

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

SUPPLEMENTAL COMPLIANCE REPORT

OF

CITY OF WEST LAFAYETTE

TIPPECANOE COUNTY, INDIANA

January 1, 2022 to December 31, 2022



FILED

08/23/2023

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SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
City Controller	Peter L. Gray	01-01-22 to 12-31-23
City Clerk	Sana G. Booker	01-01-22 to 12-31-23
Mayor	John R. Dennis	01-01-22 to 12-31-23
President of the Board of Public Works and Safety	Sana G. Booker	01-01-22 to 12-31-23
President of the Common Council	Peter Bunder	01-01-22 to 12-31-23
Utility Office Manager	David Henderson	01-01-22 to 12-31-23



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
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INDIANAPOLIS, INDIANA 46204-2769

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TO: THE OFFICIALS OF THE CITY OF WEST LAFAYETTE, TIPPECANOE COUNTY, INDIANA

This report is supplemental to our audit report of the City of West Lafayette (City), for the period from January 1, 2022 to December 31, 2022. It has been provided as a separate report so that the reader may easily identify any Audit Results and Comments that pertain to the City. It should be read in conjunction with our Financial Statement Audit Report of the City, which provides our opinions on the City's financial statement. This report may be found at www.in.gov/sboa/.

As authorized under Indiana Code 5-11-1, we performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts. The Audit Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

Any Official Response to the Audit Results and Comments, incorporated within this report, was not verified for accuracy.

Beth Kelley, CPA, CFE
Deputy State Examiner

May 31, 2023

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CITY CONTROLLER
CITY OF WEST LAFAYETTE

CITY CONTROLLER
CITY OF WEST LAFAYETTE
AUDIT RESULTS AND COMMENTS

INTERNAL CONTROLS

Condition and Context

There were deficiencies in the internal control system of the City related to financial transactions. The City had not designed or implemented a system of effective internal controls over receipts and financial close and reporting.

Receipts

The City had established a system of internal controls over receipts, but it was not properly implemented. One person prepared a daily reconciliation of receipts for review after recording receipts to the financial system, but a review or approval process was not performed.

Financial Close and Reporting

The City had not established effective internal controls over the financial information entered in the Indiana Gateway for Government Units (Gateway) financial reporting system, which was the source of the Annual Financial Report (AFR) and the financial statement. A third-party prepared the AFR and the City Controller uploaded the AFR into Gateway without a review or approval process.

Due to the lack of effective internal controls, the AFR presented for audit included the following errors:

1. The INPRS Fund was omitted from the AFR. Receipts and disbursements were understated by \$2,498,348 and \$2,498,348, respectively.
2. The General Fund receipts, disbursements, and ending cash and investments balance were overstated by \$2,087,859, \$2,086,269, and \$1,590, respectively.
3. The WL Building Corp 2011 Bonds Fund should not have been included on the AFR. Receipts and disbursements were overstated by \$227,456 and \$443,913, respectively, and the cash and investment balance was understated by \$216,457.

Audit adjustments were proposed, accepted by the City, and made to the financial statement presented in the Financial Statement Audit Report.

Criteria

The Indiana State Board of Accounts (SBOA) is required under Indiana Code 5-11-1-27(e) to define the acceptable minimum level of internal control standards. To provide clarifying guidance, the State Examiner compiled the standards contained in the manual, *Uniform Internal Control Standards for Indiana Political Subdivisions*. All political subdivisions subject to audit by SBOA are expected to adhere to these standards. The standards include adequate control activities. According to this manual:

"Control activities are the actions and tools established through policies and procedures that help to detect, prevent, or reduce the identified risks that interfere with the achievement of objectives. Detection activities are designed to identify unfavorable events in a timely manner whereas prevention activities are designed to deter the occurrence of an unfavorable event. Examples of these activities include reconciliations, authorizations, approval processes, performance reviews, and verification processes.

CITY CONTROLLER
CITY OF WEST LAFAYETTE
AUDIT RESULTS AND COMMENTS
(Continued)

An integral part of the control activity component is segregation of duties. . . .

There is an expectation of segregation of duties. If compensating controls are necessary, documentation should exist to identify both the areas where segregation of duties are not feasible or practical and the compensating controls implemented to mitigate the risk. . . ."

Indiana Code 5-11-1-4(a) states:

"The state examiner shall require from every audited entity financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be in the form and content prescribed by the state examiner and filed electronically in the manner prescribed under [IC 5-14-3.8-7](#)."

ANNUAL FINANCIAL REPORT - OTHER INFORMATION

Condition and Context

Financial and other information are required to be entered annually into the Annual Financial Report (AFR) via the Indiana Gateway for Government Units (Gateway) financial reporting system. The required supplementary information and other information entered by the City contained numerous errors.

The receipts, disbursements, and cash and investment balances entered into Gateway contained the following errors:

1. The INPRS Fund was omitted from the AFR. Receipts and Disbursements were understated by \$2,498,348 and \$2,498,348, respectively.
2. The General Fund receipts, disbursements, and ending cash and investment balance were overstated by \$2,087,859, \$2,086,269, and \$1,590, respectively.
3. The WL Building Corp 2011 Bonds Fund should not have been included on the AFR. Receipts and disbursements were overstated by \$227,456 and \$443,913, respectively, and the cash and investment balance was understated by \$216,457.

