

CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES
FEBRUARY 1, 2007

The Common Council of the City of West Lafayette, Indiana, met in the Board of Works Room at City Hall on February 1, 2007, at the hour of 4:30 p.m.

Mayor Mills called the meeting to order and presided.

Present: Hunt, Keen, O'Callaghan, Satterly, and Truitt.
Councilor Griffin arrived at 4:35 p.m.

Absent: Plomin.

Also present were City Attorney Bauman, Clerk-Treasurer Rhodes, Director of Development Andrew, City Engineer Buck, Public Works Director Downey, and Police Chief Marvin.

UNFINISHED BUSINESS:

Ordinance No. 1-07 An Ordinance To Name Depositories For The City Of West Lafayette (Submitted by the Clerk-Treasurer)

Mayor Mills said we have a couple items of unfinished business, I guess we have four, actually. We have the ordinance to name depositories for the City of West Lafayette. The Clerk-Treasurer talked about that last month. Are there any new questions or comments on that ordinance?

There was no further discussion.

Ordinance No. 3-07 An Ordinance To Establish The Perimeter Parkway Fund (Prepared by the Clerk-Treasurer)

Mayor Mills said this will be for the Purdue Transportation Plan, so we have separate account for that. We will be having the public hearing on that this month.

Councilor Satterly said we always call it the Purdue Transportation Plan or Purdue-West Lafayette Transportation Plan—

Mayor Mills said we call it a lot of things, Gil [Councilor Satterly]. I think for a year we got used to calling it Purdue Transportation Plan. It's the community-Purdue plan.

Councilor Hunt said is the hearing on the fund or is the hearing on the perimeter plan?

Mayor Mills said the hearing is on the fund only. It's establishing the fund. There'll be many, many meetings before we have anything about the plan. We're just in the preliminary, getting-started stages.

Clerk-Treasurer Rhodes said the hearing is required for the appropriation of the fund.

Mayor Mills said any other questions on that one? Concerns?

There was no further discussion.

Ordinance No. 4-07 An Ordinance To Establish The Police Grant Projects Fund (Prepared by the Clerk-Treasurer)

Mayor Mills said this is a similar ordinance to establish the Police Grant Projects Fund, so that we can deposit those particular grants into that fund specifically to pay for the overtime of working the grants enforcement activities that the Police Department does. Any questions there? Any discussion?

There was no further discussion.

Ordinance No. 5-07 An Ordinance To Amend Ordinance No. 34-06 Fixing The Biweekly Salaries Of Appointed Officers, Employees, And Members Of The Police And Fire Departments Of The City Of West Lafayette, Indiana, For The Year 2007 (Submitted by the Clerk-Treasurer)

Mayor Mills said we are changing the part-time salary range there for one of the Parks Department, but just changing that range. So this will be the final hearing on that. Any questions on that ordinance?

There was no further discussion.

NEW BUSINESS:

Ordinance No. 6-07 An Ordinance Providing For Temporary Loans From A Fund Having Sufficient Balance To A Depleted Fund (Prepared by the Clerk-Treasurer)

Mayor Mills said the Clerk-Treasurer, as always, has to transfer some money. Judy [Clerk-Treasurer Rhodes], do you want to talk about this?

Clerk-Treasurer Rhodes said yes. This loan is necessary for cash flow purposes for the Parks and Recreation Fund. The Wastewater Treatment Utility made 13 temporary loans to various funds last year. The loans to the Parks and Recreation Fund were made in two periods, one several months before the June settlement and we're talking, of course, 2006, and at the end of the summer in 2006. In other words, approximately April, typically is when we begin to draw on the Wastewater Utility, and we paid all the loans in June. And we drew again in August-September and we paid them in December. So the loans are very short term, and the borrowing and payback occurs as flow of revenues occurs in the Parks and Recreation Fund. We don't borrow hundreds of thousands of dollars and hold it. We only draw it as we need to make payroll and pay the bills.

Councilor Keen said are you going to need two readings on this?

Clerk-Treasurer Rhodes said I'm going to be asking for two readings on this, and you will probably see several more such ordinances to deal with other cash flow situations as we progress into the year for other funds.

Mayor Mills said any questions? Any comments?

Councilor Hunt said is it early in the year to be dipping into that big of amount of money?

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

Clerk-Treasurer Rhodes said yes, the operating balance in the Parks Fund, for example, had a year-end this year that was lower than it was the prior year end. In other words, we began with less cash on hand than we had the prior year, so we're beginning our temporary loans a bit earlier. Our practice is to go to the NRO Fund first, as much as we can use that fund before we turn to the Utility.

