

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
SEPTEMBER 14, 2009

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on September 14, 2009, at the hour of 6:30 p.m.

Mayor Dennis called the meeting to order and presided.

The Pledge of Allegiance was repeated.

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

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, City Engineer Buck, Police Chief Dombkowski, Street Commissioner Downey, Fire Chief Drew, Human Resources Director Foster, WWTU Director Henderson, Parks Superintendent Payne, and Director of Development Poole.

Mayor Dennis thanked those who sent cards, emails, or flowers; made phone calls; or who gave words of advice, correction, warning, or wisdom when he had a recent motorcycle accident. These were all appreciated.

MINUTES: Councilor Keen moved for acceptance of the minutes of the July 30, 2009, Pre-Council Meeting, and the August 3, 2009, Common Council Meeting. Councilor Burch seconded the motion, and the motion passed *viva voce*.

COMMITTEE STANDING REPORTS:

STREET, SANITATION, AND WASTEWATER TREATMENT UTILITY

Councilor Bunder said thank you, Mr. Mayor. First I would like to report that I'm getting monthly reports from the Engineering Department, and so I'd like to thank Mr. Buck for that. That's fun. I now know things about roads I never knew before. That's good. On behalf of Sanitation employees past and present, I'd like to take a moment to call attention to the departure of Lorraine Wilkins from the City's employ. Lorraine was hired as a part-time clerk in the Clerk-Treasurer's Office in '93, hired full time later in that year, was hired by Mike Darter as regular and part-time AR clerk in the Wastewater Billing Office, and was promoted to financial manager of the Wastewater Treatment Utility. She resigned effective September 4. To quote Mike [Darter, former Director of the Wastewater Utility], "Lorraine worked for me at the Utility for eight years. She started as a data entry clerk and was promoted to financial manager. Lorraine is a bright and personable individual, and among her many other attributes, she is self-motivated and well capable of achieving all goals given to her. I am proud to have worked with her during my tenure, and believe the City of West Lafayette benefitted in all aspects of financial management of the Wastewater Treatment Utility. Her retirement will be a loss for the City. I wish her well on all her future endeavors," as do the Democratic members of City Council and Mayors Margerum and Mills. We thank Lorraine for her work for the City. And that concludes my report.

Clerk-Treasurer Rhodes said Mr. [Councilor] Bunder, I think I speak for Human Resources Director Diane Foster and myself, to say that everyone who works with a capable employee misses them when they have gone to a better opportunity. This certainly was the case. And I

wouldn't label it particularly with a partisan label. That's the first time it's ever been so labeled. But I think that that would not be fairly stating the good working relationships she had with many people in City Hall. Thank you.

PUBLIC SAFETY AND ORDINANCE

Councilor Keen said thank you, Mr. Mayor. I've got a couple things I want to report on tonight. First of all, the calls in the West Lafayette Police Department rose by 34% last month, mostly due to the arrival of the students. Also, this was the first month for the operation of the newly-formed Neighborhood Resource Team in the Police Department, and they have handled over 200 calls in their first month of operation. So I think that's a big plus for the Police Department. Also, the Fire Department will be hosting open houses at each fire station during the upcoming Fire Prevention Week. Parents, children, and others will be invited to tour the stations, get a blood pressure check, talk to the firefighters, see the trucks, learn about fire safety. Further information will be available in late September or early October. I believe that Fire Prevention Week is the second week of October. The rest of my report will be on file in the Clerk-Treasurer's Office.

PURDUE RELATIONS

Councilor Roales said thank you, Mr. Mayor. I'm going to start something new this month that I hope to continue throughout the duration of my term here on the Council, and that is invite a different Purdue Student organization president each month, to report on the unique activities that their student organization is involved in. With over 700 student organizations on campus, it's hard for me to fairly accurately present and know about all the activities on campus. So I'm going to try to bring in very unique viewpoints each month. I'm going to start this month with the Purdue Student Government. We have four individuals from Purdue Student Government here today, Will Baldwin, the executive director of government relations; Katie Haller, local director of government relations; Eddie Van Bogaert, the chairman of the Purdue Student Government senate committee on government affairs; and Purdue Student Government president Adam Kline. I've invited Adam, if he'd like, just to make a few comments tonight on your agenda for the year and everything you'd like the Council to know.

Mr. Adam Kline said first I'd like to thank the Council for the opportunity to speak before you. I guess when I spoke with Councilman Roales, he had asked me to go over some of the line items on our agenda this year. One that we didn't expect was the increase in tuition, and that's been a really big factor, a lot of the meetings we've had this year. We've met with Tim Sanders and Kevin Green regarding the RSC progress. There will be legislators coming October 24 for a tour, just to make sure that that does stay in the budget and bonding approval does pass through the State legislature. We've met with John Sautter who is the Vice President for Housing and Food Services, just making sure that all costs are kept as low as possible for students. We have an organization that I'm chair of which is Presidents Roundtable, and that's the top 40 organizations within campus. We get together on about a monthly basis. We spoke with the president regarding some of the changes in budgeting some upcoming items that she's got a vision for Purdue University in the next couple years. That's a great organization for mobilization of all student leaders, if there's something that's pertinent to the student body, we can quickly call them to action in any way that they may be needed. We've got a central campus neighborhood association meeting. I believe that we've partnered with some of the Purdue Police. Unfortunately, that meeting got moved back to this next week, so I can have a report for you submitted next time. That kind of partners with the Campus Safety Task Force. Obviously at the beginning of school we had kind of a rough start, so we want to make sure that all Purdue students are as safe as possible. Another issue that we've been battling is student communications within campus. Two years ago, flyering was dismissed from campus, and