Adjustments were proposed, accepted by the City, and made to the Combining Schedule of Receipts, Disbursements, and Cash and Investment Balances - Regulatory Basis presented in the Financial Statement Audit Report.

The grant expenditures entered into Gateway contained the following errors:

1. The Highway Planning and Construction Cluster was overstated by \$233,774.
2. The Community Development Block Grants/Entitlement Grants were overstated by \$98,330.
3. Some of the federal programs did not have the correct program names.

Adjustments were proposed, accepted by the City, and made to the Schedule of Expenditures of Federal Awards (SEFA) presented in the Federal Compliance Audit Report.

CITY CONTROLLER
CITY OF WEST LAFAYETTE
AUDIT RESULTS AND COMMENTS
(Continued)

The Debt information entered into Gateway contained the following errors:

1. The WL Economic Development Corporation was incorrectly reported as a bond obligation. It is a lease obligation with an annual lease payment of \$4,355,132.
2. The 2011 WL Building Corporation Lease of \$225,000 was included in the schedule as an outstanding lease; however, the final payment was made in 2022.
3. The 2012 WL Economic Development Revenue Bond ending principal balance was overstated by \$340,000, and the principal due within one year was understated by \$95,000.

Adjustments were proposed, accepted by the City, and made to the Schedule of Leases and Debt presented in the Financial Statement Audit Report.

Criteria

Indiana Code 5-11-1-4(a) states:

"The state examiner shall require from every audited entity financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be in the form and content prescribed by the state examiner and filed electronically in the manner prescribed under [IC 5-14-3.8-7](#)."

CITY CONTROLLER
CITY OF WEST LAFAYETTE
EXIT CONFERENCE

The contents of this report were discussed on May 31, 2023, with John R. Dennis, Mayor; Peter L. Gray, City Controller; Peter Bunder, President of the Common Council; Larry Leverenz, Common Council member; Nicole Stocks, Deputy City Controller; and Sana G. Booker, City Clerk and President of the Board of Public Works and Safety.

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COMMON COUNCIL
CITY OF WEST LAFAYETTE

COMMON COUNCIL
CITY OF WEST LAFAYETTE
AUDIT RESULT AND COMMENT

DISCLOSURE OF RELATED-PARTY TRANSACTION

Condition and Context

The City made a payment to a non-profit entity. The Chief Executive Officer of the non-profit at the time that the payment of \$350,000 was received was also the wife of the President of the Common Council (President). The President did not disclose the circumstance, nor did the President abstain from voting on the City's plan for utilizing the State and Local Fiscal Recovery Funds (SLFRF) funding, which included the payment to the non-profit. Based upon the circumstances, the Indiana State Board of Accounts would have expected to receive a conflict of interest disclosure for this related-party transaction. There was not one on file during the audit period that covered this matter.

Criteria

A disclosure in compliance with Ind. Code 35-44-1-1-4(d), must meet the following requirements:

1. be in writing;
2. describe the contract or purchase to be made by the governmental entity;
3. describe the pecuniary interest that the public servant has in the contract or purchase;
4. be affirmed under penalty of perjury;
5. be submitted to the governmental entity and be accepted by the governmental entity in a public meeting of the governmental entity before final action on the contract or purchase;
6. be filed within fifteen (15) days after final action on the contract or purchase with:
 - (A) the state board of accounts; and
 - (B) . . . the clerk of the circuit court in the county where the governmental entity takes final action on the contract or purchase . . .

Conflict of interest disclosures must be completed on Gateway. (Accounting and Uniform Compliance Guidelines Manual For Cities and Towns, Chapter 1)



Corporation Counsel
Eric H. Burns
City Attorney
Patrick I. Jones
Associate City Attorneys
Michael D. Dean
Laura L. Blaydes

June 20, 2023

Official Response

State Board of Accounts
302 W Washington Street, Room E 418
Indianapolis, Indiana 46204-2765
Via US Mail and email to officialresponse@sboa.in.gov

Re: City of West Lafayette

I am the Corporation Counsel for the City of West Lafayette, Indiana, and serve as legal counsel to the Common Council of the City of West Lafayette. This letter serves as a response to the Exit Conference conducted on May 31, 2023 as well as the portion of the Supplemental Compliance Report covering January 1, 2022 to December 31, 2022 related to the Common Council Audit Results and Comments re: Conflict of Interest (“Audit”).

FACTUAL BACKGROUND

Peter Bunder has served as a Councilmember of the Common Council since 2007 and has been the President of the Common Council for the relevant term. Mr. Bunder will retire as a Councilmember at the end of 2023.

Mr. Bunder is married to Katy Bunder who is now retired but was the CEO of Food Finders Food Bank for the relevant term. Food Finders is a 501(C)(3) non-profit organization addressing food insecurity. In May of 2020, a tentative decision was made by the Mayors of the City of West Lafayette and Lafayette and a County Commissioner for Tippecanoe County to provide partial funding for the purchase of a building to serve as a food pantry for Food Finders. This decision was made in large part due to food insecurity needs exacerbated by the pandemic.