Mayor Mills said I think the last couple years, since we've been budgeting tighter, we don't end up with as much, because we are budgeting what we need to appropriate, and not a lot extra. So we're not going to have a lot to start with, because we're doing that, we're trying to be as lean as possible.

Clerk-Treasurer Rhodes said you'll notice that on later discussion that we have cut the operating balance target to near zero for Parks for 2007. So the situation is going to continue.

Mayor Mills said thank you.

There was no further discussion.

Resolution No. 2-07 A Resolution Approving The Designation Of An Economic Revitalization Area For Property Tax Abatement For SRJ Development, LLC (Prepared by the City Attorney)

Mayor Mills said Mr. [Director of Development] Andrew.

Director of Development Andrew said yes, Steve Shook [Owner, Coldwell Banker Commercial Realty Services] is here, and Tim Peoples with PRF. You want just to discuss it? You have the minutes from the Economic Development Commission in draft form; they have to be approved by the Commission, so accept that for your information purposes.

Mr. Steve Shook said I did not bring a site plan that shows exactly—

Director of Development Andrew said that's here. In relation to the whole Park?

Mr. Shook said yes. The location is off Kalberer and McClure, Ross Enterprise here. Win Hentschel Boulevard here, the pond or lake here, and the subject building proposed.

Councilor Griffin said International's to the east?

Mr. Shook said International's to the east, yes. And the Purdue Technology Center. This is a single story building of approximately 26,000 square feet, and will be anchored on the north end by an MRI imaging operation, a joint venture between Unity Clinic and Greater Lafayette Health Services. They will take approximately 8,000 square feet of 18,000 square feet of office area in this section of the building. So this section of the building will be used by medical, research, engineering companies that are Stage II companies that might come from the PTC or come from out of town. The south portion, roughly 7,000 square feet or making up the balance will be reserved for a restaurant and other kind of accoutrement uses—maybe coffee, a place to land for checking email, other appropriate neighboring uses to a full-scale restaurant. And so we are seeking your consideration for a tax abatement on the office portion of this new development.

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

Director of Development Andrew said I might also add the MRI facility will be doing outpatient work, but will also be doing research with the University, with the Vet School, and with GE. There's a relationship with GE. So it's a—

Mr. Shook said thank you, Josh [Director of Development Andrew]. That's key. That's a—

Director of Development Andrew said they've been working on this for some time.

Mr. Shook said partner I didn't mention is Purdue University in the MRI operation. Exactly. The MRI facility will be utilized for research purposes, partnering Purdue University with the MRI facility for development of both technology and techniques in the MRI area.

Director of Development Andrew said and Purdue is a leader in this area, one of the pioneers. That's a reason for the linkage with GE.

Councilor O'Callaghan said Steve [Mr. Shook] the numbers I wrote down didn't add up for the square footage. Could you go over them again, please?

Mr. Shook said okay. The—

Councilor O'Callaghan said the MRI square feet—

Councilor Hunt said the MRI square feet, I think.

Mr. Shook said the gross square footage, 26,212. Subtract about 7,700 usable; 8,700 for lobby and retail or commercial; and the balance was 18,000 and change for the office piece.

Councilor O'Callaghan said so are you counting the 18,000, the MRI, in that 18,000?

Mr. Shook said correct.

Councilor O'Callaghan said okay, because at first it was the 8,000 for the MRI and 18,000 for the office area and then 7,000 for the restaurant.

Councilor Truitt said in the minutes, it says 26,000 square feet total building; 7,000 square feet retail; 7,800 MRI and offices; and 11,000 for additional offices.

Councilor Satterly said to be determined.

Councilor Hunt said yes, but that's the minutes, that's—

Mr. Shook said it's about 18,000 and change for the office piece, and there is a small lobby in the crook, and we'll wind some of that space into the office space, so the MRI operation will be 8,000 roughly. It's actually like 7,845, and 2,000 of that is a physician office that Unity has committed to, Unity Clinic for patient care.

Councilor Truitt said Steve [Mr. Shook], the jobs on the SB-1 Form when you talk about 59 additional jobs within four years, how are those split out?

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

Director of Development Andrew said it's difficult at this point—

Councilor Truitt said okay. Are those considered new jobs or do we have—

Director of Development Andrew said those will be new jobs, because this is a new facility and it's over a four-year period. Thus we can estimate, and we're estimating the wages at \$2.4 million investment in new employment.

Mr. Shook said Randy [Councilor Truitt], we went back to the formula that we used for the office portion of International—

Councilor Truitt said to apply to this?

Mr. Shook said to apply to this, and I think we're tracking okay on the estimates we made here.

Councilor Truitt said the coffee shop potentially, that's an idea, or is that something that is—?

