor VanBogaert 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.

PUBLIC SAFETY AND ORDINANCE
There was no report.

PURDUE RELATIONS
Councilor VanBogaert stated that Purdue University announced today that it will close its construction inspection department in March 2013. It is expected to save Purdue $75 million over the next five years. However, it will displace 22 employees.

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.

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

BUDGET AND FINANCE
There was no report.

REPORT OF APC REPRESENTATIVE
There was no report.

SPECIAL REPORTS
a. Anti-Nepotism Policy – Legal
City Attorney Burns noted that this item was discussed at the Pre-Council meeting. Each Councilor received an anti-nepotism packet, and all elected officials need to sign both affidavits included in that packet by the end of this year.

PUBLIC RELATIONS
a. Council Appointments
Mayor Dennis stated that there are several appointments to boards and commissions to address this evening.

i. Redevelopment Commission (2)
Councilor Hunt nominated Larry Oates for appointment to the Redevelopment Commission. She stated that he has been the head of that Commission for a long time, and has agreed to continue to serve. He is a local business owner and has worked well with the City. Councilor Hunt stated that Joanna Grama has submitted her resignation, and complimented Ms. Grama on doing a nice job. To replace Ms. Grama, Councilor Hunt nominated Susannah Hall-Justice, and her CV has been provided to the Council. She has a BA from Harvard and a law degree from Indiana University. Ms. Hall-Justice has a law practice in Lafayette and she is active in many local organizations. The motion was seconded by Councilor Burch.

There was no further discussion.

The motion passed by unanimous voice vote.

ii. Area IV Development Board (1)
Councilor Hunt stated that Steve Meyer, a Councilor in Lafayette, requested that she take his place on the Area IV Development Board and she agreed. She did not realize until she had attended two meetings that her position needed to be appointed by the Council. The Board's bylaws require that they have an elected official. She would appreciate it if her position on the Board be approved.

Councilor Burch motioned to appoint Councilor Hunt as a replacement for Steve Meyer on the Area IV Development Board. The motion was seconded by Councilor VanBogaert.

There was no further discussion.

The motion passed by unanimous voice vote.

iii. West Lafayette Parks and Recreation Foundation (1)
Councilor Hunt stated that Anita Joglekar recently resigned from the Parks and Recreation Foundation. She would like to nominate Carol Ghiselli for the position, and

her CV has been provided to the Council. She has a degree from Valparaiso University in Early Childhood Education. The motion was seconded by Councilor Burch.

There was no further discussion.

The motion passed by unanimous voice vote.

iv. Economic Development Commission (1)
Councilor Hunt stated that Linda Cohen has been on the Economic Development Commission for a long time. She is active and involved and would like to remain in her position. The motion was seconded by Councilor Thomas.

There was no further discussion.

The motion passed by unanimous voice vote.

b. 2013 Council Schedule
The 2013 Common Council Schedule was approved at the November 29 Pre-Council meeting.

c. Council President Nomination
Councilor VanBogaert noted that at the November 29, 2012, Pre-Council meeting, Councilor Hunt was re-elected as Council President.

FINANCIAL REPORT
There was no report.

LEGAL REPORT
City Attorney Burns stated that this report is on file.

UNFINISHED BUSINESS
Ordinance No. 30-12 An Ordinance Of The Common Council Of The City Of West Lafayette, Indiana, Authorizing The Issuance Of The City Of West Lafayette, Indiana Economic Development Revenue Bonds, Series 2012 (Metro FiberNet Project), And The Use Of The Proceeds Thereof To Support Metro FiberNet Projects, And Authorizing And Approving Other Actions In Respect Thereto (Sponsored by Mayor Dennis)

Mayor Dennis read Ordinance No. 30-12 by title only.

Councilor Burch moved for passage of Ordinance No. 30-12 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor VanBogaert.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✔			
Burch	✔			
Dietrich	✔			
Hunt	✔			

	AYE	NAY	ABSENT	ABSTAIN
Keen			✔	
Thomas	✔			
VanBogaert	✔			

Clerk-Treasurer Rhodes stated that the vote was 6 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 30-12 passed on second and final reading.

Ordinance No. 31-12 An Ordinance To Amend West Lafayette City Code Chapter 21 Concerning The Designation Of Council Districts (Submitted by Councilor VanBogaert)

Mayor Dennis read Ordinance No. 31-12 by title only.

Councilor Burch moved that Ordinance No. 31-12 be amended, and substitute Map D from the Area Plan Commission.

Mayor Dennis stated that there is a motion on the table to amend Ordinance No. 31-12, and to add D. He asked if anything was to be dropped, or if it is just a motion to add.

Councilor Burch responded that it can be added, or we can drop Proposal A.

City Attorney Burns suggested that it be an add, and we can see how a round-robin goes.

Mayor Dennis stated that there is a motion to add D to the existing list, a second is needed.

There were no comments.

Mayor Dennis stated that there is no second, so the motion dies.

City Attorney Burns stated that that is correct.