The proposed Audit finding involves the grant of \$350,000.00 of CDBG funds toward the purchase of a food pantry building. This grant was made by the West Lafayette Board of Public Works and Safety (“BOW”) on December 9, 2022. Upon receipt, the \$350,000.00 was placed in a separate fund (“escrow funds”) by Food Finders where it still remains pending a scheduled purchase date of August 31, 2023. The \$350,000.00 will be used solely for the food bank building purchase and no other purpose. (See attached Exhibit “A”, a letter from the current CEO of Food Finders.) Katy Bunder has never had a pecuniary interest whatsoever in the escrow funds. As such, Peter Bunder has never had a pecuniary interest in the escrow funds.

On January 5, 2022, the West Lafayette Common Council passed Ordinance No. 8-21 (Amended) An Ordinance Requesting An Additional Appropriation to the 2022 Budget. [See attached Exhibit “B”, Ordinance No. 8-21 (Amended).] The Ordinance appropriated American Rescue Plan funds in the total amount of \$11,400,000 to four broadly defined categories including services, personal and capital. The Ordinance did not identify any funding toward the \$350,000.00 escrow funds related to Food Finders.

During 2022, the City formulated an Investment Plan pursuant to the American Rescue Plan Act. Amendment 1 to the Investment Plan provided for \$350,000.00 to Food Finders Food Bank for a capital investment toward the food pantry building purchase (See attached Exhibit “C”, Investment Plan - Amendment 1).

The Common Council Agenda for the November 7, 2022 regular meeting had at item 7:

“Public Relations:

- a. Update: American Rescue Plan Act Funding – Development
ARPA update
ARPA Amendment 1.PDF”

At the end of the discussion of item 7, a motion was made from the floor followed by a second and unanimous voice vote approving Amendment 1 to the ARPA Investment Plan. (See attached Exhibit “D” – Meeting Agenda of November 7, 2022, attachments at Item 7 of Agenda, and Minutes from the Item 7 discussion and voice vote).

It is important to note the vote came at a somewhat unusual part of the agenda. Most items of significance come as Resolutions or Ordinances with separate headings on the agenda. The decision made in this case arose from unusual circumstances surrounding the pandemic response and funding procedures. Unlike practically all other funding decisions by the Common Council, the Investment Plan was not given the formality of an Ordinance or Resolution which is clearly and unequivocally set up to be voted upon. This was not the case for this Council vote. It served its purpose as an affirmative vote but lacked the usual opportunity to know, well before the meeting began, that a vote was to be called for.

ARGUMENT

Peter Bunder had no pecuniary interest in the actions surrounding the Common Council involvement in the escrow funds because his wife had no pecuniary interest in the grant of escrow funds. There was no potential or actual pecuniary interest (including no derivation of a profit) expected or derived from Food Finder’s receipt of the escrow funds. Her compensation of any kind was wholly unrelated to the grant. There was no potential or actual “ascertainable increase in the income or net worth of the public servant (Peter Bunder) or the spouse of the public servant (Katy Bunder)”. See Ind. Code § 35-44.1-1-4(a)(1)(A), (a)(3)(B).

The language of the Conflict-of-Interest statute cited above is plain and unambiguous. Unless the grant of the escrow funds increased Katy Bunder’s “income or net worth” she had no pecuniary interest. The totality of these escrow funds has always been and remains in escrow

pending the food pantry building purchase. Not one cent of such escrow funds was available for any general purpose for Food Finders and could never have been available to augment Katy Bunder's income as the CEO of Food Finders. Katy Bunder is now retired as she had planned in the normal course without any nexus with the SBOA finding.

Similarly, Peter Bunder will retire as a Councilmember per his plan in conjunction with his retirement from his usual occupation as Pastor of the Good Shepherd Episcopal Church in West Lafayette, Indiana, which has already occurred.

Other public servants may choose to file a Uniform Conflict of Interest Disclosure in similar situations. Such a filing is inapplicable in Peter Bunder's situation.

First, and most obviously, neither he nor his spouse knowingly or intentionally had a pecuniary interest or derived a profit from the grant of the escrow funds to Food Finders. I.C. § 35-44.1-1-4(b).

Second, "It is not an offense ... if ... the public servant's interest ... was two hundred fifty dollars (\$250) or less. *Id* at (c)(2). Peter Bunder and Katy Bunder's interest in this matter is and was always zero.

Third, if a disclosure was to be made, it would only be made if there was a pecuniary interest which there was not. The plain meaning of the disclosure statute contemplates a filing when a pecuniary interest actually exists. "A disclosure must: (3) describe the pecuniary interest that the public servant has ..." *Id.* at (d).

The facts clearly show there was no pecuniary interest had by Peter Bunder nor his wife. As a matter of law, based on these uncontroverted facts, no disclosure should have been made by Peter Bunder since no pecuniary interest existed. It is unnecessary and would be illogical for a disclosure to have been filed since Peter Bunder would have stated, honestly, "none" when asked to describe his pecuniary interest. This is the plain meaning of the statute and further emphasizes the scienter element required by the statute that the public servant must have "knowingly or intentionally" had a pecuniary interest or derived a profit from a transaction. To the contrary, Peter Bunder knew he did **not** have such an interest.

CONCLUSION

The audit revealed a situation which might have constituted a conflict of interest if the facts of this matter had been radically different. However, now facts have been presented showing no conflict of interest could have occurred and under the facts and law did not occur. We request the Audit finding be amended accordingly.