Mr. Shook said that's something that Tim Peoples [Director of Purdue Technology Centers, PRF] and Greg Deason [Vice President of Real Estate and Research Park Development, PRF] and I have, and Mayor Mills—this area is becoming a lot more central but maybe becoming more central in the Park, and the desire for a gathering place, coffee, a commissary, pick up a magazine, newspaper, restaurants, lunch or dinner, a watering hole, you know, to go along with that, and it's the gathering concept that kind of drove the desire here. And so—

Director of Development Andrew said if you talk to Pete Kissinger [Chairman of the Board and Chief Scientific Officer, BASi], this is something he's been pushing for for years.

Mayor Mills said this is going to be a great addition to the Park. The research and application, working partner with the health care facility and the community with the research at Purdue, and then, again, this great addition of restaurant, coffee shop, which all the companies in the Park have been asking for for years. So we couldn't be any more thrilled that this is happening.

Councilor Truitt said the watering hole idea, from a liquor license perspective down the road, how does that fit in with everything that's going on? Is that because it's an economic—do we have any leeway in regard to—?

City Attorney Bauman said no, they have to apply.

Councilor O'Callaghan said it's not by the—

City Attorney Bauman said it would just be a regular—

Councilor Truitt said be a standard, okay, right.

Mr. Shook said one came available a year and a half ago, and so we've got it. And we would just sell that to the operator.

Councilor Satterly said do you have a commitment from someone to run the restaurant?

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

Mr. Shook said we have an operator, yes we do. So we've got the operator, and we think it's an appropriate operator, we have the license, and we'll have to create now, and we are, the ownership.

Councilor Hunt said and the food license. Are you—the alcohol is in?

Mr. Shook said correct.

Director of Development Andrew said I might also add that there is a child care center going to be—we're in the process, they're in the process of developing a child care center across Kalberer Road. We're going to be finalizing that, which is another development in the Park. You're getting this community now.

Councilor Griffin said it's on the north side?

Mr. Shook said yes.

Director of Development Andrew said Kalberer, yes. That's in the Park.

Mr. Shook said as Josh [Director of Development Andrew] says—

Councilor Griffin said the MRI, Steve [Mr. Shook], is not just research?

Councilor O'Callaghan said it's also a doctor's office.

Mr. Shook said that's correct.

Councilor Griffin said onsite doctors, diagnostic, yes?

Mr. Shook said correct. And so any—Tim [Peoples] can speak to this.

Mr. Tim Peoples said the whole function and concept is that daytime use is clinical use application for patients and doctors. The evening and nighttime use would be research, development of tools, development of methodology and protocols. It's interesting that earlier this week I had guests visit us from Illinois Institute of Technology out of Chicago. They have an incubator research park near the White Sox park. They are instituting the same concept in one of their new buildings, where, by day, it is a clinical MRI operational facility, and by night, research and development tool for the school.

Councilor Griffin said and will this offer some things diagnostically to the community that are currently not available?

Mr. Shook said I'm afraid I can't answer that one.

Councilor Griffin said you know, a large level of technology in there?

Director of Development Andrew said I'm sorry that I can't either.

Councilor Satterly said if nothing else, people on the west side will use this.

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

Councilor Griffin said are you talking about an area hospital with it?

Mayor Mills said north of Kalberer, we have room. Definitely room.

Councilor Hunt said that is one building, even though you—?

Mr. Shook said yes, and there is a lobby in the center there. The unleased portion of the office space is flexible from the standpoint that it's a regular shape and it's got nice clearance, and so it can serve the needs of general office users, office research, and it might serve the needs of someone that's doing some testing and needs a little more clearance. We might not necessarily drop a ceiling, so we're flexible.

Councilor Hunt said I have some particular questions about correlating the minutes, which are draft, and the resolution. So let me just ask—and I've spoken to Josh [Director of Development Andrew] a little bit about this—in the minutes of the Economic Development Commission, Mr. Bauman clearly states on page 3 that, "from a legal standpoint, whether it is food or some other type of retail, it would be excluded from eligibility for abatement." It's talking about the restaurant. I just wanted—you know, these are draft minutes, and we're working on the resolution, I just want to be assured in the public meeting that the restaurant is not going to be—because it competes with other restaurants in town—it's not going to be abated.

City Attorney Bauman said Councilor, that's not because it was said in the meeting or appears in the minutes. It's because of State law.

Councilor Hunt said I figured it was. Being I don't know about all the State law, I just wanted some clarification.

City Attorney Bauman said correct. And the applicant, on my advice, has applied for an abatement to the entire building, because, until they get their plans finalized, it wasn't clear exactly what part of it would be devoted to noneligible uses. But, when they go in here to take their abatement, they can only take it on the eligible uses.

Councilor Hunt said okay.

Director of Development Andrew said and I will be reviewing that on a yearly basis, with the compliance statement.