Councilor Burch moved to drop Proposed Map A, and substitute Proposed Map D from the Area Plan Commission.

Mayor Dennis stated that there is a motion on the table to drop A, and submit D. He asked if there is a second.

City Attorney Burns stated that the motion is repetitive, which is not allowed in the same session. The effect is the same; to try to get D is the intention. So, the motion is out of order.

Councilor Burch moved that Ordinance No. 31-12 be tabled until full Council is in attendance to vote on this very important ordinance.

Mayor Dennis asked for a second to table Ordinance No. 31-12.

There was no comment.

Mayor Dennis stated that hearing no second, the motion dies.

Councilor Burch moved for passage of Ordinance No. 31-12 on second and final reading, and that the vote be by roll call

Councilor Bunder questioned if the ordinance had had a first reading.

City Attorney Burns stated that the point of order, a good one for clarification of the record, is that at the last meeting, there was a reading of Ordinance No. 31-12. At the end of that flurry of parliamentary procedure, what we were left with were two choices, either A or E. For ease of the record, it is very clear to just call them by their letters, as we have up to this point. Right now, in front of the Council, there are two possible maps. That is Map A and Map E.

Councilor VanBogaert stated that he believes that the Council, without objection, substituted Ordinance No. 31-12 as introduced in November, with Proposal A. So, the ordinance on the table is Proposal A, and the Council was going to consider Proposal E as an amendment.

City Attorney Burns stated that they are both able to be brought up, that is correct. He stated that Councilor VanBogaert is correct, that Proposal A is the primary ordinance that was filed.

Councilor VanBogaert stated that he does not believe that the Council has taken a first reading vote on Ordinance No. 31-12, so procedurally, to adopt Ordinance No. 31-12 at this meeting, we would have to vote.

Clerk-Treasurer Rhodes stated that the Council amended by substitution.

City Attorney Burns stated that that is correct, we have amended by substitution. So, the actual main motion was not voted upon.

Councilor VanBogaert stated that we have to vote, and we have to suspend the rules and vote a second time if we are to adopt Ordinance No. 31-12 at this meeting.

City Attorney Burns stated that that is correct.

Mayor Dennis asked City Attorney Burns to restate what we have on the board here.

City Attorney Burns stated that right now we have Amendment A to Ordinance No. 31-12, which is the main motion, which has been carried over from the prior meeting and tabled. We also have as a viable amendment, Proposal E. At this point, the appropriate procedure would be to bring the Ordinance No. 31-12 Proposal A onto the table.

Mayor Dennis stated that we need to have a motion for first reading on Ordinance No. 31-12, Proposal A.

Councilor Dietrich stated that he thought there were some number changes on Proposal A.

Councilor VanBogaert stated that before they got too far into it at Pre-Council, he moved that Proposal A as revised be amendment by substitution, and that carried without objection.

City Attorney Burns stated that is correct.

Councilor VanBogaert stated that this means that Ordinance No. 31-12 currently reflects the revisions made to Proposal A.

City Attorney Burns stated that a motion is needed, and Mayor Dennis agreed.

Councilor VanBogaert moved for passage of Ordinance No. 31-12 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Thomas.

Councilor Hunt asked if this meant that Proposal E is out.

City Attorney Burns responded that it is not on yet. Right now all that is on the table is Proposal A. If someone wanted to raise that, they would have to do so by amendment, or substitution. City Attorney Burns confirmed for Councilor VanBogaert that this would be done between readings.

Mayor Dennis reminded everyone that we are on a timeline. Something must be decided at this meeting, or a special meeting would need to be called. So, it would require a suspension of the rules, which would have to be a unanimous decision on the part of the Council. He stated that there is a motion and a second for Proposal A only.

Councilor Dietrich asked for a reminder of the deadline date.

Mayor Dennis responded that it is December 31, 2012.

Councilor Burch asked what happens next if we do not?

Mayor Dennis responded that scenarios should be explored. He stated that we can there is a motion and second for Proposal A only, we are at a discussion point about that.

Councilor Burch asked for confirmation that Proposal A is the revised A, and both Mayor Dennis and City Attorney Burns answered in the affirmative.

Mayor Dennis stated that what will happen next is just like for any other ordinance, offer it for discussion, then discussion will close and a vote will be taken.

Councilor Burch moved to amend by substitution with Proposal E.

Mayor Dennis stated that there is a motion on the table to substituting Proposal E for Proposal A.

Councilor Dietrich seconded the motion.

There was a discussion amongst Mayor Dennis, City Attorney Burns, and Councilor Burch to confirm that we the current discussion is only regarding Proposal E.

Councilor Burch stated that she believes Proposal E is the logical choice, as it has been produced by the Area Plan Commission, which is a non-partisan organization, and has produced non-partisan maps for the City of Lafayette, and Tippecanoe County.

Mayor Dennis asked for the roll to be called.

City Attorney Burns reminded everyone that this vote is for amendment by substitution, Proposal E for A only.

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 2 AYES and 4 NAYS.

Mayor Dennis stated that the motion fails.