we're looking for ways to keep all students in the loop. We don't have an integrated way of emailing all students yet. That's something we're really looking forward to do. They would obviously have an opt-out, but campus communication is down and we're still looking for ways that students can have the best opportunity for success at Purdue, outside the classroom opportunities. Technology enhancements, our campaign ran a green platform. We've met with the Vice President for Information Technology at Purdue, Gerry McCartney. Double-sided printing will be in effect within the next month. That will be a default. You also have the option for single-sided printing for reports, but a lot of times when you're printing off notes, it's very helpful to cut down on paper usage. Along with that, we're going to be putting into effect printing portals. Every other Big Ten peer institution has them; it will take the place of the cover sheets that are now printed on the top of every single printing assignment. That's going to definitely reduce the amount of waste that Purdue goes through in cover pages. Onto the points that were going to be discussed tonight. I just wanted to go over some of those. The proposed Northpointe project, we're really excited about that. We hope that has a positive impact on all the students and the community as a whole at West Lafayette. As far as the ordinance for the landlords, [Ordinance] Number 3-09, we're really enthusiastic about the concept, and we think it has the potential to improve housing for students and to give landlords a little bit of an extra incentive to work to stay a good landlord. However, we do want to make sure that you know that we are concerned that, by raising the fines and fees of landlords across the board, we hope the landlords' costs don't get shifted to the students. That's just something that we want to make sure stays in sight, as far as we are representative of the students. We want to keep their costs as low as possible. I guess that's about all I've got to report today, but I definitely want to thank you again for letting me come in. I want to emphasize that I'd like to keep a very clear line of communication between the Council and all the governmental officials of West Lafayette and the Purdue Student Government. It's a two-way road: We'd like to help you in any way possible, as well I'm sure we'll be coming to you for some things also. With that, thank you very much for your time.

Councilor Roales said thank you, Adam [Mr. Kline].

Mayor Dennis said thank you very much, Adam.

Councilor Roales said I would like to just highlight to the department heads and the community at large the effectiveness of the Presidents Roundtable. A lot of times it's an organization that kind of goes out of the spotlight. It's an organization that I was a member of many years ago as an undergraduate, and there's a lot of great resources there. A lot of communication can happen through that organization, and so as a channel for the departments to get communication out to different student organizations, it's a great resource to go explain and get feedback at a great level. And so I'd just like to rehighlight that as well. Thank you, Mr. Mayor.

PARKS AND RECREATION

Councilor Hunt said my report's not as exciting as the students. I have four items. Number one, the swimming pool closed in August, and even though the cold weather kept swimming down a lot, still revenues were up. Art on the Wabash will be held this Sunday, the 20th of September, from 10:00 a.m. to 4:00 p.m. at Tapawingo. It should be fun. It's free admission and regional artists are there. The groundbreaking for the Purdue boathouse will also be at the end of that, at 4 o'clock, and it will be at 500 Brown Street. Again, at 4, where the old Burnham's was before it was torn down. Finally, the Park Board meeting, the next one is Monday the 21st of September at 4:30, and I believe it's in City Hall. Thank, you, sir.

ECONOMIC DEVELOPMENT

Councilor Thomas said thank you, Mr. Mayor. The required reports are being generated and reviewed for the Consolidated Annual Performance and Evaluation Report, acronym CAPER. This includes a summary of resources and programmatic accomplishments, the status of actions taken to implement the overall strategy, and a self-evaluation and will be available for public view in the Department of Development from September 14 to the 28. It will be submitted to the U.S. Department of Housing and Urban Development on September 29, 2009. The City's Development Department continues to be a part of presentations to prospective companies. There were three that were presented in August that are interested in looking at West Lafayette. Negotiations continue and proposals have been sent for their review. The Aldi's construction continues to move forward. The anticipated opening for that facility is November 2009. The City of Jeffersonville, Indiana, came to West Lafayette to learn about our rental certification program. They also attended the ribbon-cutting for the Wastewater Utility's micro-turbines and went on some rental inspections and toured with the NRT [Neighborhood Resource Team]. They were amazed at all that is going on in the City of West Lafayette. The Housing Program Coordinator position has been filled, and I'm sure that Councilor Burch will probably update us on that position. I will not take that responsibility on this evening. The second meeting of the 2009 Strategic Plan update will take place on October 12, 13, and 14. Arnett Muldrow & Associates will hold public sessions, one-on-one meetings with City Council and department heads, and meetings with organizations within our community. That concludes my report.

PERSONNEL

Councilor Burch said thank you, Mr. Mayor. As Councilor Thomas said, we have a new full-time hire. Dale Dixon is our new Housing Program Coordinator in the Department of Development. Dale brings significant management experience in the housing industry. Dale, would you come forward and say a few words.

Mr. Dale Dixon said thank you for the opportunity, for the position, and for being able to come up tonight and speak a little bit about my background. I do have a number of years of experience in housing, 12 years in new home construction, seven of which was as a project manager for a high-volume production home builder. I was responsible for neighborhoods, building and closing over 100 homes per year. I had very good success with that. For the last five years, I have been involved with a smaller, semi-custom builder who was involved in a neighborhood revitalization project in downtown Indianapolis. The five years with them I wore many hats. I was a manager over the purchasing and estimating, as well as met with clients on a daily basis almost. So a lot of number-crunching as well as keeping track of a construction schedule and things like that. That's been my background for the last 12 years or so. Again, I'm very happy to be here and thankful for the opportunity.

Mayor Dennis said welcome aboard.

Mr. Dixon said thank you.

Councilor Burch said thank you, Mr. Dixon. Welcome aboard. Interviews remain underway for the Marketing and Grants Administrator position in the Department of Development. The 2009 United Way will soon be underway. The City of West Lafayette has been a strong supporter of the United Way and its mission. And last but not least, a wellness health fair, sponsored jointly by the City of Lafayette and the City of West Lafayette, will be held at the McAllister Center in Lafayette on September 25 from 10:00 a.m. to 2:00 p.m. With more than 25 vendors participating, we expect a very large turnout for this event. Thank concludes my report, Mr. Mayor.