City of West Lafayette
Response re Conflict of Interest
June 20, 2023

Thank you very much for your attention to this matter. Please advise with any questions.

Yours very truly,

A handwritten signature in black ink, appearing to read "E. H. Burns". The signature is fluid and cursive, with a long horizontal stroke at the end.

Eric H. Burns
Corporation Counsel to the
City of West Lafayette, Indiana

EHB:ku
Enclosures



**Food Finders
Food Bank, Inc.**
fighting hunger, giving hope

June 1, 2023

To Whom It May Concern:

In the spring of 2022 President Biden announced that funding available through the American Rescue Plan Act (ARPA) would be allocated to states, counties, and cities and could be granted to organizations assisting people affected by COVID-19. The funding was available for infrastructure, such as buildings, to expand services for those negatively impacted by COVID-19.

In May of 2020, Katy Bunder, then CEO of Food Finders Food Bank, met with County Commissioner Tom Murtaugh, Lafayette Mayor Tony Roswarski, and West Lafayette Mayor John Dennis to request funding for the purchase of a building to serve as a large food pantry. Recognizing the increased demand for food aid following the pandemic, all three leaders agreed to provide funding for the Fresh Market purchase.

The cost of the purchase was \$2,000,000. The donations from the two cities and the county totaled \$1,174,000. A private donor pledged \$1,000,000 and additional funding was raised for closing costs and renovation of the property.

The purchase is scheduled to close on August 31, 2023. All the money donated is restricted to this project and cannot be used for anything but the purchase, closing costs, and renovation of the Fresh Market Food Pantry located on Greenbush Street in Lafayette IN.

The Board of Directors of Food Finders Food Bank was aware of the fundraising from local government and approved the purchase of the building.

Katy Bunder as CEO did not receive any additional salary, commission, benefit, gift, or bonus in exchange for obtaining the funding for the purchase of this building. Indeed, fundraising is an essential component of every nonprofit director's position.

Please contact me with any further questions.

Sincerely,

Kier Crites Muller
President/CEO
Food Finders Food Bank

Exhibit
A



1204 Greenbush Street | Lafayette, Indiana 47904 | 765-471-0062 | www.food-finders.org

ORDINANCE NO. 8-21 (Amended)
An Ordinance Requesting An Additional Appropriation to the 2022 Budget

WHEREAS, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual 2022 Budget

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, TIPPECANOE COUNTY

For the expenses of the City of West Lafayette, the following additional sums of money are hereby appropriated into the funds named and for the purposes specified, subject to laws governing the same:

ARP-American Rescue Plan / ARP-American Rescue Plan / Services	\$ 1,250,000
ARP-American Rescue Plan / ARP-American Rescue Plan / Personal	\$ 2,100,000
ARP-American Rescue Plan / ARP-American Rescue Plan / Personal	\$ 1,000,000
ARP-American Rescue Plan / ARP-American Rescue Plan / Capital	\$ 7,050,000
Net Change	<u>\$ 11,400,000</u>

This ordinance shall be in full force and effect after its passage and signing by the Mayor, and approval of the additional appropriation by the Department of Local Government Finance

Exhibit
B

INTRODUCED ON FIRST READING ON THE 3rd DAY OF MAY, 2021.

MOTION TO ADOPT MADE BY COUNCILOR Blanco, AND SECONDED BY COUNCILOR Thomas.

DULY ORDAINED, PASSED, AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, ON THE 4th DAY OF JANUARY, 2022, HAVING BEEN PASSED BY A VOTE OF 8 IN FAVOR AND 0 OPPOSED, THE ROLL CALL VOTE BEING:

	AYE	NAY	ABSENT	ABSTAIN
Blanco	✓			
Brown	✓			
Bunder	✓			
DeBoer			✓	
Kang	✓			
Leverenz	✓			
Parker	✓			
Sanders	✓			
Thomas	✓			


Peter Bunder, Presiding Officer

Attest:

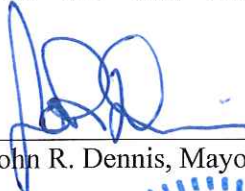

Nichole A. Foster, First Deputy Clerk



PRESENTED BY ME TO THE MAYOR OF THE CITY OF WEST LAFAYETTE, INDIANA ON THE 5 DAY OF January, 2022.


Nichole A. Foster, First Deputy Clerk

THIS ORDINANCE APPROVED AND SIGNED BY ME ON THE 5 DAY OF January, 2022.


John R. Dennis, Mayor

Attest:


Nichole A. Foster, First Deputy Clerk



American Rescue Plan Act
Investment Plan – Amendment 1
City of West Lafayette

Introduction

On March 11, 2021, the American Rescue Plan Act of 2021 (“ARPA”) was signed into law by President Joe Biden. ARPA establishes the Coronavirus Local Fiscal Recovery Fund (“ARP Fund”) to provide resources to local governments to assist with recovery efforts related to the COVID-19 public health emergency. The City of West Lafayette (“City”) will receive approximately \$11.4 million in ARPA funds under this program and receive the first allocation of \$5.7 million on May 20, 2021.

In March 2021, the Indiana State Board of Accounts issued a memorandum requiring each recipient to establish a local fund for the grant money, to identify the eligible uses for which the recipient intends to use the grant money and to establish a plan detailing the use of the funds that may be amended over time. The City Council established this fund by Ordinance 07-21 on June 7, 2021.