City Attorney Burns stated that we are now back to discussing Proposal A.

Councilor Bunder thanked Councilor VanBogaert for all of his hard work.

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 4 AYES and 2 NAYS.

Mayor Dennis announced that Ordinance No. 31-12 passed on first reading.

Councilor VanBogaert moved that the rules be suspended and adopt Ordinance No. 31-12 on second and final reading and that the vote be by roll call. The motion was seconded by Councilor Bunder.

Mayor Dennis stated that this vote has to be unanimous.

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 4 AYES and 2 NAYS.

Mayor Dennis stated that the motion fails, so the rules will not be suspended and there will not be a second reading on Ordinance No. 31-12.

Councilor Hunt asked if we may call a special meeting.

Mayor Dennis responded that it was not a "may," it was a necessity to call a special meeting. He asked Sallie Fahey (Executive Director, Area Plan Commission) to explain what happens in the event that a redistricting ordinance is not passed by the end of the year.

City Attorney Burns stated that the simple answer is that we would be in violation of State law.

APC Executive Director Fahey stated that the statute requires official action by the 31st of December. There is no penalty in the statute. However, any citizen could file suit, then, in a court of law, the judge would decide the penalty.

Mayor Dennis stated that this obviously needs to be revisited, so there will be a conversation to get this taken care of.

There was no further discussion.

<u>Ordinance No. 32-12</u> An Ordinance Requesting An Additional Appropriation For The General Fund (Prepared by the Clerk-Treasurer) PUBLIC HEARING

Mayor Dennis read Ordinance No. 32-12 by title only.

Councilor Burch moved for passage of Ordinance No. 32-12 on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor VanBogaert.

Clerk-Treasurer Rhodes stated that this additional appropriation covers an expected shortfall in the part-time salary for the Mayor's Office. There was a reduction to the General Fund budget last month which offsets this amount, so there will be no change in the overall General Fund budget. This is the final reading and the public hearing.

Councilor Burch moved to open a public hearing on Ordinance No. 32-12. The motion was seconded by Councilor VanBogaert. The motion was approved by voice vote.

Mayor Dennis opened the public hearing.

There were no public comments.

Councilor Hunt moved to close the public hearing on Ordinance No. 32-12. The motion was seconded by Councilor Dietrich. The motion was approved by voice vote.

Mayor Dennis closed the public hearing.

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 6 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 32-12 passed on second and final reading.

NEW BUSINESS

Ordinance No. 33-12 An Ordinance To Amend The Fire Safety Fund (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 33-12 by title only.

Councilor Burch moved for passage of Ordinance No. 33-12 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Dietrich.

Fire Chief Health stated that the Fire Department has received a few grants and donations, and needs somewhere to place those funds. This ordinance reads similar to one for the Police Department. He stated that there is currently a grant for iPads for the trucks and a donation from State Farm Insurance for the purpose of purchasing an insulation vacuum. The vacuum is to vacuum hot embers out of a home to lessen the amount of water needed. This benefits the insurance companies due to there being less water damage to the homes. It also gets people back in their homes quicker after a fire. This Fund would allow a place for that money until the purchases can actually be made.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✔			
Burch	✔			
Dietrich	✔			
Hunt	✔			

	AYE	NAY	ABSENT	ABSTAIN
Keen			✔	
Thomas	✔			
VanBogaert	✔			

Clerk-Treasurer Rhodes stated that the vote was 6 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 33-12 passed on first reading.

Clerk-Treasurer Rhodes requested a second reading of Ordinance No. 33-12 because the grant is pending.

Councilor Burch moved to suspend the rules and hear Ordinance No. 33-12 for a second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Dietrich.

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 6 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 33-12 will be heard for second and final reading.

Councilor Burch moved for passage of Ordinance No. 33-12 on second and final reading, and that the vote be by roll call. 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 6 AYES and 0 NAYS.

Mayor Dennis announced that Ordinance No. 33-12 passed on second and final reading.

Ordinance No. 34-12 An Ordinance Establishing User Fees To Be Collected By The City Of West Lafayette From Owners Of Property Located Within The City. (Sponsored By Mayor John Dennis)

Mayor Dennis read Ordinance No. 34-12 by title only.

Councilor Burch moved for passage of Ordinance No. 34-12 on first reading, and that the vote be by roll call. The motion was seconded by Councilor Hunt.

Public Works Director Buck introduced Mike Massonne and Chris Franz from DLZ Corporation, who has been helping throughout the process of studying stormwater user fees. He also introduced Michael Susong, City Assistant Engineer, who has stormwater operations responsibility. He also stated that WWTU Director Henderson has been helping with the process. He thanked members of the technical advisory committee. He stated that Mr. Massonne will give a short presentation. There will be additional public outreach, including public open house-type meetings.