City Attorney Bauman said well, the assessing officials will, also.

Councilor Hunt said thank you. I just wanted to—

Councilor O'Callaghan said we have a good precedent with this with this very applicant with the International Technology Center and the portion that is the fitness center was not part of the abatement, just the office building was. I did question that when the addition was going up with the gym, and I said, "Wait a minute, we didn't abate the fitness center," and that part wasn't included in the abatement.

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

City Attorney Bauman said and, again, not just because of action at that City level, but because, under State law, that's not an eligible activity for abatement.

Councilor Hunt said in addition, another thing that just made uneasy was in the additional write-up of this form, about what it will directly compete with, and it says, "restaurants," and I just—

City Attorney Bauman said well—

Councilor Hunt said and I understand that—

City Attorney Bauman said the part's that abated will not compete, because that part cannot be abated.

Councilor Hunt said I just appreciate that being officially stated. Thank you.

Mayor Mills said any other questions? Judy [Clerk-Treasurer Rhodes]?

Clerk-Treasurer Rhodes said SRJ is a new corporation. Besides you, who else is it? SRJ Development, LLC.

Mr. Shook said Rachel and Jim Shook, Sr. Very creative.

Councilor O'Callaghan said is there any significance to that order?

Councilor Truitt said the one in the middle's the key.

Councilor O'Callaghan said I'm sure. That's what Bose McKinney said, too.

Mayor Mills said thank you both very much. It looks like a wonderful addition to the Park.

There was no further discussion.

Resolution No. 3-07 A Resolution Appropriating Housing Rehabilitation Revolving Loan Funds On Hand Resulting From Repayments Of Funds Previously Used By New Chauncey Housing, Inc. (Submitted by Department of Development)

Mayor Mills said and Josh [Director of Development Andrew] again will—

Director of Development Andrew said yes, this is repayment for the loan that was given to New Chauncey for a house that was not eventually determined to be eligible for federal funds. We had loaned CDBG funds to New Chauncey, and they, in turn, repaid that and chose to do it out of their own funds. So this is what they're doing.

Mayor Mills said questions for Mr. [Director of Development] Andrew?

Councilor Griffin said New Chauncey Housing is paying, not New Chauncey Neighborhood Association.

Councilor Truitt said so we gave the—

Director of Development Andrew said we gave and it didn't qualify.

Councilor Truitt said and it didn't qualify, so they're repaying?

Director of Development Andrew said yes.

Councilor Truitt said and that sits in a—

Director of Development Andrew said revolving fund.

Councilor Truitt said right.

Councilor O'Callaghan said and was that so that they could do different things with that property that they couldn't—

Director of Development Andrew said it didn't meet government qualifications. It was a little too much money for the feds to get into it, but they did it out of their monies. So we did a little better than break even.

Councilor O'Callaghan said I guess I just wonder if it's the Lincoln Street property and if it's to—

Director of Development Andrew said 200 Stadium.

Councilor O'Callaghan said Stadium, okay.

Director of Development Andrew said West Stadium.

Mayor Mills said other questions on that item for Josh [Director of Development Andrew]?

There was no further discussion.

Update on K-Mart Property

Mayor Mills said I know that Councilor Hunt asked to have a little update on the K-Mart property, Mr. [City Engineer] Buck, so if you'll just give us an update, fill it in a little bit, bring us to speed.

City Engineer Buck said Mr. [Director of Development] Andrew's had time to talk to more people.

Director of Development Andrew said he got stirred up.

City Engineer Buck said you guys [the media] wrote about a delay. I'm not aware of a delay. The petitioner Swiss Development has filed a sketch plan for a major subdivision in the beginning of January, and we had a review meeting for that submission. They have since taken those comments and filed a preliminary plan with a major subdivision, and we have provided some comments back to them on that. We still have some Wastewater and Fire Department comments to convey to them. But they have had, I think, some concerns over the traffic impact study that we've asked for, which is a pretty standard status quo type of request, especially

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

when there's been—well, when you're talking about this many acres of development and the potential hazards. Four out lots with restaurant uses or banks or retail on them, where there's really just two buildings now that will be coming down. There is a demolition permit that's been issued for demolishing the building. They've had it now since the 23rd. They have been actively gutting the inside of that building and scrapping out copper and other materials. I don't know if I'd call the building condemnable, but—

Director of Development Andrew said it's close.

Mayor Mills said it's close.

City Engineer Buck said it's close. Structurally, it might be okay, but we would have to look more closely.

City Attorney Bauman said Councilor, the series of meetings with the preliminary sketch plan and so forth, those are typical of any development like this.

Director of Development Andrew said it's about GB.

City Attorney Bauman said not the least bit unusual.

Councilor Hunt said we're getting questions.