BUDGET AND FINANCE

Councilor Hunt said we'll discuss the budget a length later on under business. I'll defer my report to there.

REPORT OF APC REPRESENTATIVE

Councilor Keen said thank you, Mr. Mayor. There's a whole bunch of things on the APC that we did this month. Because most of them are in the regular agenda, I'll defer until then.

SPECIAL REPORTS:

Traffic Commission Report

Councilor Burch said thank you, Mr. Mayor. As always, your Traffic Commission has been busy. The Traffic Commission meetings have been moved to the third Tuesday of the month. Meetings are now held bi-monthly, with meetings scheduled on odd-numbered months. Our meeting schedule for the remainder of 2009 is Tuesday, September 15 and Tuesday, November 17. Additional meetings, of course, will be scheduled as necessary. On May 15, we held a public forum on roundabouts. Mr. Jeremy Grenard and Mr. Craig Parks, both from American Structurepoint, led the presentation. Mr. Mike McBride, City Engineer from Carmel, Indiana, participated in the question and answer period that followed. Starting this fall, utilities on Cumberland Avenue between US52 and Kent Avenue will be relocated, and construction will begin next spring on the roundabout at Cumberland and Kent Avenues. At our July 21 meeting, Mike Thompson, Assistant City Engineer, was introduced to the Commission, as well as Debbie Siciliano the new District 3 representative. New midblock crossings and street markings are in place at Columbia and Northwestern, Grant and North Streets, and three intersections on Russell Street at First, Third, and Fourth Streets. The West Lafayette Police Department and Purdue Police have been monitoring those areas. According to Indiana law, drivers must yield the right-of-way to a pedestrian in a designated crosswalk. Pedestrians may not suddenly walk into a crosswalk when a vehicle is so close that it cannot stop. There is an initiative to get drivers and pedestrians to think about who has the right-of-way, not only on or near campus, but across the community. Lots of education is needed. Last but not least, on August 26, several members of your Traffic Commission participated in a live interactive web seminar on improving pedestrian crossings safely at uncontrolled locations. This webinar allowed us to gain a better understanding of pedestrian crossing treatments, identifying treatments that work, and learning the advantages and disadvantages of different treatments. The bottom line is that the two white lines for pedestrian crossings across busy roads just don't cut it. A neat thing about this webinar is that it was designed for individuals with or without training in traffic engineering. That sums up my report, Mr. Mayor.

PUBLIC RELATIONS:

West Lafayette Community Beautification Award

Councilor Bunder said this month's Beautification Award goes to Mike and Carolyn Gery of 530 Robinson Street. The West Lafayette Beautification Award honors those whose gardens make a positive contribution to our community. Mike and Carolyn share the gardening duties. Theirs is a natural garden that is low maintenance. Lovely old oak, maple, and walnut trees tower over a welcoming walkway. Perennial sedum, hosta, and vibrant annual mums are in the front yard. The back yard was the site of their son's wedding in 2001, and it a calm retreat that includes serviceberry, hemlocks, azaleas, ferns, bird-feeding stations, and a Mike-designed deck. Hostas come from good friends. Aegopodium that originated in the garden of Carolyn's parents also graces the back yard. Flowers and colors abound in this garden in a continuous parade of color as spring bulbs, azaleas, flowering trees blaze in spring, Asiatic lilies bloom in the summer, hostas bloom at the peak, and the warm colors of oak, maple, and serviceberry explode in autumn. The evergreens and a bright red front door give winter interest. On behalf of

all of us in West Lafayette, we give our September 2009 Beautification Award to Carolyn and Mike Gery.

Ms. Carolyn Gery said some of you know us. I know quite a few of you from a long time ago. I think you coached our youngest son. We both are westsiders, and this is a home, and you all are serving that home, and I thank you for that. We didn't understand about the garden, and one of our neighbors said, "Great garden on the sign," and I thought, "Well, it is a great garden." And then Anne [Councilor Hunt] called and explained the Beautification Award. We're just glad to be a part of the community. My mother had a little sign over the kitchen stove when I grew up, and that was, "Bloom where you are planted." And we are doing that in our City, a lot of which you all are hard at work in. We're just glad to be there, and it is low maintenance, trust me. Mike does a lot of watering, and we try to buy those things a little bit at a time, or divide, that make our lives a little prettier and maybe the neighbors' as well. So thanks.

Achievement of the Clerk-Treasurer: Master Municipal Clerk Designation

Mayor Dennis said I am honored to give the following award to our Clerk-Treasurer, Judy Rhodes. Tonight I am pleased to be able to present the Master Municipal Clerk award to our City Clerk-Treasurer Judy Rhodes. Recently Judy attained the designation of Master Municipal Clerk from the International Institute of Municipal Clerks. This is the highest professional distinction conferred by the IIMC to practicing municipal clerks throughout the United States and internationally. Judy is one of 14 Master Municipal Clerks in the State of Indiana to have earned this distinction. I want to commend Judy for her professionalism and furthering her skills and expertise in the performance of her duties as Clerk-Treasurer, and also for bringing recognition to the City of West Lafayette by her commitment to excellence and the highest code of professional ethics. Now I have a plaque and a pin to present to Judy. I think it goes without saying that there's probably nothing more confusing, nothing more convoluted, and nothing more complicated than governmental finances. More often than not, Judy will assist us with an explanation of specifically what's going on, and almost every time I can understand the words, but sometimes I can't just can't put them together to make sense. Judy does an excellent job in explaining, and she has been a true, true public servant. She's also been a true steward of our money in this City, and I thank you personally for that, Judy.

FINANCIAL REPORT:

Clerk-Treasurer Rhodes said because of what I imagine will be a lengthy budget discussion and salary ordinance discussion toward the end of this meeting, I will not have a report. I will note that all of the State Board of Accounts-required financial reports have been filed with the Council for August. Tonight begins the first of several steps to adopt the City budget for 2010. Thank you.

