

CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES
MAY 31, 2007

The Common Council of the City of West Lafayette, Indiana, met in the Board of Works Room at City Hall on May 31, 2007, at the hour of 4:30 p.m.

Mayor Mills called the meeting to order and presided.

Present: Griffin, Hunt, Keen, O'Callaghan, Satterly, and Truitt.

Absent: Plomin.

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

Item for Council Meeting not on Agenda

Mayor Mills said we have a very short agenda this month. We are going to—I don't know if you saw your email today—but we are going to have a couple other at least brief discussions, at least one brief discussion. Nick Schenkel from the West Lafayette Public Library and one of their board members will come on Monday night at the end of the agenda, since it's so short, to talk to us a little bit about their capital projects fund. I know you all received things from Judy [Clerk-Treasurer Rhodes] that she emailed out, so, please, if you haven't looked at them yet, read them this weekend and bring them. Put them in your packet to bring on Monday night, because they'll be here to talk, and you'll have the opportunity to ask questions. We won't bring it to the Council until the July meeting, but since the agenda's so short on Monday, we thought it would be a good time to start the discussion, so people can ask questions and they'll know what we're interested in hearing from them.

Item for Consideration at July Council Meeting

Mayor Mills said do you [to City Engineer Buck] want to go ahead and do your thing?

City Engineer Buck said thanks. Did everybody get a copy of this memo from Engineering?

Councilor O'Callaghan said it's in our mailboxes.

[overtalking]

City Engineer Buck said we put it in your mailboxes. It's just for informational purposes at this point, for your review and comment, really. It has to do with our stormwater regulations. We have been working on stormwater reviews for new construction projects. It's a part of our Phase II requirements, really a part of two of the minimum control measures. There's six minimum control measures that we have to be doing as a part of the new Phase II Stormwater Regulation requirements, numbers 4 and 5, new construction and post construction. This memo has to do with both of those. The City of Lafayette and Tippecanoe County have both already enacted one that's to charge review fees for reviewing those—basically what they're calling SWPPPs, stormwater pollution prevention plan, S-W-P-P-P. Another acronym for everybody to learn. To review those for the construction and then also inspect it during construction and then for three years do an annual inspection of those permanent erosion control measures that are installed as part of that project for three years after its completion. And so we're proposing to implement an ordinance to charge fees for that review and that

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construction inspection. Again, that's just a part of those two minimum control measures 4 and 5. There's public outreach and public participation, illicit discharge is another one, and there's six total, good housekeeping, basically, I think is what it is. Record keeping, street sweeping, stuff like that. But this is part of 4 and 5, and it's just, again, for new projects that come in or, I guess, redevelopment projects that disturb more than an acre, and in special areas, disturb any amount of ground. If it's in an area like Happy Hollow Hill that's classified as highly erodible soils, we will want them to develop a stormwater pollution prevention plan, SWPPP, and review that, provide comment, and then make sure that they're implementing temporary erosion control measures and best management practices as a part of their construction and then permanent BMPs, best management practices, and permanent erosion control measures that will be in place for the life of the project. We're very close with what we're proposing to do what Lafayette has done, and we are identical with what the County has already, I guess, enacted. So we'd like any comments and questions that you all have, and then we'd like to prepare an ordinance for this for the July meeting for your review at that time.

Councilor Truitt said methodology on the fees? How did you come up with—?

City Engineer Buck said we've actually had a handful of projects that we've kind of walked through the process and gotten our feet wet—no pun intended—and kept track of our hours and effort that's gone into that, and then compared that basically to what the County and the City of Lafayette have already implemented. We're underneath it, so we're not, basically, recouping all of our costs, but we're recouping a portion of it. Depending on the type of project, whether it's commercial or industrial or residential, and the size of the project, there's several examples in there that we're getting over half of that effort back, in some cases, close to all of it. But by no means 100% recoup or any kind of a money maker.

Councilor Truitt said so you would feel very comfortable in case of questioning—

City Engineer Buck said this is a fair approach.

Councilor Truitt said okay. Great. And that document—I mean, you would be able—?