City Attorney Bauman said sometimes when they're more complex, such as planned developments, there are more meetings than certainly we'll have in this case.

Mayor Mills said well, I think they're getting questions because of the headline in the paper, but there is no delay.

Councilor Hunt said okay.

Councilor Satterly said so they can demolish the building whenever they want then.

City Engineer Buck said they have a permit.

Director of Development Andrew said they have a permit.

City Engineer Buck said they have a contractor—

Councilor Satterly said and so there's no delay then.

City Engineer Buck said I talked to them over there today, actually.

Councilor Keen said you know when they're scheduled to start demolition?

City Engineer Buck said they already are.

Councilor Keen said I mean not the—

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

City Engineer Buck said active structural stuff like walls and stuff, we've heard next week, but I'm not in control of that. That's—

Mayor Mills said they've taken all the guts out.

Councilor Truitt said are we participating in the traffic study, from a monetary standpoint at all?

City Engineer Buck said no, we haven't. Usually, I mean, that's—

Director of Development Andrew said they have to pay for it.

City Engineer Buck said in any other community—Carmel, certainly Fishers, any of the communities surrounding Indianapolis where Mr. Swiss has done development—this is pretty standard stuff.

Councilor Truitt said do we have any track record in regard to us paying for traffic in that geographical area?

City Engineer Buck said if the study would come back and say there are beaucoup public road improvements necessary, we'd certainly discuss that topic. If the magnitude of them is great enough to where it's more than just the development that's benefiting, it's US 52 and it's Nighthawk, and a lot of other—the whole entire framework of the project—yes, we would definitely discuss it.

Mayor Mills said that's what we'd use TIF money on there for.

City Engineer Buck said we want the issue addressed. It's not even been looked at, as far as, "We're going to generate this much traffic compared to what K-Mart did." We've asked for that and really helped them put some numbers together to at least get to that point, but beyond that—

Councilor Truitt said have we made any commitments verbally to Mr. Swiss, in regard to financially attracting or anything?

City Engineer Buck indicated no.

Councilor Truitt said okay.

Mayor Mills said I mean, he's not really to that point yet, so I mean, we've had regular meetings with him, we've suggested tenants.

Councilor O'Callaghan said there are no incentives in place.

Director of Development Andrew said it's pretty generic. I mean, we even made the comment to him that we can't review the landscape plan because it doesn't have—. So we're still up in the air on the percentage of greenspace. So it's—we're getting there. And this traffic study will help answer a lot of questions to determine who's responsible for what.

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

City Attorney Bauman said and, again, that typically comes from the developer's side, because those models are driven by the uses that they intend to include in their development.

City Engineer Buck said one of the biggest concerns that I have as City Engineer is they're actually looking at potentially decreasing the peak hour volume of traffic, okay. During the rush at 5:30 or 5 o'clock in the afternoon. They're actually looking at having fewer cars than what theoretically K-Mart would have generated, and yet they're asking for an additional access drive. They have four; they want five. So we've said that doesn't seem justified.

Councilor Truitt said right.

City Engineer Buck said you would convolute and clog up traffic all the more, potentially; warrant that to us. And their stance has been more, "Well, tell us why we can't." So it's communication.

Councilor Truitt said okay.

Mayor Mills said and part of our responsibility is making sure that what they do doesn't impact anybody else negatively, just like we would do for any other development. So we're working very closely with them, like we do all these.

City Engineer Buck said the chiropractic center on the corner of Navajo, they had a drive on Nighthawk, and we worked out, they removed it; they got one on Navajo. So, you know, it was too close to the intersection, they moved it and put another one on. They changed the site development and their site plans, and it wasn't a six-of-one, half-dozen type of an issue, but it was negotiable.

Mayor Mills said Carl [Councilor Griffin].

Councilor Griffin said two questions, Dave [City Engineer Buck], and jog my memory here. Marsh is under Lux [Lux Properties]—who's redeveloping that?

City Engineer Buck said you're correct.

Councilor Griffin said and that is coming as far east as Nighthawk?

City Engineer Buck said yes.

Councilor Griffin said okay, all right. So then my second question is, so what is the contention? I haven't seen the article yet. What's the contention of the delay? Is the contention that our request for this traffic study is so—?

Mayor Mills said it doesn't even say that.

Councilor Truitt said the headline is just what makes people pick up the phone and call.

Mayor Mills said yes, and the article says that there is no contention.

Councilor Griffin said okay.

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

Mayor Mills said it's the headline they chose.

Councilor Griffin said talk to those editors, Curt [Mr. Slyder, Journal-Courier].

Councilor Truitt said Curt [Mr. Slyder] was that you?

[Someone] said he didn't do it, no.