LEGAL REPORT:

City Attorney Burns said thank you, Mr. Mayor. It is on file. If there are any questions, I'd be happy to address those. If not, that concludes my report.

Councilor Bunder said just a thank you to whoever prepared the Neighborhood Resource Team August 2009 summary.

City Attorney Burns said not I.

Mayor Dennis said Chief.

Police Chief Dombkowski said I had a little bit of help, sir.

Councilor Bunder said whomever. Thank you. This is helpful.

Mayor Dennis said will we have any discussion about that, or just accept the report as it was presented?

Police Chief Dombkowski said just the Council was provided a copy of that report. Just one month into our process of this team, we've mitigated over 200 problems, issues, complaints we've responded to. A lot of cleanup has been done in one month's time, probably more in the last month than in the last couple of years, I would think. Rick Walker, our new coordinator, our team leader of that division of the Police Department is just knocking the ball out of the park, really, and addressing a lot of citizen complaints, but also doing a lot of proactive work with that program. We're also trying to also meet up resources, so that we don't have to take law enforcement action is a big part of that program, in placing community resources, church groups, and fraternity groups to properties, where maybe somebody wants to do the right thing but just doesn't have the means or resources to get the job done. So we're proud of that aspect of it, and then we're also doing some enforcement efforts as well. Some tickets have been handed out, and will continue to be done.

Mayor Dennis said any questions for the Chief? Thanks, Jason [Police Chief Dombkowski].

Police Chief Dombkowski said thank you.

Councilor Hunt said Mr. Mayor, may I make a comment?

Mayor Dennis said sure.

Councilor Hunt said Rick Walker [Code Supervisor of the Neighborhood Resource Team] came to our neighborhood association picnic that we have every year on Labor Day in Northwestern Heights, and he spoke a little bit, answered a lot of questions, and it was really a good, I think a good, interaction. I would urge other neighborhood associations to invite him. He even came on a holiday, which I really appreciate. It was helpful to all of us.

Mayor Dennis said he's a new guy, he's just trying to impress you.

Councilor Bunder said just to speak up for the older people, Lt. Sparger came to the Labor Day picnic for the New Chauncey Neighborhood, and he did that, even though he knows every street in the neighborhood.

Statement from the Mayor Regarding Tonight's Business

Mayor Dennis said before we get to Unfinished Business, we do have a very weighty agenda tonight, and we will try to move as quickly as we can, but obviously there's a lot of issues that need to be given their full public process. What we are going to do is we're going to cruise through here, and then we will have a short recess before we get into the budget discussion, so we'll go through the first several agenda items, and then we'll have about a five-minute recess, and then we'll reconvene. So for those of you who are going to be wanting to speak, for those of you who are going to be needing a break, sit tight. We'll go about halfway, get through it, then take a break and get back into it.

UNFINISHED BUSINESS:

Ordinance No. 03-09 (AMENDED) An Ordinance Amending The Ordinances Of The City Of

West Lafayette Regulating Rental Housing Within The City (Submitted by Councilor Bunder)

Councilor Keen read Ordinance No. 03-09 (Amended) by title and moved that it be passed on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Councilor Bunder said Mr. Mayor, I would like to move to amend by substitution Ordinance No. 03-09, replacing Ordinance No. 03-09 (Amended) with the yellow copy from the Pre-Council, or Ordinance No. 03-09 (Amended) labeled "Amended/Final."

Mayor Dennis said so we have a motion to amend Ordinance No. 03-09 (Amended) by substitution with the yellow copy with "Amended/Final" on it. Do we have a second?

Councilor Thomas said I'll second.

Mayor Dennis said discussion?

Councilor Bunder said thank you, Mr. Mayor. As you recall, last spring we began a process of examining the ordinances regarding rental housing within the City of West Lafayette. The primary focus of that discussion was to meet the Appellate Court's concern that the ordinances were ambiguous. Though a variety of public hearings and then through three subcommittees, we have attempted to take the input that we have had from our citizens and come up with an amendment to the amendment. The underlined portions of the yellow sheets represent changes to the ordinances. The Whereases are fairly straightforward. I would point out that it is the second Whereas that probably points out to us the chief audience for all of this work, and that is the Indiana Court of Appeals. On page 4 of 6, there was much discussion over the possibility of regulating security deposits in the City, and I am happy to report that we have moved from stick to carrot. I would ask Councilor Roales to explain the work of his subcommittee and why they are recommending a landlord certification program.

Councilor Roales said we put together a committee of three individuals, one landlord or property owner, one student, and one community member, and they worked diligently throughout the summer, surveying what other communities have done and the proposed ordinance language that I put forth with the cooperation of Councilor Bunder. That committee recommended, at the end of the summer, that we not go forward with the security deposit language, but instead we look at, alternately, a landlord certification program. These have been done effectively in some other communities like Eau Claire, Wisconsin, and some college towns in Ohio. We included language to allow the City to develop a landlord certification program, kind of—it's been termed a gold standard—you know, a certification that landlords could then use for marketing purposes, but then to assure parents and students in the community that they were going above the minimum standards for creating a livable, habitable apartment. The language that we've included will allow the City to develop a program over time, with the input of landlords, of community members, of neighborhood associations, of student organizations—not immediately, but developed over time with, hopefully, a good public debate of what would be a good standard and what would create the right incentives for landlords to not only participate in the program and be aware of their actions in the community, but also make the program effective. Thank you, Mr. Mayor.