Mr. Massonne stated that this project began in 2009. He noted that some documents had been made available to the Council and are, or soon will be, on the City's website. He stated that this presentation is a culmination of many meetings. He thanked the technical advisory committee. Mr. Massonne stated that tonight's discussion items include program purpose, identifying program needs, Equivalent Residential Unit (ERU) and proposed billing structure, proposed service charge rate and billing examples, proposed capital projects, and proposed schedule for implementation. The first purpose of the program is to improve the service for the stormwater program, which currently exists within the sanitary sewer department. A dedicated fund allows the stormwater program, which is a state and federal regulated program, to take its place, and a range of other programs, at the City level. It will continue to operate through existing programs within the City. The second purpose of the program is to improve water quality and waterways, as dictated and mandated through the current permit the City holds. The third purpose of the program is to comply with state and federal requirements, referred to as the Municipal Separate Storm Sewer System, or MS4, Permit, which relates to the 1974 Clean Water Act. Mr. Massonne named the program components which are proposed stormwater capital improvement projects and ongoing infrastructure operations and maintenance and regulatory compliance. He indentified the program needs as approximately $14 million capital project needs over a 20-year period, annual City-wide project costs of $150,000, and on-going operations costs of approximately $375,000 annually. The on-going operation costs is funding that is already budgeted and these funds are currently coming out of the sanitary sewer program, meaning those users are currently subsidizing the on-going regulatory and operations costs currently being carried out in the City, as well as capital work currently being done as stormwater program work. Mr. Massonne explained the Equivalent Residential Unit, or ERU, as the average impervious area on a residential property, equal to 3,200 square feet as based on a sample of residential parcel measurements in the City. Impervious area is considered to be rooftop, patio, private driveway, porch, and impacted gravel. Non-impervious surface would be lava rock, stepping stones, and wooden decks. Impervious areas are those where rain falls upon the earth, collects and concentrates, then runs off in a concentrated fashion. ERU establishes a base billing unit similar to what might be seen in water usage. Mr. Massonne explained the proposed monthly billing structure as a monthly assessment based on Impervious Surface Area (ISA), with residential properties billed one ERU and non-residential properties billed per total measured ISA. The proposed rate is one ERU equal to $8.00 per month. Mr. Massonne displayed a map showing seven major and six minor capital projects. The proposed

schedule for implementation includes the ordinance currently prepared with proposed rate and billing language, outreach for top-rate payers is being prepared, and public open house events are being planned and scheduled. The proposed date to implement the new rate is January 2014.

Councilor Dietrich asked why it would be advantageous to create a separate fund for this as opposed to continue to pay for it through waste treatment.

Mr. Massonne responded that although the user groups are greatly similar, they are also greatly different in unique ways. For instance, a private facility which may have one or two toilets in it, and a small water meter going into it, such as a car lot or large box store, would have a small sanitary sewer bill, yet may contribute tens of thousands of square feet of impervious area run-off to the storm system. So, the user group for storm water represents the user group that has large amounts of impervious area, and it does not matter if they have a sanitary connection or not. A car lot does not have toilet or water facilities at all, but may contribute a great amount of water to the storm system, wearing the storm structure out, without contributing to the sanitary sewer fee at all.

Councilor Burch asked if small businesses had been spoken to as well as the large businesses and schools.

Mr. Massonne responded that they had not yet, unless it was attendees of an advisory group.

Councilor Burch asked what capital projects were postponed due to funds going toward sanitation projects?

Public Works Director Buck responded that pretty much all of the ones in the information given, such as an area on Indian Trail that floods every time it rains, blocking the sidewalk and overflows into driveways and garages. If we were able to spend $20,000 to $40,000 improving that location it would be a major improvement versus a spending a few thousand for a temporary fix. There are dozens of locations across the City that fit into that minor category. He stated that one of the most beneficial areas, to him, of this proposal is that we then have the ability to react to phone calls and fix those issues sooner.

Councilor Burch asked who decided on $8 per month and where did that figure come from, as when this was first discussed it was going to be less.

Public Works Director Buck responded that the numbers related to what the needs required, and simple math that got us to this recommendation. He noted that Lafayette went from $3 or $4 in their ordinance and then went to $5. Lafayette is a completely different measurement, with a completely different set of users, their non-residential is a lot different from our non-residential, and their capital projects and needs are a lot different from ours. To achieve our capital projects over a 20-year plan, that is where the $8 was arrived at.

Councilor Burch asked if 100% of the funds will go to go to the projects, or if some be used for salaries and benefits.

Public Works Director Buck responded that the on-going operations and maintenance would be the only portion of that going toward salaries and things of that nature in the budgets. The vast majority would go toward capital projects.

Councilor Dietrich asked if additional job positions would be created.

Public Works Director Buck responded that it is possible over time, but not at this time. In response to an inquiry from Councilor Burch, Public Works Director Buck stated that $3.50 to $4.00 of the $8 would go toward the annual costs, and the balance would go toward the major capital projects.

In response to an inquiry from Councilor Dietrich, Mr. Massonne further explained that approximately $3.50 is used to complete the $150,000 annual City-wide project costs and the the $375,000 on-going operation costs that the City is proposing to move over from sanitary to the dedicated storm water fund. The remaining amount is proposed to go toward the 20-year capital program. It is generating approximately $700,000 per year to complete that 20-year $14 million program.