This document shall serve as the City’s plan, updated as appropriations from the ARPA grant fund are approved by the West Lafayette City Council. The U.S. Department of Treasury has issued specific guidance defining the use categories permissible for grant funds. Additionally, there are two additional considerations for the City’s plan: 1. new or additional guidance from the U.S. Department of Treasury may be issued in the future, which could affect eligible uses, and 2. new or additional funding sources from federal or state sources to support similar uses, adjusting the need for ARPA funding.

Previous Aid

In 2020 two major components of addressing COVID-19 with federal funds were implemented by city officials. The first was to reprogram Community Development Block Grant (CDBG) dollars from 2019 and program 2020 dollars to provide a \$500,000 grant program for small businesses where the owner is a low to moderate-income person or that the business employs a majority of low to moderate-income individuals. To date, over half of the funds have been spent to support small businesses in West Lafayette.

Exhibit
C

The second program managed funds from the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) through the same mechanisms as CDBG funds. Unlike regular CDBG dollars, though, there are no restrictions on the percent of the funding that can support public service agencies. Knowing that these agencies were well equipped and able to handle front-line issues like food and housing insecurity, the City addressed an urgent need and dedicated one-hundred percent (100%) of the funds to public service agencies and behavioral health programs. In two funding tranches, the City of West Lafayette received \$469,008. The funding was programmed in the following categories.

- Reducing food insecurity 13%
- Homelessness, housing insecurity and domestic violence intervention 55%
- Mental health care 31%

While some funding remains, many programs quickly put the funding to work to address the effects of COVID-19 in our community.

Plan for ARPA Eligible Projects

The U.S. Department of Treasury identifies four eligible categories for spending ARPA funds. In addition, the City has identified programs in each of the four categories or set aside funding for future appropriation. These recommendations come from City Council members, input from the citizens of West Lafayette, and community needs.

- I. **Support public health expenditures**, by, for example, funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff; and **Address negative economic impacts caused by the public health emergency**, including economic harms to workers, households, small businesses, impacted industries, and the public sector.*

Public Health and Economic Impacts: \$1,250,000

The City of West Lafayette will work with members of the council, staff, and partner agencies to develop programming that adequately addresses the needs of the citizens of West Lafayette due to the COVID-19 Pandemic.

- II. **Replace lost public sector revenue**, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic.

Revenue Loss due to COVID-19: \$2,100,000

The City will follow Treasury Department guidance on restoring lost revenues due to COVID-19 and accounting for lost future growth. The number calculates the most considerable potential loss until 2026. If actual losses are less than the appropriated funds, the funds can be redistributed by City Council into one of the three remaining categories.

- III. **Provide premium pay for essential workers**, offering additional support to those who have and will bear the greatest health risks because of their service in critical infrastructure sectors.

Premium Pay to Essential Workers: \$1,000,000

As much of the country adapted to work-from-home orders, many city employees on the front lines of COVID-19 were unable to do their jobs from home. Waste Water Treatment Utility, Streets & Sanitation, Police and Fire Departments continued to work on-site, interacting daily with members of the community experiencing COVID-19 or addressing community concerns during the pandemic. In recognition of their work, the City is proposing a one-time 'hero' pay in an amount not to exceed \$5,000 for each qualified FTE, and \$3,000 for all FPT, for eligible essential workers.

- IV. **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet

Investments in Infrastructure: \$7,050,000

The Dehart Combined Sewer Overflow (CSO) Project will separate rainwater runoff from domestic and industrial wastewater. In the current combined system, when the City experiences heavy rain events, excess discharge goes into the Wabash River. This untreated water has a

significant impact on the ecology, safety, and desirability of our local bodies of water. To address this, the U.S. Environmental Protection Agency issued regulations and guidance through the Clean Water Act. While mitigation guidance exists, the impacts will become more detrimental with changing weather patterns and more intense rainfall. The solution is a sewer separation, opposed to a single pipe, a project that treats wastewater and allows clean rainwater to discharge to the river. The separation project reduces discharge events and keeps the City compliant with federal Clean Water Act regulations.

The Dehart CSO project will occur in 2022, installing a new wastewater pipe and retrofitting the existing line to carry stormwater. The project estimate is over \$10 million. By utilizing ARPA funds, there is a reduced impact on all citizens. While some rate increases are still necessary, this funding shifts the burden from citizens’ monthly utility bills.

Funding Calculations

ARPA Funding Calculations		
Category	Use	Total
Premium Pay	for essential workers only	\$ 1,000,000
Revenue Loss	loss of funds + 4% growth	\$ 2,100,000
Wastewater Infrastructure	Dehart CSO project	\$ 7,050,000
Public Health & Economic Impacts	various tbd with council	\$ 1,250,000
Total Expenditures		\$ 11,400,000
Total ARPA Funding		\$ 11,400,000
Balance		\$ -

Amendment 1

- I. **Support public health expenditures**, by, for example, funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff; and **Address negative economic impacts caused by the public health emergency**, including economic harms to workers, households, small businesses, impacted industries, and the public sector.*

Public Health and Economic Impacts:	\$1,250,000
Food Finders Food Bank:	-\$350,000
Facility Air Quality Improvements:	<u>-\$200,000</u>
Remaining Balance:	\$700,000

There are two requests that fit the needs of the community in addressing the critical populations at risk for COVID-19.