Councilor Bunder said thank you, Councilor Roales. I have one story, if you'll permit me, which will probably lengthen the meeting by about two minutes, and you'll all hate me later. My daughter is going off to graduate school in Glasgow, Scotland. Unlike the Mayor, I have no

relatives in Scotland, and so as a parent you are concerned that your child will be safe in the big city. She was invited to apply for dormitory space, and she said, "Nah." She was instructed by the Royal Scottish Academy of Music and Drama to look at a website sponsored by the six universities in Glasgow called PAD, which is Private Accommodation Database, with the universities providing a higher standard of review, guaranteeing a variety of benefits to those rental corporations who participate in the PAD program. Through that, she was able to find accommodation with a woman who then volunteered to pick her up at the airport. I suspect that there is some father in Glasgow who is looking over the shoulder of his daughter, as she prepares to come to Purdue University, and wonders what the dickens that town is like. I think it would be a good thing for us to be able to offer the same sort of comfort to out-of-town parents that I enjoy, wandering through the website of PAD. So that is my story, and I will return to the business at hand. There are a number of fees and fines that are changed. I would like to thank Councilor Dietrich and his subcommittee for working on fees and fines, and I invite Steve [Councilor Dietrich], if he has any comment, to make that now.

Councilor Dietrich said thank you. Actually, I do have a couple comments on the structure. It's been since 1992 that the dollar amounts of this ordinance were reviewed and revised. Some of them were increased, some of them did not. Significantly, the portion of providing false information to the City carries the maximum penalty that we're allowed to levy as a fine. I think anybody, landlord or otherwise, that knowingly provides false information in an affidavit deserves to be hit with a pretty big stick. That's what brings in to that. While I'm speaking on this, I do need to say that I have received quite a bit of—more on this topic than any other topic in the short period of time I've been a member of the Council—concerns and questions about lack of availability of this ordinance. I've had more than one person tell me that they've searched for it; it was not on the web, not available to them prior to Thursday at the earliest, and some of them, later than that. I do support the spirit of this. I agree with the concept of it, but I think in light of what we're experiencing with the lack of information, the concept of rushing into this is probably not good business. I would like to move that we give this two more months, look at the November 2 meeting to continue to gather information. It was brought to my attention that there was one group of individuals that represent larger rental capacity of more than four units that have not had input into this. These people are impacted severely by this, because not all the same things apply for the small houses that have been converted as those that apply to large landlords and corporate landlords. So I move that we postpone this until the November 2 meeting, when we have gathered more information and put together a document that's worthy of Glasgow.

Mayor Dennis said is this a motion to a time certain?

Councilor Dietrich said yes.

Mayor Dennis said so would that be a motion to move to November 2.

Councilor Keen said I'll second that. And, if I may, comment.

Mayor Dennis said well, hang on. We've got a motion and a second to move the ordinance as amended to a time certain, which would be November 2.

City Attorney Burns said the vote is on the amendment. So this is a move to table the amendment, the motion to amend.

Mayor Dennis said to November 2.

Councilor Dietrich said postpone it.

City Attorney Burns said yes, to postpone it. And that is a debatable motion as a motion to move to a time certain.

Mayor Dennis said okay, now, discussion.

Councilor Keen said I would agree with Councilor Dietrich. Just tonight, I was watching as we started this motion, a number of people got up and had to go get a copy of this that did not even have a copy of it yet tonight. So I would agree that there is a number of different people who have not yet seen this version of this, and I would definitely like to see them at least have the opportunity to review it for a time certain.

Councilor Roales said Mr. Mayor.

Mayor Dennis said go ahead, Paul [Councilor Roales].

Councilor Roales said I would like to respectfully disagree with Councilor Dietrich and Councilor Keen. I understand, I mean, the importance of community discussion in ordinances, and I feel that we've had a great deal of community discussion involving three different committees of diverse groups of individuals. This ordinance has been in the public sphere for what likely amounts to about six months. And so, I mean, I feel like we've had a great deal of public discussion, we've gone through, obviously, an evolution of the document, and I think, you know, the ordinance has been greatly improved. I think, you know, anytime that we deal with apartment issues, we have 600 different landlords in town, we have a large percentage of our community that are renters, and so these are important issues. And I think we've taken the due diligence to really do this in a very polished way, and I think this is a good quality ordinance. But I also say that involving a large number of people, there's always going to be some dissent and some disagreement. We received emails today, I know the whole Council did, from individuals, and, you know, I'm always just concerned that at the last minute, when those individuals arise, when they've been given ample opportunity. I understand their concerns, I listen to their concerns, but, you know, I think we also compete with other university towns, not only in the Big Ten, but in Glasgow and around the country. And so, you know, we need to move and improve our City, and if we need to change it later, we need to do that. But we need to continue to improve the ordinance structure of West Lafayette, and I think this would be a good step forward in doing so.

Councilor Keen said Mr. Mayor.

Mayor Dennis said further discussion?

Councilor Dietrich said may I comment on that? First of all, it sounds like the philosophy of fail forward fast. To rush through this, change it if we need to later, doesn't make sense. We're in no hurry to get this done. We're past the leasing season, which was the earlier discussion, to try to get it done before the students came in, before leases were signed. We're past that. We have to opportunity to do it right the first time. While I also agree that we have been talking about this as a group and as a community for six months, the verbiage and the specifics of this were not available for more than three or four days. I don't think that's enough time for landlords to absorb it, tenants to absorb it, everybody else. There's still no concept of what kind of impact this is going to have on rents for students. Until they can get a chance to absorb it,

give some information, get some more feedback on the specifics of this, not the concept. The concept has been around for years. We've had an ordinance dealing with occupancy for a long, long time. But it's the specifics of this particular amendment that we need to deal with.

Mayor Dennis said I understand we have a motion and a second to move to a time certain on the amended ordinance. November 2.

Councilor Keen said again, I would agree with Councilor Dietrich, in that, first of all, we have an ordinance in effect as we speak, a good ordinance in effect as we speak. Instead of pushing forward into something that we can change again later, again, I would like to see this body get it right before they change it again. I've been through this process a few times, and every time the same argument is, "Well, let's go ahead and pass it, and then we can fix it later." For once, I'd like to get it fixed right the first time, get it passed, and be done with it. And I see no problem in waiting a little bit more time in order to accomplish that.