Councilor Burch asked if this is saying that this ordinance has a sunset clause of 20 years.

Public Works Director Buck responded that no, it is not. Mayor Dennis further explained that like anything we have, it is up to the Council. If at some point in time it reaches a point where it can be handled through a different mechanism, then that will be up to the Council.

Councilor VanBogaert stated that the fee for service model is a fairly regressive way of raising revenue, and asked if alternative funding mechanisms that were more progressively funded.

Mr. Massonne confirmed that Councilor VanBogaert was asking if alternative sources of funding were considered. He responded that no, it was not. He stated that if Councilor VanBogaert was speaking in terms of grants or loans, debt service was not looked at to fund this program. It was the City's wish to look at a pay-go program for the full 20-year period.

Councilor Hunt asked if there were business owners on the advisory committee.

Mr. Massonne responded that the Mayor invited 47 individuals to attend, and consistently got 16 to 23 people, which is a good turn-out. There was a cross-section of neighborhood association representatives, small and large businesses, and local churches. He noted that when speaking about small businesses, based on a measured impervious area, if a small business equates to a small rooftop or parking lot, then they will have a smaller bill. They will not all look like a Wal-mart or a local school.

Councilor Burch stated that she is concerned that some small businesses, just now starting to get going again after the recession. She would hate for a fee to be the straw the broke the camel's back.

Councilor Hunt stated that one nice thing is that it does not start until 2014.

Councilor Burch stated that for residents this is approximately $100 per year, so the time will give residents a chance to budget as well.

Councilor Dietrich asked if there are wastewater treatment capital projects that have not been done due to this money being siphoned off. In other words, what will the $8 new income do for the WWTU?

WWTU Director Henderson responded that, at this point, there has not been anything delayed. However, we are entering into the final phase of the Combined Sewer Overflow (CSO) long-term control plan work, so over the next 15 years there will be $24.5 million worth of CSO projects that need to be done. We are just seeing those projects start to come into the schedule with a minor project for small improvements at the wet-weather facility, with the larger projects, such as the new CSO interceptor, and expansion of the wet-weather facility. Those are all projects that will hit within the next 15 years, because 2027 is our drop-dead date for having all of the CSO work done. Nothing has had to be pushed back yet, but there are a lot of demands on the sanitary capital improvement fund.

Councilor Dietrich asked if he understands correctly that the ongoing operation cost, of approximately $375,000, does include the salaries and wages of some current City employees, that currently comes out of the WWTU budget. So, that is additional funding that will be available for WWTU in addition to portions of the $8.

WWTU Director Henderson answered affirmatively, stating that there will be money dedicated to stormwater work and capital projects.

Councilor Dietrich asked if the figure that WWTU is subsidizing in its budget for wastewater right now was ever calculated.

WWTU Director Henderson responded that it is the $375,000 operations and maintenance figure.

Councilor Dietrich asked if it was not said that the City is paying for our stormwater out of that budget.

Mr. Massonne responded out of the sanitary budget, at a rate of about $375,000.

Councilor Dietrich asked if it was worked out to the same ERU factor, if what the City is paying for is operations. He noted that the operations and maintenance cost does not constitute the entire $8 fee, and asked if it had been inflated by almost two-fold to provide capital funding. He further clarified his question, asking if there is a cost to the City right now, is it divided out by the same calculation used for the ERU? He asked if he was correct that it was stated that the ERU was figured out and then worked backward to work out the capital costs.

Mr. Massonne responded that the City identified capital needs. In order to complete the proforma, the financial sheet, the City identified the needs for stormwater capital and then operations and maintenance, and then the minor capital, and then plugged in the equation, those figures, to calculate what the need was over a 20-year period. So, it was a balancing act. It was separated, and we took the budget for pollution prevention out of the sanitary program, and plugged it into the calculations for the stormwater dedicated fund, to allow the sanitary program to take advantage of those funds, and there are also benefits to other programs as well.

Councilor Dietrich asked if the City is currently paying anything just for stormwater run-off—if we were not doing capital projects is it correct that there would be no cost to the City?

Mr. Massonne responded that to his knowledge, the last dedicated stormwater capital project that was funded was an emergency project in Happy Hollow Park for approximately $400,000, with the keyword being emergency.

Councilor Dietrich asked if he is correct that we are asking for $8 per month from each household to fund $14 million in capital projects over the next 20 years. He stated that he is asking if we were not projecting those needed $14 million, there would be no stormwater run-off fee, or is there a fee also incurred beyond just the capital projects.

Public Works Director Buck responded that yes, a portion of the $8 goes to the annual operations and maintenance costs that are currently being funded through the WWTU, for the pollution prevention activities that are required. That is the $375,000. In addition, there is another $150,000 of the annual small capital projects, included in the $8. So, there are three categories in the $8: The $375,000 and the $150,000 make up approximately $3.50, and the rest is toward major capital projects.

Mayor Dennis invited public comment.