City Engineer Buck said yes. And that's why we don't have a lot of these, or I guess we don't have as many of these as Lafayette and the County have had, and they've had double what we've had, at least, if not even more of these projects. So they've had their fees in place for some time now, I think for over a year, if not two years. And we've only had, like I said, a handful of these to review in that period of time. So we want to get comfortable with what we should be asking for as a reimbursement of our effort for these fees, before we present anything.

Councilor Truitt said now this will also mean an incredible amount of, I don't want to use the word pressure, but on homeowners' associations, because of the three-year out review process, because I've had some email and voice mail exchanges with Steve Murray in regard to the homeowners' association—

City Engineer Buck said on new phases—?

Councilor Truitt said yes. Are we going to build that type of language, or—I don't know if—

City Engineer Buck said that language is in the stormwater ordinance—

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Councilor Truitt said right.

City Engineer Buck said the overall blanket that's been passed—when was it, 2005?

Councilor Truitt said 2005, yes.

City Engineer Buck said Ordinance No. 08-05. And so that's a part of the requirements of that development. At the time the plans were reviewed and these fees would be charged that we're going to include that at that point in time. Now, the ones that we've taken from the County, that were in the County and reviewed as a part prior to annexation and then after annexation, we're not going to see anything from that, I guess. But for stuff that we're reviewing now, we're going to include that in this calculation for that post-construction three years out. Then after that, it rolls into the other part of, again, control measure number 5 and 4, and from then on into perpetuity, we'll have to do that for everything existing, illicit discharge, and all the other annual inspections and the report keeping will have to be different. This is just as projects come in, stuff that's not covered by the building permit or any other permit fees. That's one of the ways we're going to try to keep things a little closer to even.

Mayor Mills said construction phases, right?

City Engineer Buck said yes.

Councilor Keen said would you say that most projects out there do require a stormwater pollution prevention plan?

City Engineer Buck said that is what the City of Lafayette is doing.

Councilor Keen said they're requiring it for everybody?

City Engineer Buck said they're requiring a plan. Whether or not they charge a fee, and I think this is what we would propose as well, depends on if it's part of a master project or a larger subdivision, for example, or not. We're going to give you a couple examples, Lauren Lakes or Prophets Ridge. That phase of that project that includes 45 lots, for example, is going to have an overall plan that this backyard swale and this ditch all go here, and there are these best management practices and permanent erosion control methods that are in place. The typical lot's going to have to do x, y, and z—silt fence, straw bales, whatever. So when that typical lot comes in for that one person's building permit homeowner, it's just a one sheet thing, it's part of the building permit, it's very cursory.

Councilor Keen said and that's not going to see a dollar fee?

City Engineer Buck said that's not going to see a fee.

Councilor Keen said that's not going to see a fee at all?

City Engineer Buck said no. In Lafayette, I believe they do.

Councilor Keen said okay.

City Engineer Buck said I believe they are charging in Lafayette. We don't see the need, because we've already basically reviewed that typical lot. Now, if we get into something that is

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an individual lot that's been parceled off and is going to be developed—somebody's, you know, just bought two acres off of 75 East or something and they're going to develop that, yes, we're going to, because they're going to have to do more global erosion control, you know, methods and design. And then, kind of regardless of what the size of the property is, if it's in a highly erodible soil area, like along the hill, we're going to want to see something on that, probably be charging a fee on that, too.

Councilor Griffin said so I'm building a new subdivision, I've got a half-acre lot. Even though it's smaller, I will need to provide a plan?

City Engineer Buck said yes.

Councilor Griffin said okay. So the—

City Engineer Buck said which should be a boilerplate item that's already developed. It's more of an acknowledgement at that point, saying that the developer has shown the builder what he's supposed to do when he builds on a lot in that subdivision. That plan's already been developed, it's just basically attaching it that home plan for a slight fee, approving the location permit application, so then it's all acknowledged. At that point, the liability of doing those erosion control methods during construction goes from the developer to the builder, and the builder is saying, "I have seen this master plan for erosion control as part of this subdivision, and I'm going to do all the things required as part of that to build on an individual lot, and I'm not going to fill in the backyard swale so that it blocks drainage, or I'm not going to fail to put straw bales up around an inlet and let dirt fill up the storm pipe."