Councilor Satterly said who's writing the headlines?

Councilor Griffin said you can rest assured, that was not Curt [Mr. Slyder].

Councilor Satterly said is the developer asking for another access point off of 52?

City Engineer Buck said no. He's asking for another access point on Nighthawk.

Councilor Satterly said okay, now as part of development of Swiss' property and Lux property, are you going to be realigning the access points, where they have that terrible lockup left turn?

City Engineer Buck said absolutely. We've asked—

Mayor Mills said but that will depend on what he puts on there, too, and that's why we can't really do the traffic until we know what he's doing.

Councilor Satterly said but we need to get it improved as part of this.

Mayor Mills said absolutely.

[overtalking]

City Engineer Buck said that's one of the items that struck certainly in my opinion, the City would step up and say, "Look, if we could come to an agreement on how this alignment should work, we'd be willing to participate in that with you," and help Mr. Swiss get that part of the development in our minds correct.

Councilor Griffin said so the four are two on Navajo, one on Nighthawk, and one on 52.

City Engineer Buck said and the 52 one is a right in/right out now. It would stay that. It's not proposed to be changed. He has talked about improving the grade of that, lowering it so it's more gradual, and a lot of good things. The State has seen this proposed layout and they've made comments on it that would require changes to what they're showing. Again, just a proposed site plan. It's just a subdivision right now. It's just lot lines, and when one part of the puzzle comes in and wants a building permit, that's when the actual design for that piece will be, you know, completed and actually constructed.

Public Works Director Downey said we don't control the access on 52.

City Engineer Buck said no.

Public Works Director Downey said the State does.

City Engineer Buck said changes to that would go through the Tech Highway, and then changes in City streets would come to the Traffic Commission.

Councilor Griffin said and how far in do you have to come off of 52 before the State no longer cares? In other words—do you understand what I'm asking?

City Engineer Buck said yes.

Councilor Griffin said how many feet back?

City Engineer Buck said it will vary, depending on the size of the road, the amount of traffic. It's farther, the bigger the street, the more volume of traffic, the farther back they're going to look for impacts, as far as driveways and things like that. The more minor of a street and the less volume of traffic, then not as far. I don't know that there is a standard.

Councilor Hunt said I have one more question. This is just diplomacy. Given that this is a development from out of the City, do we give them any guidance on where they might go to get some engineering help?

City Engineer Buck said absolutely.

Director of Development Andrew said we gave him a list.

City Engineer Buck said we sure have.

Councilor O'Callaghan said so right now, this is not a PD at all?

City Engineer Buck said no. At one of our initial meetings we requested with the developer was to sit down and discuss which paths should they take, commercial subdivision or planned development. Because of our experience in planned developments, we foresaw that there would be a lot of "What if—?" scenarios, and it would provide more flexibility on both sides to reach an agreement. General business and just a plain subdivision, our hands—it's in black and white.

Councilor Griffin said yes.

City Engineer Buck said and the amount of parking, the amount of greenspace, the amount of landscaping and things of that nature are spelled out. And so when lot number one comes in with a development for whatever it would be—a restaurant, a bank, or whatever—the rules have been set, so to speak, and there's no flexibility.

Councilor O'Callaghan said and that was their decision?

City Engineer Buck said yes.

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

Councilor Satterly said is there any coordination between the development to these separate lots?

City Engineer Buck said we've asked for that. That was one of our comments, that it is good to get as much of a defined big picture as a whole, global picture, as you can, so that when each of the pieces of the smaller part come together, they kind of have a set of standards set up. And the Lux property and Marsh to the west has somewhat set the stage, and then we have also pointed that out and said, "You need to look at what that was rezoned as a planned development and how there's an interior drive set up and how that flows. We'd like to see that same kind of thing continue as a part of this development."

Councilor Truitt said did Mr. Swiss purchase the land or do you know, Josh [Director of Development Andrew], is that public?

Director of Development Andrew said I think he has.

Councilor Truitt said he bought the land and bought Simon out of the land lease?

Director of Development Andrew said well, it's kind of a—

Councilor Truitt said is it a convoluted deal?

Director of Development Andrew said Dave [Mr. Lux, owner, Lux Properties] owns the land—

Councilor Truitt said right.

Director of Development Andrew said who he leases to Simon who, I guess, is either leasing or selling to Swiss.

Councilor Truitt said okay.

Director of Development Andrew said now I'm not quite sure how that was resolved.

Councilor Truitt said so Dave [Mr. Lux] still owns the land?

Director of Development Andrew said I'm not sure. Frank [Mr. Swiss] is proceeding, I think, as if he owns it.

Councilor Hunt said so if they wanted to, the other day when they had that equipment there, they could have demolished the building?