Food Finders Food Bank: \$350,000

Addressing food insecurity has been and continues to be one of the most critical issues in our community. The creation of the Food Finders Fresh Market proved to be a critical point of access for those faced with food scarcity. We recognize that hunger presents itself in extraordinarily different ways across the community, and Food Finders with their local partners have continued to innovate and create more opportunity to access fresh, healthy and available food. As the end of the lease for the Fresh Market building approaches, the City of West Lafayette is committed to a permanent, accessible and responsive food market. These funds will be used as part of the capital investment to procure the building for a lasting, consistent food program.

Facility Air Quality Improvements: \$200,000

Based on the recommendation of our public safety units, the City of West Lafayette is requesting funds to retrofit HVAC systems with air purification UV light that will reduce COVID-19 transmission in public buildings. These units will keep our first responders and essential employees safer in the work place and reduce risk to anyone attending public meetings. These cost-effective solutions will help continue city services with reduced opportunity for operational disruptions.



Meeting Agenda

Common Council is held at Margerum City Hall, 222 North Chauncey Avenue, West Lafayette, IN 47906. Comments can be submitted to the Clerk's office by emailing clerk@westlafayette.in.gov.

Electronic Options:

- Live stream without participation via the Meetings & Agendas section of our website.
 - Pre-Council (November 3, 2022, at 4:30 p.m.) via Microsoft Teams or phone: +1-574-367-5293, Code: 706 747 230
 - Council (November 7, 2022, at 6:30 p.m.) via Microsoft Teams or phone: +1-574-367-5293, Code: 869 451 584
-

1. CALL TO ORDER: President Bunder (Pledge of Allegiance)
2. ROLL CALL: Blanco, Brown, Bunder, DeBoer, Hardesty, Leverenz, Parker, Sanders, Thomas
3. PRE-COUNCIL ACTION ITEMS:
 - a. Ordinance No. 29-22 (To Amend 2022 City Salary Schedule) passed on first and only reading.
Documents:
📎 Ordinance No. 29-22
 - b. Ordinance No. 30-22 (To Amend 2022 WWTU Salary Schedule) passed on first and only reading.
Documents:
📎 Ordinance No. 30-22
4. MINUTES:
 - a. Approval of Minutes: October 3, 2022
Documents:
📎 October 3, 2022 Minutes
5. REPORTS OF CITY DEPARTMENTS ON FILE IN THE CLERK'S OFFICE

Exhibit
D

- a. Human Resources Report
Documents:
 - 📎 HR Report - October 2022
 - b. WWTU Report
Documents:
 - 📎 WWTU Report-September 2022
 - c. Fire Department Report
Documents:
 - 📎 Fire Report Oct 2022
 - d. Building
Documents:
 - 📎 Building Report
 - e. Rental
Documents:
 - 📎 Rental Report
 - f. Police Report
Documents:
 - 📎 Police Report 10-2022
 - g. Engineering Report
Documents:
 - 📎 2022-10 Engineering Report
 - h. Parks and Recreation
Documents:
 - 📎 Parks and Recreation Report - Nov. 2022
 - i. Street Department Report
Documents:
 - 📎 Street Department Report
6. REPORT OF APC REPRESENTATIVES: Leverenz, Parker
7. PUBLIC RELATIONS:
- a. Update: American Rescue Plan Act Funding - Development
Documents:
 - 📎 ARPA Update
 - 📎 ARPA Amendment 1.pdf

- b. Appointments:
 - i. Informational Mayoral Appointment: Go Greener Commission - Change from Commission Appointment to Mayoral Appointment - Kayla Young
 - ii. Mayoral Appointments with Council Consent: Human Relations Commission - Guadalupe Acosta-Roberts and Kipling Williams

Documents:

- 📎 Acosta-Roberts Application
- 📎 Williams Application

- c. 2023 Council Schedule

Documents:

- 📎 2023 Council Schedule - Draft

8. FINANCIAL REPORT: City Controller

- a. Financial Report

Documents:

- 📎 Financial Report

9. LEGAL REPORT: Corporation Counsel

- a. Legal Report

Documents:

- 📎 October 2022 Legal Report

10. SPECIAL REPORTS: Joint Board Report - DeBoer

11. UNFINISHED BUSINESS:

- a. Ordinance No. 28-22 An Ordinance To Vacate A Public Right-Of-Way In The City Of West Lafayette, Indiana (Submitted by Reiling Teder & Schrier on behalf of Tomish Developers LLC and Superior Concepts Industrial LLC) (4-Up PD) [No. of Readings 2 of 2] **PUBLIC HEARING**

Documents:

- 📎 Ordinance No. 28-22
- 📎 Public Hearing Notice
- 📎 Petition

- b. Ordinance No. 31-22 An Ordinance To Set The 2023 Salary Schedule For Elected Officials, Appointed Officers, Employees, Members Of The Police Department, Members Of The Fire Department, Wellness Center, And Wastewater Treatment Utility Of The City Of West Lafayette, Indiana (Presented by Controller) [No. of Readings 2 of 2] *The first reading of Ordinance No. 31-22 was held at the November 3, 2022, Pre-Council Meeting. The document was also revised to correct a scrivener's error.*