Councilor Griffin said and I'm sure the times when this would happen, Dave [City Engineer Buck], would be few and far between, but I'm building a house and I'm my own general contractor, and I'm a little ignorant about this. But I still have to get a building permit, so when I show up for my building permit, if I were up to this point ignorant of this, that's the point at which my ignorance would end.

City Engineer Buck said we—

Councilor Griffin said when I walk into the Engineer's Office?

City Engineer Buck said we would definitely be educating, you know, at that point. We'd likely be charging. There is a—

Councilor Griffin said knowledge is expensive.

City Engineer Buck said if you look on page 2, there's a table of West Lafayette proposed fees. Part B, Additional Fees, Stormwater Pollution Prevention Plan Review, and then additional inspections. Those are the two things that are going to be, I guess, more painful if you're not doing your homework or experienced with what the procedures require. We're going to have a couple of inspections built in, but then if you keep going into inspections because you're not complying or correcting the deficient work, there's going to be a fee associated with each one of those that hopefully will not allow it to continue.

Councilor Keen said but for the average person that goes out and buys a lot someplace that's already been developed by the developer, they're not going to have to necessarily worry about these fees?

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City Engineer Buck said yes. The lion's share of all this effort is already done by the developer.

Councilor Keen said by the developer.

City Engineer Buck said yes.

Councilor Keen said okay.

Councilor Satterly said won't you have some inspections that you have to pay a fee for?

City Engineer Buck said with the individual typical building lot, the building inspectors are going to be doing those, and not a special inspection as a part of, you know, a larger, stand-alone development. They're going to have that same checklist and sheet that's been developed for that typical lot, and it's fairly simple at that point for them to be able to take on that load while they're out doing each inspection, really, whether it's a footing, a slab, you know, inspection, or if it's a final. They're the best ones, the most logical ones to be out there on those multiple trips that we're already taking, to just take a look in the yard, take a look around the site, and make sure that whatever methods are required are in place.

Councilor O'Callaghan said you have five examples of how much it costs and the percentage that the fee will cover. How many have you done? Have you done just these five, or have you done a dozen in the last year, or that might be all that you've done?

City Engineer Buck said I think that's all.

Councilor O'Callaghan said that's all that you've done?

City Engineer Buck said yes.

Councilor O'Callaghan said that's all that you've done. Thank you.

City Engineer Buck said I'll double-check on that for you. I think the commercial subdivision's an estimate, and the residential subdivision is an estimate, but we have done one residential subdivision phase, as a part of this. So I'll clarify some of that, but it's basically just a handful.

Councilor O'Callaghan said and so that meaning less of an impetus to get it done sooner, like Lafayette and the County, because they do it more and so they [unintelligible]—

City Engineer Buck said and they set it up so they could be recouping costs as they got experience with it, and we've been talking with them. It's a pretty good starting point, really, based on the amount of effort that we've seen, having to put in these and they've given us feedback on.

Councilor O'Callaghan said it's just a real good example of the thoughtful way that you go about—

City Engineer Buck said the whole group has—

Councilor O'Callaghan said I appreciate that.

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City Engineer Buck said the whole MS4 group has been a really good resource for itself, as well as the consultant, Chris Burke. He's had a lot of experience in this, and so we're getting off the ground fairly well, starting things off on the right foot.

Councilor O'Callaghan said and one thing that would influence the fee or whether there is a fee is if it's in, you said, some kind of area, like a—?

City Engineer Buck said highly erodable soils.

Councilor O'Callaghan said okay. I wrote susceptible, but—

City Engineer Buck said and that's—

Councilor O'Callaghan said highly what?

City Engineer Buck said highly erodable.

Councilor O'Callaghan said oh, erodable. Okay. Thank you.

City Engineer Buck said and the hill is very erosion-prone, and that's identified as a part of some of the initial Phase II, Part A and Part B, of our Phase II documents that we require—I should say Part A, where there's a map that we generated of the whole MS4 area of where those erodable soils are. We have several on the hill, and that's basically where it's at.

Councilor O'Callaghan said thank you.

Public Works Director Downey said the farm field at McCormick and Cherry Lane is highly erodable.

City Engineer Buck said he's a steel trap, isn't he?