City Engineer Buck said I think they're cleaning out salvageable materials—

Councilor Hunt said no, I know, but I mean there was heavy equipment there. I think that was in the paper. And if they wanted to tear down, they—

Mayor Mills said they have the necessary permits.

Councilor Hunt said and that means bringing the building down.

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

City Engineer Buck said they have the proper asbestos abatement and all the paperwork that they need and permits that they need.

Councilor Hunt said thank you. That answers my question.

Mayor Mills said you have a good staff working on this very regularly. I mean, they've really been working hard on this project. We'll end up with a great project.

Update on Tapawingo Extension

Councilor Truitt said any update on the Tapawingo extension? Is that going? It looks great.

City Engineer Buck said we are shut down for the winter, we'll pave it in the spring. Come back and have it completely wrapped up by June 1.

Councilor Truitt said okay, great.

City Engineer Buck said signals on, pavement down, trail completed—all that by June 1.

Update on Marsh Renovation

Councilor Satterly said Dave [City Engineer Buck], you mentioned Marsh.

City Engineer Buck said yes.

Councilor Satterly said and Dave Lux. Is there any further movement on what they might be doing there?

Director of Development Andrew said I'm talking with corporate, have been for the past—

Councilor Satterly said with Marsh?

Director of Development Andrew said six or seven months. It's one of their better stores, it's paid for, it's one of their older stores, and they have a loyal following. They're becoming aware of that. I call them about once a month. I'm working with Randy Winchester [West Lafayette Marsh store manager] also. So we're trying to tag-team on it.

Status of Smitty's and Campus Inn

Councilor Truitt said how about—anything on Smitty's?

Director of Development Andrew said no.

Councilor Truitt said these are all questions that—

Director of Development Andrew said it's dead.

Councilor Truitt said oh, it's dead?

Director of Development Andrew said yes.

Councilor Truitt said okay.

Director of Development Andrew said as far as we can tell. There's not any interest. Campus Inn's the same way.

Councilor Satterly said you don't have a demolition permit for Smitty's?

Director of Development Andrew said no.

Councilor Truitt said somebody tried to knock it down, that's for sure, in their car or something.

Mayor Mills said okay, anything else?

Dangerous Animal Issue

Councilor Griffin said did you want to talk about the dangerous animal issue?

Councilor Hunt said oh, I could bring up what I've done. If you'll recall, the December Council meeting, Mr. Molnar came and wanted to work on, with a group of us, work on an ordinance, and he was going to get us some information. And shortly after the holidays, I emailed him and said, you know, "We're ready." Maybe it was before the holidays. And then I emailed him again about 10 days ago, and I have not heard anything from him. So I'm going to—

Councilor Griffin said here's the question that I bring up, and, in fact, I spoke to him in person, because you may recall that he said, and I think that he was concerned that none of us cared about this, which I believe is very clearly he was coming to the wrong conclusion. From my standpoint, I think that all laws are double-edged swords. And I think that this is something that, while it appears to be, it has some good ideas about it, it's not simple in terms of how it might eventually be applied. But he said, "Hey, I'll have all the information you need—"

Councilor Hunt said more than enough.

Councilor Griffin said "more than enough information by the holidays." And that hasn't happened. I'm a little bit uncomfortable that, after his enthusiasm and after we responded and said, "Okay, fine," that we were perhaps being allowed—or allowing ourselves—to come into a position where we've done nothing. Now, if we do nothing purposely, because we feel that it's right to do nothing, I think that that's one thing. If we're waiting for him to get in touch with us, and I'm just concerned that we may be accused again of really not caring about this. I think one of the things we have to ask, "Is this the right thing?" Because if it's the right thing, then perhaps we need to take the initiative. On the flip side of it is if we're not taking the initiative because we're too busy or because of any—that's one thing. If we're not taking the initiative because we feel, "Maybe this isn't the right thing," then if he does come forward again and say, "Well let's get going here," then I think we need to say, "Well, you're the only citizen who's pushing this." That doesn't make it a wrong idea, but is it the right thing? I guess I'm just throwing this out. How do we feel, just kind of for an open discussion, since of course we can't have open discussion except for—

Councilor Truitt said right. I mean, I like the concern of your statement in regard to inactive and not pursuing it in some way, shape, or form either, purposefully saying, "We don't think it's the right thing" or saying, "Let's do something." I don't think that it would be appropriate without

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

having some further meetings with the community, in regard to the potential application of something like this. I don't think we should come out with an ordinance, because, me personally, I would need a lot more information.

Councilor Griffin said yes.

Councilor Truitt said so maybe one of the steps would be a community meeting, a community outreach or something to find out, an informational session.

Councilor Satterly said more input.