Documents:

📎 Ordinance No. 31-22

12. NEW BUSINESS:

- a. Ordinance No. 32-22 Amendment To City Court Judge Salary (Sponsored by Mayor Dennis) [No. of Readings 1 of 2]

Documents:

- 📎 Ordinance No. 32-22
- 📎 Memo from Judge Sabol
- 📎 Court Financial Report

- b. Ordinance No. 33-22 An Ordinance Restricting Unsafe Activities Around Roadways And Vehicular Traffic (Sponsored by Mayor Dennis) [No. of Readings 1 of 2]

Documents:

- 📎 Ordinance No. 33-22

- c. Ordinance No. 34-22 An Ordinance To Amend West Lafayette City Code Chapter 2 Concerning The Designation Of Council Districts (Submitted by Councilor DeBoer) [No. of Readings 1 of 2]

Documents:

- 📎 Ordinance No. 34-22
- 📎 Proposed District Map

- d. Ordinance No. 35-22 An Ordinance Amending Ordinance No. 32-97 Being The Unified Zoning Ordinance Of Tippecanoe County. (UZO Amendment #88, 2022 Update) (Transient Rentals) (Sponsored by Mayor Dennis and Councilor Sanders) [No. of Readings 1 of 1]

Documents:

- 📎 Ordinance No. 35-22
- 📎 Ordinance. 20-17 [FAILED] with APC Documents

- e. Resolution No. 27-22 A Resolution To Establish The Opioid-Unrestricted Fund And The Opioid-Restricted Fund (Prepared by Controller) [No. of Readings 1 of 1]

Documents:

- 📎 Resolution No. 27-22

- f. Resolution No. 28-22 A Resolution Requesting The Transfer Of Funds (ARPA and Police) (Prepared by Controller) [No. of Readings 1 of 1]

Documents:

- 📎 Resolution No. 28-22

- g. Resolution No. 29-22 Resolution To Approve The State Of Indiana Deferred Compensation Matching Plan Adoption Agreement (Submitted by Human Resources) [No. of Readings 1 of 1]

Documents:

- 🔗 Resolution No. 29-22
- 🔗 Deferred Compensation Matching Plan Agreement
- 🔗 State Resolution

- h. Resolution No. 30-22 A Resolution Calling For The Maintenance Of A Bureau Of Motor Vehicles License Branch In West Lafayette (Sponsored by Mayor John Dennis and Councilors Bunder, Blanco, Brown, DeBoer, Hardesty, Leverenz, Parker, Sanders, and Thomas) [No. of Readings 1 of 1]

Documents:

- 🔗 Resolution No. 30-22

13. REPORT BY THE MAYOR

14. COMMUNICATIONS

15. PUBLIC COMMENTS

We welcome public comment and encourage active participation at this meeting. However, in order to proceed efficiently, public comment will be limited to two areas of this meeting.

First, there will be an opportunity for public comment on ordinances or resolutions currently before the Council. These comments should be limited to three (3) minutes in length and be germane and relevant to the Ordinance or Resolution. All participants will be required to maintain a high level of civility, respect, and courtesy for everyone present. Any participant, who after being advised, persists in a discourteous or hostile manner which may disrupt the meeting will be asked to leave.

At the end of the meeting, time will be reserved for public comment on any issue or concern that you may have. We welcome public comments and encourage active participation at this meeting. In our effort to proceed efficiently, we would ask that you sign-in on the designated sheet on the handout table, and that you limit your comments to (3) minutes in length. If you need additional time, please consider sending your questions, comments, or concerns to the Clerk's email address: clerk@wl.in.gov. Your contribution to this meeting supports the efforts of the Council in addressing issues that are important to the citizenry of West Lafayette.

16. ADJOURNMENT

Next Regular Council Meeting: December 5, 2022

Note: Pre-Council meets on an as-needed basis and will be announced on public meeting notices from the Clerk's Office.



To: West Lafayette Common Council

RE: American Rescue Plan Act

Dear Councilors,

In January 2022 this body adopted a two-part plan to guide spending for the American Rescue Plan Act (ARPA) funding that the city received over 2021 and 2022. [Ordinance No. 08-21 \(Amended\)](#) established the categories and amounts of funding that the city desired for projects to address the COVID-19 pandemic. In addition to that ordinance, an [investment plan](#) was submitted for consideration with the commitment that if any possible expenses were not specifically defined in the plan, it would be updated and presented to City Council.

The updates to the investment plan meet the treasury defined category of “Support public health expenditures, by, for example, funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff; and Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector.” This category has an allocated amount of \$1,250,000 and will have a balance of \$700,000 if the proposed projects are funded completely. The following two projects have been submitted to the City for assessment and comply with the U.S. Treasury Final Rule on the American Rescue Plan.

Food Finders Food Bank \$350,000

The Fresh Market became a critical asset in responding to food insecurity during the COVID-19 pandemic. The market creates a consistent, reliable option for the families of Tippecanoe County. The dependable site also helps staff and volunteers focus efforts on process improvements and expanded food access to their patrons. While the market is not new, the need to secure the facility through property acquisition is an immediate need.