Karen Griggs (100 Thornbush Drive, Chair of the Water Quality Committee for the Indiana division of the Izaak Walton League) stated that she supports this ordinance and the capital fund. She said it is long overdue. She stated that it is a very modest proposal, and hopes that it is implemented before 2014. We have to clean up the river so we can go fishing and swimming in it. This City is the largest city in the State that gets drinking water from wells. Everybody who drinks Fort Wayne water is drinking river water. People all the way to New Orleans are drinking river water. She stated that we have a legal obligation to implement the Clean Water Act of 1972, and we need to have a capital improvement fund, and this is long overdue. She strongly supports it. She stated that the engineers are doing a great job, as well as the consultant. She again stated that she strongly supports this effort.

Jan Myers (1909 Indian Trail) stated that 20 years ago, for the Chamber, she headed the drainage and infrastructure committee, and they were trying to get people to understand clean water way back then. She thanked Ms. Griggs, and stated that she wants to double and repeat everything that Ms. Griggs said. She stated that this community, meaning community in a broad sense, has been slow to understand our clean water needs. She asked how the City will communicate with property owners and landscape firms about the waste that becomes stormwater on the sidewalks and the streets, because they are not directing sprinklers correctly, noting an example across the street where the sidewalks are covered with iron because of all the water.

Mayor Dennis responded that we can get that through our enforcements division.

Arnold Sweet (304 Hollowood Drive) asked if this could be used as a deduction on federal income tax.

Councilor Dietrich responded that it is not a tax, it is a fee.

Mr. Sweet stated that he understands that every community has to do this because it is a federal mandate, and wonders why it is not added to the property tax and paid twice a year.

Mayor Dennis responded that it has to do with regulations on property taxes.

Thomas Kesler (479 Maple Street) stated that he understands that there is a need to keep the water clean, and hopes there will be a way for property owners to reduce the $8 fee through mitigation projects.

Mayor Dennis stated that there has been discussion about rain barrels, but it is something that still needs to be worked on.

Joe Krause (2202 Trace 22) stated that he was at the stormwater advisory meetings, and was impressed with the presentations and information provided. He thinks that this is long overdue and supports it entirely, and January 2014 is proper for budgeting purposes. He stated that Mr. Kesler spoke about credits for persons having less impervious surfaces, and he believes that the ordinance needs to work out a while, he understand that it is too difficult to work out now. He noted that as a representative of Camelback Homeowners Association, which owns their own streets, sidewalks, and driveways, they will have to pay for those surfaces in addition to each residential unit. He stated that he supports it entirely.

Mayor Dennis stated that there are a lot of things that we do in West Lafayette that make this a place where people want to live. We look after ourselves, we look after our citizens, we look after our trash, and we take care of recycling. We have a pretty great place to live, and this is just another one of those elements that add to that.

Daniel Noland (2625 Willow Drive) asked to Councilor VanBogaert's question on making the fee less regressive, if there is any consideration to going to just smaller units than the 3,200 square feet.

Public Works Director Buck stated that the 3,200 figure is the average for a residential unit from a sampling measurement. Over time, as there are more changes to the City, the sampling can be revisited to see if the measurement and fee needs to be adjusted.

Mr. Noland asked if there was any consideration to making a commercial equivalent unit that would possibly have users with, for example, large parking lots pay a higher rate to subsidize what would need to be paid by homeowners.

Mayor Dennis stated that this would probably have a similar answer. We establish the utility, and like anything else we do here, a lot of the fees and the fines we have usually start out at a certain rate, then there is some flexibility that over a period of time we learn what is suitable for our community.

Public Works Director Buck stated that that is something we definitely look at. Large users do not necessarily have to be commercial. They can be not-for-profit, such as a school or church. They have large roofs and parking lots. So, there may be several different types of categories, that in fairness, we may or may not be able to look at in terms of the non-residential side of things.

Councilor VanBogaert stated that we are very limited in our options because of the way our State does revenue. His preference would be to pay for this out of property taxes, because he thinks that would be a fair way of doing it, but we are boxed in for a lot of reasons. That is why we end up relying on fee structures even though that may not be the best policy.

Mr. Noland asked if there is some reason the amount is not tied to the budget each year instead of the $8 being passed into the ordinance.

Mayor Dennis responded that the purpose of the fee is to establish the utility so the revenue can be directed toward getting in compliance.

Councilor VanBogaert stated that the way it works, is we establish a fee or a revenue steam, and then build a budget based off of that. We do not currently have this fee, so it needs to be established before it is appropriated.

Mr. Noland asked if it was not possible to have it flex each year. He understand that the $8 may be correct for the 20-year capital projects, but wondered if after that time can it not be fixed to the proposed yearly budget.

Public Works Director Buck stated that it will fluctuate each year based on which capital projects may be scheduled for construction based on the capital improvement plan, just like our budgets are for anything else. So, if there is a large project planned for the second year, everything saved from year one and year two towards capital work that has been collected for revenue may go to that first big project. That is the purpose of the budget. In response to an inquiry from Councilor Dietrich, Public Works Director Buck confirmed that the $8 fee will not fluctuate.