Councilor Truitt said yes, more input to find out, is it just Mr. Molnar, or is it other individuals that feel that way, because, me individually, I never even thought of it from that standpoint until it came up. So that's kind of where I'm coming from. But I definitely can see that potentially coming back up, saying that, "You don't care." Which is definitely not true. And I think we need to come to realization whether that's okay or whether it's not okay. So I—

Councilor O'Callaghan said well, oftentimes, a meeting just to get input is not as productive as a meeting about a proposal or something like that. Or to have some, at least, have some samples of other places, not just to have a meeting about.

Councilor Truitt said no, I'm not proposing you just listen. No one has time for those types of meetings, but if Mr. Molnar doesn't come surface back up again, unless someone is willing to go and gather all that information, then we're not going to have any information to talk about .

Councilor O'Callaghan said right.

Councilor Truitt said but I don't want us to come with a proposed—I mean, me personally, I don't think we should come with a proposed ordinance, but coming with information to talk about whether it's a concern.

Mayor Mills said this is a little bit of a touchy issue, I think. And it's—I'll give you my opinion here—it's not that I disagree that perhaps we need a more restrictive way to enforce something like this. But I also think that there have been enough questions raised about this particular incident, that I would hate to see us base an ordinance on this one case, that there are two very disparate sides to this, the dog owner's and Mr. Molnar. I think Mr. King from the Animal Control Department has some reservations about the whole case, and so I think we have to be careful how we proceed here. Because we, in addition to receiving all the information from Mr. Molnar, we've also received quite a few letters and calls and visits from the dog owner, friends of theirs who have testified that, you know, these dogs are not dangerous dogs, that they're around small children regularly and they've never been the least bit aggressive. And so I think we just have to be careful how we approach anything we do in response to this one case. Now, again, that doesn't mean I don't think we should let our ordinance not protect the people in the City, their animals or small children, but let's be careful how we respond to this one incident.

Councilor Truitt said how do you think we should respond?

Mayor Mills said I don't know, I mean, Mr. [City Attorney] Bauman says that, until the State statute changes, what we do—correct me if I'm wrong here—

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

City Attorney Bauman said well, other communities have addressed this problem in different ways. We have what is basically—

Councilor Griffin said let's define the problem. What's the problem?

City Attorney Bauman said well, the problem with—

Councilor Griffin said alleged injury from a household companion animal, alleged injury from that or property damage. That's the general category. That this animal goes and—

Councilor Satterly said kills cats.

Councilor Griffin said kills cats or tears out bushes or whatever—

City Attorney Bauman said and in other communities, and we fortunately have not had that happen here, in other communities there have been serious injuries or even deaths from attacks by dogs.

Councilor Satterly said or even humans.

Councilor Griffin said right, okay.

City Attorney Bauman said you know, we have the basic kind of ordinance which is an ordinance that restricts animals from running at large. One of the concerns that Mr. Molnar had was that our ordinance didn't provide for restitution—

Councilor Griffin said yes.

City Attorney Bauman said in the event of a violation of that, and it does not. And, as the Mayor alluded to a moment ago, the reason is State law does not allow us to do that.

Councilor Griffin said absolutely doesn't allow us?

City Attorney Bauman said absolutely does not. It is forbidden. We are forbidden from making law related to the civil relationships between people and, in particular, in particular, there's a case that says you can't order restitution. So whether that's a good idea or not, we can't do that.

Councilor Griffin said and that's what he wants.

Councilor O'Callaghan said so one could have a dangerous animal ordinance, but not have restitution.

City Attorney Bauman said and some communities have adopted much more comprehensive ordinances about dangerous animals, including some communities have banned certain breeds of dogs because of their potential to cause grave harm. And that's one approach some communities have taken. I have in mind Denver, for instance. Some communities in Indiana have experienced problems which have been addressed through the criminal system, in terms

PRE-COUNCIL MINUTES, FEBRUARY 1, 2007, CONTINUED

of people who are keeping, raising, training dogs for fighting. And I don't know that we have any current concerns about that, but I know I was contacted by Animal Control a number of years ago, when they had a situation that they had a concern that maybe that was occurring here in the City. So there are several different kinds of problems and there's a whole range of how you might address them. And I think it's probably fair to say, you know, that there are two sides to the story on all of those, and they all involve some balancing.

Councilor Hunt said we've heard a lot of the one person's interpretation. That's all I know.

Councilor Griffin said it's food for thought.

Mayor Mills said anything else?

There was no further discussion.

ADJOURNMENT:

There being no further business at this time, Councilor O'Callaghan moved for adjournment. Motion was seconded by Councilor Truitt and passed by voice vote, the time being 5:19 p.m.

Respectfully submitted,

Judith C. Rhodes, Clerk-Treasurer
Secretary of the Common Council