Mayor Dennis said further discussion from the Council?

Councilor Hunt said I'd like the author—how do you feel, Councilor Bunder?

Councilor Bunder said I would oppose the motion to table. We've been at this six months, and the key to me in this proposal is the specification of the violations. For those, the audience does not sit in chairs in this room tonight. The audience is the Appellate Court of the State of Indiana. The language on page 5 of 6 is language that I did not invent. It is language that is pulled almost whole from the decision, the findings of fact of Judge Busch, and then the decisions of both Judge Busch and the Appellate Court. This language will not change much. The other language about fines and fees has been dialed back, and the one novelty is the call for a landlord certification program, which I see as both a great opportunity and offers in its own wording, another discount to those rental corporations who have been able to lobby us over the last few days, another discount to those rental corporations who are interested in moving to a higher standard. So I would oppose the attempt to table to a time certain.

Councilor Hunt said may I make a comment?

Mayor Dennis said yes.

Councilor Hunt said we heard a lot about this at several public hearings, and many people voiced concern to me about the requirement for rental deposit information being recorded. That bothered me. I think this is a good compromise that we drop that and brought in another kind of carrot instead of a stick. I got a couple of emails that we forwarded to me or sent directly to me today. This was well-publicized Thursday. I know that's relatively quick, but we could have shared it with you. And one individual, I believe, did find it someplace, because it was a motivation to find it and he could find it. And it was well certain that clearly stated many times that it was going to be on the September agenda.

Clerk-Treasurer Rhodes said it's regrettable that it wasn't filed on the Agenda Day [September 3] for the September agenda.

Councilor Bunder said oh, but it was. Please.

Clerk-Treasurer Rhodes said this amendment for substitution was not.

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City Attorney Burns said well, just for clarification, I think it was filed. It's appropriately before the Council, because the Council could amend at any time, but it was not filed on Agenda Day. I think—was that a week ago Thursday?

Clerk-Treasurer Rhodes said it was submitted September 3.

Councilor Hunt said it was the week before Pre-Council.

City Attorney Burns said I've lost my—but it's properly before the Council.

Councilor Keen said Mr. Mayor.

Mayor Dennis said Gerry [Councilor Keen].

Councilor Keen said could I just clarify one thing? I think that this version is a lot better than most of the versions I've seen in the past. My objection to moving forward with this is simply to make sure we get the input that people deserve to have. I mean, that's my only concern with this whole thing, is that we give people the opportunity to have their voices heard on this. And I don't know that everyone's had that opportunity to observe and to digest this.

Councilor Roales said Mr. Mayor.

Mayor Dennis said go ahead, Paul [Councilor Roales].

Councilor Roales said often, you know, I think we have a great community here in West Lafayette, and I think we get very comfortable with that. I mean, when I think about, you know, professors looking at us versus other universities, you know, I think we need to reiterate the importance of, you know, moving forward on multiple issues during a Council term. And, you know, to spend more than six months on something, this is very important and I think that's why we spent six months on it. I think that's a great amount of time, and I think a great amount of work went into this. So I think we need to tackle this issue, improve it—it's clearly an improvement—and tackle other issues that are clearly in need of improvement in our community. And so, you know, I hope that policy differences aren't an issue that you're trying to table and continue to move this out until policy differences can be rectified, because if there's philosophical policy differences, I think, you know, the vote needs to be clear on that and just needs to be moved forward. And so, you know, I would hope that the motion to table it is not an attempt to kill it or to rectify it until your policy concerns are included, but I hope that, you know, clear philosophical differences can get an up or down vote tonight. Thank you, Mr. Mayor.

Mayor Dennis said thank you, Paul [Councilor Roales]. Councilor Dietrich.

Councilor Dietrich said I think whatever body is going to judge this Council years down the road is not going to judge us on how many things we get done. They're going to judge us on what we do properly. I, too, think this is an improvement over the draft we had. It's more specific in terms. My concern, like Councilor Keen's, is the short notice, the lack of availability of this particular document to the public. Not the spirit of the ordinance or anything else, it's that this one was not allowed to be analyzed by the citizens.

Mayor Dennis said okay, again, what we're dealing with here is a motion to move to a time certain, November 2, for the amended ordinance. Further Council discussion?

There was no further discussion.

The roll call vote:

AYE	NAY
Burch	Bunder
Dietrich	Hunt
Keen	Roales
	Thomas

The motion to postpone consideration of the amendment to November 2 failed, 3-4.

Mayor Dennis said now, we need to still work on the motion to accept the ordinance as amended. I believe we have been motioned and seconded.

City Attorney Burns said yes, we have.

Mayor Dennis said now we're at the discussion phase. Again, for those in the audience, we're back to page 1 on this particular ordinance, Ordinance No. 03-09 (Amended). Discussion from the Council?

Councilor Keen said I have a couple questions for whoever. On page 5 of 6, item (D), it talks about monitoring cars that are regularly parked at the property for possible additional occupants. How is that to be quantified? How does that get demonstrated? How does that get defined? I mean, are they supposed to monitor this every hour? Every day? Once a month? Once a year? You know, what is the intent of what we're trying to do, and how is it going to be demonstrated that that monitoring is actually taking place? I mean, are we going to have monitoring police out there now?

Mayor Dennis said is that directed towards—?

Councilor Bunder said oh, I'd be happy to—

Councilor Keen said whoever. If Paul [Councilor Roales] or Peter [Councilor Bunder] either one. I'm just trying to get clarification. That, to me, is a very ambiguous statement, and I'd like maybe a little bit more clarity on how that's going to be monitored. And, while you're at it, the same thing with item (F), monitoring names on the mailboxes. You know, how often are they expected to do this thing? How often and, again, how is that going to be policed, if you will? How is that going to be attained?