Facility Air Quality Improvements \$200,000

The City of West Lafayette is requesting funds to retrofit all HVAC units, in all city buildings, with ultra-violet light filtration systems. These systems will help keep our city staff safe in an office, police or fire station environment and will create healthier public buildings for the community at large. Pricing is based on most recent quotes, and will follow the prescribed city procurement process.

Thank you for your consideration.

Respectfully,

Erin R. Easter

American Rescue Plan Act

Investment Plan – Amendment 1

City of West Lafayette

Introduction

On March 11, 2021, the American Rescue Plan Act of 2021 (“ARPA”) was signed into law by President Joe Biden. ARPA establishes the Coronavirus Local Fiscal Recovery Fund (“ARP Fund”) to provide resources to local governments to assist with recovery efforts related to the COVID-19 public health emergency. The City of West Lafayette (“City”) will receive approximately \$11.4 million in ARPA funds under this program and receive the first allocation of \$5.7 million on May 20, 2021.

In March 2021, the Indiana State Board of Accounts issued a memorandum requiring each recipient to establish a local fund for the grant money, to identify the eligible uses for which the recipient intends to use the grant money and to establish a plan detailing the use of the funds that may be amended over time. The City Council established this fund by Ordinance 07-21 on June 7, 2021.

This document shall serve as the City’s plan, updated as appropriations from the ARPA grant fund are approved by the West Lafayette City Council. The U.S. Department of Treasury has issued specific guidance defining the use categories permissible for grant funds. Additionally, there are two additional considerations for the City’s plan: 1. new or additional guidance from the U.S. Department of Treasury may be issued in the future, which could affect eligible uses, and 2. new or additional funding sources from federal or state sources to support similar uses, adjusting the need for ARPA funding.

Previous Aid

In 2020 two major components of addressing COVID-19 with federal funds were implemented by city officials. The first was to reprogram Community Development Block Grant (CDBG) dollars from 2019 and program 2020 dollars to provide a \$500,000 grant program for small businesses where the owner is a low to moderate-income person or that the business employs a majority of low to moderate-income individuals. To date, over half of the funds have been spent to support small businesses in West Lafayette.

REPORT OF THE APC REPRESENTATIVES

There was no report.

PUBLIC RELATIONS:

Update: American Rescue Plan Act Funding – Development

Director of Development Easter stated that the Council passed the funding portion of the American Rescue Plan Act (ARPA) earlier this year. We contemplated what the City would do with the \$1.25 million in order to address and remediate needs through the community. We have used it for some infrastructure needs and paid out “hero pay” to essential workers who worked throughout the COVID-19 pandemic when many were working from home. This update to the ARPA Investment Plan is another component that she has contemplated and discussed with Mayor Dennis and others in the administration. The first item is to secure a location for Food Finders Food Bank Fresh Market in perpetuity. While that Market has maintained a consistent and reliable place throughout the pandemic to receive food, that food is under a lease agreement that will expire by the end of this year. This Plan requests \$350,000.00 to go toward the acquisition of that property. She noted that capital improvements are covered under ARPA, though if it were above \$1 million it would require a written justification. The second Plan request is approximately \$200,000.00 for ultra-violet light filtering through all of the HVAC systems in every City building. She explained that the UV light will be important to continue meetings like this with a room full of people to meet safely. More importantly, we have employees in the public safety divisions who are consistently and constantly in buildings with others who interact with the public a great deal. We want to make sure that every building we have is as safe as it can be to be inside and to continue to operate at the level of service that our citizens expect as we continue through this pandemic.

Councilor DeBoer moved to approve Amendment 1 to the ARPA Investment Plan. Councilor Thomas seconded the motion, and the motion passed by unanimous voice vote.

Informational Mayoral Appointment: Go Greener Commission – Change from Commission Appointment to Mayoral Appointment – Kayla Young

Due to someone on the Go Greener Commission moving out of the City, Kayla Young will become a Mayoral Appointment instead of Commission Appointment.

Mayoral Appointments with Council Consent: Human Relations Commission – Guadalupe Acosta-Roberts and Kipling Williams

The appointment of Kipling Williams to the Human Relation Commission (HRC) was mistakenly on the September agenda as an Informational Appointment when it should have been approved by the Council. Guadalupe Acosta-Roberts is a new appointment to HRC. Councilor DeBoer moved to approve both Mayoral Appointments with Counsel Consent to the HRC. Councilor Thomas seconded the motion, and the motion passed by unanimous voice vote. President Bunder expressed appreciation for those who volunteer to be on a City Commission.

2023 Council Schedule

President Bunder stated that a draft of the 2023 Council Schedule is attached to the agenda. He asked the Councilors to take a look at it for further discussion next month.

FINANCIAL REPORT

Controller Gray stated that at just over 80% through the year, the budget is at approximately 72%, including encumbrances. He noted that ARPA funding has been added to the report.

LEGAL REPORT

This report is on file.

COMMON COUNCIL
CITY OF WEST LAFAYETTE
EXIT CONFERENCE

The contents of this report were discussed on May 31, 2023, with John R. Dennis, Mayor; Peter L. Gray, City Controller; Peter Bunder, President of the Common Council; Larry Leverenz, Common Council member; Nicole Stocks, Deputy City Controller; and Sana G. Booker, City Clerk and President of the Board of Public Works and Safety.