Mayor Mills said other questions for Dave [City Engineer Buck]?

Councilor O'Callaghan said and thanks for getting this to us so early.

Mayor Mills said thank you, Dave [City Engineer Buck], and thanks to Jeromy [Assistant City Engineer Grenard]. Jeromy just came in. Jeromy has done a lot of this work, pulling it all together for us, so thank you, Jeromy.

Councilor O'Callaghan said somebody else was sitting in that seat a little bit ago.

Councilor Hunt said so we'll expect to see an ordinance next month?

City Engineer Buck said yes. We will get with Mr. [City Attorney] Bauman and start working on that ordinance, get all the Ts crossed and Is dotted.

Mayor Mills said okay, thanks. I just wanted you to know about that ahead of time. Dave [City Engineer Buck] wanted you to have it in plenty of time to look at it.

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UNFINISHED BUSINESS: None.

NEW BUSINESS:

Ordinance No. 13-07 An Ordinance Providing For Temporary Loans From A Fund Having Sufficient Balance To A Depleted Fund (Prepared by the Clerk-Treasurer)

Mayor Mills said this is the ordinance to give the Clerk-Treasurer the authorization to use the Wastewater Utility to provide money for the General Fund when we need it, particularly before we get our tax draw. Any questions about that one?

Councilor Satterly said they're out then?

Mayor Mills said the tax bills are out.

Councilor O'Callaghan said and so when do you think we'll get our tax draw?

Clerk-Treasurer Rhodes said I am hopeful that we'll have a property tax advance draw even toward the end of June. However, the settlement is not likely to occur until closer to mid-August. The Auditor and Treasurer have, I believe, 51 days from the day of the property tax deadline to when they disburse those funds, before they have to begin to pay the entities interest on the account. And that's never occurred in Tippecanoe County.

Councilor Satterly said what percent interest do they pay?

Clerk-Treasurer Rhodes said I can't recall the wording of the statute.

Councilor Satterly said is it worthwhile?

Clerk-Treasurer Rhodes said yes, it would be. I think it's based on their investment rate, and with the Cum Bridge Fund and several other large assets the County has, I would say that might be attractive.

Mayor Mills said don't hold your breath.

Councilor Griffin said so, would be possibly expect 60% by the end of June or 40%?

Clerk-Treasurer Rhodes said the Treasurer Bob Plantenga said he would make every effort to get us as much as he could. It's all dependent on how quickly tax payments are made now, in the next week or so. This is a crucial time. The money coming in in advance of that deadline is possible. I expect to ask you in July for additional loan authority. It's quite possible.

Councilor Griffin said do we share in the added-on fees, by virtue of the fact that we, if taxpayers pay late, we don't get our money in a timely fashion, and there's a fee added on that goes to the County. Does the County keep all that extra fee?

Clerk-Treasurer Rhodes said yes, it's my understanding. I would be glad to verify that.

Councilor Griffin said that'd be fine.

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Councilor O'Callaghan said and because of legislation this year, residents do have an additional opportunity to appeal their assessments after they got their bills. Just this one time this year. So there may still be some unsettled.

Mayor Mills said good point. Any other questions about that ordinance?

There was no further discussion.

Resolution No. 14-07 A Resolution Confirming The Designation Of An Economic Revitalization Area For Property Tax Abatement For Endocyte, Inc. (Prepared by the City Attorney)

Mayor Mills said this is the property tax abatement for Endocyte.

Councilor Satterly said this is confirming.

Mayor Mills said confirming.

Councilor Satterly said the second one.

Mayor Mills said we heard this already. Any questions on that?

There was no further discussion.

Resolution No. 15-07 A Resolution Appropriating Code Enforcement Funds On Hand Resulting From Repayments Of Funds By New Chauncey Housing, Inc. (Prepared by the Department of Development)

Mayor Mills said as you know, we see this fairly regularly, so nothing very new. Not a great deal of business this month. Any other questions? Anything else to bring to our attention tonight?

There was no further discussion.

ADJOURNMENT:

There being no further business at this time, Councilor Truitt moved for adjournment. Motion was seconded by Councilor Keen and passed by voice vote, the time being 4:51 p.m.

Respectfully submitted,

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