Mayor Dennis said Councilor Bunder.

Councilor Bunder said happily, we already have working definitions for all of these lettered items. They were part of legal proceedings over a decade ago with Dr. Benjamin. They are part of the legal record with Bowden, and Liu, and Weida. There is a phrase that recurs, and I'll get it wrong, but it—I'll translate—it was a "Wake up and smell the coffee" line that Judge Busch included. It meant that these activities should have attracted the attention of a prudent, responsible owner. And to the extent that they did not, he judged in favor of the City. We have about a decade's worth of practice and several court decisions on the matter.

Mayor Dennis said further discussion from the Council?

Councilor Dietrich said Mr. Mayor, if I may. It seems that many of these may be very doable for the converted house that is supposed to have three bodies in it, three vehicles. But, again, when you look at some of these multi-unit complexes, it becomes very difficult monitoring cars, knowing even which unit that car belongs to becomes much more difficult. It's very easy for me to look out my window and see the student house across the street has four cars parked in it. But if you look at Williamsburg Apartments or one of these larger units, there's no way of doing this in an adequate or definable way. It seems that many of these don't apply to—or don't have the same application as—a multi-unit complex.

Councilor Roales said Mr. Mayor.

Mayor Dennis said Paul [Councilor Roales].

Councilor Roales said Councilor Dietrich, I would counter that the West Lafayette Police Department Private Property Towing Report would indicate very strongly that the landlords of multi-tenant apartment complexes do a very rigorous job of monitoring the individuals that are parking in their lots. That's been an issue of much public debate over the last year, and I'd say that is very strong in West Lafayette. I would disagree that that's not a concern of mine, I guess.

Councilor Dietrich said are you submitting, then, that they're towing everybody that visits? They have no way of knowing that. I understand that they tow vehicles, I understand the cooperation. McDonald's tows a lot of vehicles out of their lots, too, by monitoring. It's a different type of monitoring than it is to try to determine who's staying there more than 25% of the time, who's in what unit, those kinds of things. The number of vehicles towed, I don't see any connection at all with the ability for these complexes to monitor these and identify back to a particular unit.

Councilor Hunt said may I jump in?

Mayor Dennis said you may.

Councilor Hunt said we were all very involved in the towing issue, and I think we had a compromise there, too. Now the towing companies report to the Police when they tow. But, I think I can quote a couple of landlords who tell me they have a very good process, very good, very precise for monitoring this. They had stickers for each resident, and their license plates were frequently on file with the towing companies that they had contracts with—contracts or deals, I'm not sure if contracts is the right word. I mean, they said they have a very good system, so that's—after all the work we went through with towing—and I've been down to more towing companies than I ever thought I would, just to discuss those suggested changes we discussed maybe a year or year and a half ago.

Councilor Bunder said and if I might, Mr. Mayor, this is usually the point in the conversation where John Basham stands up and waves that sticker. He is not here tonight to jump up and wave that sticker. But we've been down this road, I think.

Mayor Dennis said further discussion from the Council?

Councilor Burch said Mr. Mayor, if I may? Councilor Bunder, is this ordinance aimed at reducing the nuisances, or is it aimed at preventing single-family homes from being turned into rental units?

Councilor Bunder said the aim of this ordinance is to meet the Appellate Court's criticism of the existing ordinance. I want nothing to stand in the way of this City being able to take those folks who violate our law to court with confidence. And that was what prompted this six, seven months ago. And my thanks to Attorney Burns, Attorney Bauman. My thanks to all those men and women who served on a variety of committees over the run of this six months.

Mayor Dennis said further Council comment?

Councilor Thomas said Mr. Mayor, if I may. I concur with Councilor Bunder, in that we've been at this for six months. We've gotten input from legals, we've gotten input from the Appellate Court as to why the previous ordinance was ambiguous in its language, we've tried to be more specific in what we've put forth here. I think it's time that we—we've gotten input from subcommittee meetings, etc.—I think it's time to move on this ordinance. We've been at it a long time now.

Councilor Burch said Mr. Mayor.

Mayor Dennis said Councilor Burch.

Councilor Burch said if I may ask Councilor Roales. You talked about a landlord certification program. Could you clarify that for me, please? What will that involve? Who will head it up? Who needs to participate, and who will pay for the costs?

Councilor Roales said Mr. Mayor. Councilor Burch, my intention of suggesting the wording the way that it was included was to allow that program to be flexible. I think there's a certain specificity that's appropriate in code, and I think that defining the certification in code would create an inflexible program that cannot be adapted to changing market needs and our community needs. And so I wanted to leave that intentionally the way it was, so the program can be administered with the input of community members, landlords, students, and that the program could be developed over time, you know, and evolved over time. And so it was intentional in the way it was written. I think we would look strongly, and I hope we would look strongly, at the other communities that have implemented such a program very successfully. Look to their input and look to their successes and failures, and, you know, develop this program over time. And I think the way that it was included, and the fact that it does not hold up any current apartment operations, any code operations, any enforcement operations, but simply allows a reduction in fees, a reduction to happen when, you know, the program is developed, implemented, and complied with. And so, you know, this is very intentional. It does not in any way interfere until the program is developed, but once it is developed, once it is complied with and adopted, then it can be utilized effectively.

Councilor Burch said thank you.

Councilor Roales said thank you.

Mayor Dennis said further Council discussion?

Councilor Burch said Mr. Mayor, Councilor Bunder. Have you talked to Purdue University about having a private accommodation database?