Mr. Noland stated that he did not understand why the $8 is permanently in the ordinance, to be $8 until it is voted on again. He wonders if there is a way to make it fluctuate automatically based on needs.

City Attorney Burns responded that the Council would always have the final say on what fees are imposed on the citizens as opposed to the projects dictate.

Mr. Kesler asked if this were collected through property taxes, how it would affect churches.

City Attorney Burns responded that they would pay the same property tax they do now, which is often nothing.

APC Executive Director Fahey stated that there are possible unexpected benefits to this. In the zoning ordinance, there are minimum parking lot standards for every use. We know that there are businesses, especially chain restaurants, who do not build just the minimum number of parking spaces. They build more than the minimum so that it appears that the restaurant is not busy. This ordinance may allow them to see the choice of either building beyond the minimum requirement and pay for it in part with this fee, due to having more impervious surface, or they can reduce their parking to the minimum required and thus reduce their fee. So, potentially for a small business owner, there is a little bit of flexibility. The other parking lot phenomenon seen is that parking space widths are required to be 9 feet wide, but grocery stores like to make them up to 10 feet wide, which also increases the impervious surface. Having a fee would give them the option of choosing to pay the additional fee or reduce those spaces down to the 9-foot requirement.

Councilor Burch asked if Tippecanoe County will have a stormwater fee, and if that means we would be billed twice.

Mayor Dennis responded that they will have a fee, but it does not mean double billing.

Public Works Director Buck explained that the regulations identify the City as an MS4 entity, a municipal separate storm sewer system, and it identifies the areas of unincorporated Tippecanoe County, outside the City limits of West Lafayette, Battleground, Lafayette, or Dayton, as part of that MS4 as well. So, there would no overlapping. Only the unincorporated parts of the County would potentially see a stormwater bill, should the County take one up.

Councilor Burch stated that she gathers that this is an unfunded mandate from the Environmental Protection Agency, and she is not happy supporting unfunded mandates. She stated that she will vote no on this first reading. She said this is because when talking with constituents, she had been under the impression that the fee would be $5. Most constituents were accepting of the $4 or $5 fee, but $8 per month made them gasp, and only one said that $8 was okay. Councilor Burch stated that she is voting no the first time around so she has the opportunity to get back to more of her constituents to explain the $8 fee. The increase was a surprise to herself.

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 5 AYES and 1 NAYS.

Mayor Dennis announced that Ordinance No. 34-12 passed on first reading.

Mayor Dennis and Councilors Burch and Hunt thanked everyone for the amount of work that went into this, and the public for asking good questions. Councilor Burch also thanked whoever was responsible for putting the information very clearly on the City website under Hot Topics.

Resolution No. 22-12 A Resolution Appropriating Insurance Recovery Received For Damage To City Property (Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 22-12 by title only.

Councilor Burch moved for passage of Resolution No. 22-12 on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor VanBogaert.

Clerk-Treasurer Rhodes stated that this is to appropriate insurance recovery due to damage to a Police squad car.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	AYE	NAY	ABSENT	ABSTAIN
Bunder	✔			
Burch	✔			
Dietrich	✔			

	AYE	NAY	ABSENT	ABSTAIN
Hunt	✔			
Keen			✔	
Thomas	✔			
VanBogaert	✔			

Clerk-Treasurer Rhodes stated that the vote was 6 AYES and 0 NAYS.

Mayor Dennis announced that Resolution No. 22-12 passed on first and only reading.

COMMUNICATIONS
There were no comments.

CITIZEN COMMENTS
►Ms. Griggs stated that she wanted to comment about the Pre-Council meetings held at 4:30 p.m. She feels that these meetings are illegal and improper because the Council votes. For example, the Council voted for Councilor Hunt to be the Council leader. She stated the votes should never be taken in those meetings. Several times, in Council meetings, members have referred to presentations and other discussions that were held. She stated that we have the impression that, in some cases, the real meeting is at 4:30 p.m., which not everybody can attend, and then the Council meeting at 6:30 p.m. is a formality. She stated that she thinks it would be good if the Council no longer has pre-meetings. The effect of this would be to make the Council meeting an hour longer, which is fine with her. She thinks that the Council will really get in big trouble. She stated that this is seriously a legal warning, about the Open Door Law, which she knows a lot about. Ms. Griggs stated that you have to pay attention to the Open Door Law and the Sunshine Law. She stated that the Council should never vote on anything and should have good professional judgment not to entertain presentations about bond issues and things like that in these Pre-Council meetings, because the public is entitled to that information. She stated that she wishes the Council would stop having Pre-Council meetings and have the real Council meeting at 6:30 p.m.

City Attorney Burns responded, for the record, that he appreciates Ms. Griggs' concerns, and he does not mean by his comments that those concerns are not valid, however, in terms of legality, the meetings that are held are posted, and they are legal meetings. Whether or not that policy agrees with people is open to debate, but as far as legality, there is no question about that. He invited Ms. Griggs to talk further about it. He stated that it is clearly legal in his view.

Councilor Hunt thanks Ms. Griggs for her comments. She stated that since she has been on the Council so long, she tends to learn a lot at Pre-Council and she asks a lot of questions. For the last couple of years she has not repeated those questions at Council because she is afraid people will see it as her causing the meetings to drag on. She asked Ms. Griggs if she would she rather the questions be asked in both meetings.

Ms. Griggs responded that she thinks that there should not be Pre-Council meetings, and that Councilor Hunt should ask a lot of questions during Council meetings, and never mind her image. She continued, saying Councilor Hunt should always be happy to think that nine other people in the room have the same question, and that we would all learn something.

Councilor Hunt stated that she defines Pre-Council meetings as a work session, to get answers.

Ms. Griggs stated that that kind of discussion, information, briefing and presentation from consultants and people who want to use our bond authority, and so forth, that should be going on in the Council meeting, not at a Pre-Council meeting at 4:30 p.m. She stated that Councilor Hunt may disagree, but she feels that way.

► Mr. Kesler stated the sidewalks and curbs put in this year are beautiful. He thanked the Street Department for its annual leaf collection, and it looks like the Department is out there staying on top of the leaf collection even more than the published schedule. He asked why there are new recycling bins and not trash bins.

Mayor Dennis responded that one of the unique things about the recycling bin is the yellow lid. We are gravitating toward all bins, all lids, of the same type. That will help in several different ways, not the least of which is to make the trash stay where you put it. Eventually, we will have trash containers and requirements for that as well. In response to a question from Mr. Kesler about why the recycling bins were done first, he said recycling is the number one problem that we have right now with trash in all neighborhoods, the recycling in the red tubs does not stay put. People are participating in recycling at a rate so significant that the red tubs do not hold the amount of recycling that is coming in.

Street Commissioner Downey added that the new recycling carts encourage recycling, boosting that aspect of garbage collection.

Mr. Kesler stated that as a resident of New Chauncey, he attended some of the meetings about the pressures that are currently placed on New Chauncey and hopes to continue to learn more about what is happening there.

Ms. Jan Myers stated, “I have one comment, and one quick question. My comment is, and I have not had a chance to check the City’s website, but if the stormwater document was entered into the system as an image, which is one of the reasons the City’s website is not accessible for those of who are disabled, then it won’t be accessible, and I urge whoever is responsible to check that. My question is, how has the City and TEMA’s emergency plans been modified since we did have that October cable cut? I saved several of Ron Wilkins’ articles, and he caused me to go look at ready.gov, which in case you’re interested, has more than 800 documents. The Mayor has often suggested that I have a job, well I had one. I looked at all the summaries of them, and read several of the documents. Not one of them covered a cable cut. There are only two mentions of telephone problems, and that related to businesses getting temporary 10-unit telephone situations. When reading the comments, and this one, I have several from you Mayor, underlined, but this one is from Smokey Anderson of TEMA, saying the things about electricity or gas, the general rule is we want people to be to take care of themselves for 72 hours. That is fine for that, when you have the number of seniors, at least in my neighborhood, or students who are then gone, so the seniors are left without anyone, or in the case of my next-door neighbor, she can’t even get outside, and I can’t get into her home to find out if she was okay. Knowing your neighbors didn’t help. I think we really need to be sure that both the City and TEMA look at their plans, because this has identified very seriously what problem a cable cut is. I got emails after the fact, from days later, when we had email facilities again, when we should have been on such-and-such website. We already are in our household. But they didn’t get to us. And there seemed to be a misunderstanding by safety officers. One who is quoted as saying ‘get another cell phone, go get one of the pay-as-you-go kind.’ Well, none of the cell phones on my area of Indian Trail, it didn’t matter if it was AT&T, I mean everyone in my neighborhood was out, and we were out for several days. The Police Chief knows I chatted a few times in person with a Sergeant, because we were left without. And none of that was

coming across publically on Channel 18. Once in a while on the *J&C*, but for those people, and they may not have been defined as disabled as myself."

Mayor Dennis asked Police Chief Dombkowski to talk to Smokey Anderson about that.

Ms. Myers stated that Purdue has allowed those who are disabled to voluntarily register at Purdue, so that if she is in a building they can find out how she is to get out or what health problems they will have in getting her out of a building. She urged the City to consider that those who want to in the City could register. They have to tell enough about their reason for wanting to be registered. It was great that the City was sending emergency people to be stationed at the nursing homes, but she was thinking about the people up and down her street, how many people that the City had no idea should be checked on.

► Mr. Noland asked City Attorney Burns if the Pre-Council meeting at 4:30 p.m. is a public meeting that he could attend if he took off work.

Burns responded affirmatively, that it is fully public.

Mayor Dennis responded that what we often do in Pre-Council is housekeeping items. We run quickly through the agenda, and in the event that something that needs clarification, it is taken care of. We do have people that attend.

ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting the time being 8:09 p.m.