Councilor Bunder said once upon a time, there was an off-campus student housing office. There is no longer an off-campus student housing office. One of the good things about the

landlord certification program, if I could pretend to be Mayor for a minute—I promise not to do anything bad—if this passes, I can envision John [Mayor Dennis] inviting Chandler [Director of Development Poole] and Chief Dombkowski or Lt. Sparger to a meeting where they say—first there'll be a comic moment at the expense of Councilors Bunder and Roales for causing all this trouble, and that will be fun, but then we'll move on—and then there'll be this moment, “Well, who wants to do this?” And the brightest and cleverest of the department heads will say, “I will do this.” And why? Because it's a very interesting notion. And it comes at a time when Purdue University is facing the retirements of two men who have served the University well. There will be changes in Purdue's housing arrangements. It comes at a time when there is more and more interest in involving student education as part of the rental process. You can envision a program that not only includes the University, but gives a discount to students who, if your landlord is a part of the landlord certification program, either go through an online program or attend a class that shows you exactly what the landlord knows about the regulations about living in the City of West Lafayette. At which point, we would be something like the University of Delaware. This could be great fun. If I were going to appoint somebody to head it, I would give the job to Rick Walker [Code Enforcement Supervisor of the Neighborhood Resource Team]. I think he is bright, I think he now knows the neighborhoods exceptionally well and has managerial skill. At some point, he will get tired of putting lids back on trash cans and will want something really interesting to do. And this could be really interesting. And I'm no longer Mayor.

Mayor Dennis said further Council discussion? Okay, now we'll turn it over to the audience. How many people are here that would like to speak to this particular issue? Show of hands, please. That's not too bad. Come on and approach the podium.

Mr. Loren King [4106 Amesbury Drive] said thank you for allowing me the time to speak. I am one of the principals and the chief operating officer and general counsel for Trinitas Ventures. We own, develop, construct, and manage commercial real estate, including a significant percent of our business being student housing, a portion of which is here at Purdue University in West Lafayette, as well as Bloomington, Indiana, and Champaign, Illinois, at the University of Illinois. So I have a unique perspective of being our legal counsel and worrying about the ordinances in the communities in which we operate, as well as having, I think, significant insight—I say this humbly, but significant insight—into student housing operations. The main purpose for the housing inspection regime, as you well know, is to reduce nuisances like noise, trash, litter, parking issues, traffic issues. We understand that. I know you understand that. And it's no secret that West Lafayette's regime is largely aimed at student housing and Purdue students and their impact on the community. We appreciate the fact that the current ordinance is ambiguous, and something needs to be done. So we appreciate your effort. My company works hard to maintain and manage our properties well, and have an excellent code and maintenance inspection record with the City of West Lafayette. But we live in fear of the current over-occupancy code, as well as the proposed draft. And we shouldn't have to live in fear of it, because we operate our properties well. We're very diligent in having our units certified. We have an excellent track record with regard to code enforcement, and we are hyper-vigilant when it comes to the allowable legal occupancies of our units and our leasing process, move-in process, and verification of the actual number of tenants residing in our units. But that's not good enough under the current code or under the proposed code. The current code makes owners and managers into policemen and spies against our own residents, and makes owners and managers the enemy of the City. That's due, in part, to the specific steps that are required for compliance, and it's also due, in part, to the exorbitant level of the fines which, as you're well aware, are incurred on a daily basis. And I'll talk about the stealth resident later in my comments. My main goal here today is to seek the opportunity for both the Indiana Apartment

Association, who I've been working with, and the local Tippecanoe County Apartment Association, who I've also been coordinating with, as well as local landlords, to have a seat at the table, to have the opportunity to have input to the ordinance draft with the goal of having the best possible product as the output. The existing ordinance provides that it "shall be the continuing duty of the owner and manager to personally monitor the occupancy of the dwelling unit, and to ensure that it is not occupied by more persons than maximum allowable occupancy." If the owner or manager fails to diligently manage the over-occupancy, then they are subject to huge daily fines. This begs the question—and the current proposal draft begs a lot of questions which I'm going to go through in the spirit of highlighting potential unforeseen circumstances in it, with a constructive attitude—how is an owner or manager supposed to detect over-occupancy? Well, it's easy if the maintenance man or leasing agent or other personnel spot an extra bed in a bedroom or somewhere in a unit. That's a no-brainer. In that circumstance, it doesn't spook me. We have detected that in the past, and we deal with that immediately. But what if the over-occupancy is not so obvious? What if the extra occupant is sharing a bed, or is on the couch, and there aren't tell-tale signs? How is the maintenance man or leasing agent supposed to differentiate between a guest and an illegal occupant? It's much more difficult. A guest is someone who resides in a dwelling unit less than 25% of the time. I'll note that that's also somewhat ambiguous in the code. 25% of what? Is it 25% of week? Month? Year? etc. But how are we supposed to sufficiently observe if the individual is there more than 25% of the time? Should the maintenance man or leasing agent interrogate the suspect? These questions are raised by the significant ambiguity present as the code is currently written and as drafted. And the draft raises a lot of questions that we will hope to address in a cooperative working session. First, the code sets a problematic minimum threshold of seven activities an owner or manager must satisfy, and adds explicitly that they must also take other steps, based upon their particular circumstances, but gives no guidance as to what those additional steps or activities should be. Are we talking about video surveillance of parking lots? I don't know, but as a landlord, I'm required to guess, and, having to guess, when I'm wearing my legal hat, makes me extremely nervous. The ambiguity is unnecessary and problematic. We can address it with some tweaking. Second, steps labeled (D), (E), and (G) in the latest draft—which, by the way, I just saw for the first time today—step number (D) provides that "an owner and manager must monitor cars regularly parked at the property for additional occupants." How does the owner or manager know which cars are parked regularly? Do they have to keep a log? How often? Once a day? Once a week? Every 30 minutes? And what frequency of detection of an unknown car necessitates an investigation? So if I see a car that is there regularly on some basis, what do I do about it? How do I know where that car goes? This goes also to the question raised earlier, are we dealing with a 300-unit apartment complex, where parking may be anywhere on the property? Or are we dealing with a house where there's a very small lot? Those are completely different circumstances. But how do I trace that unknown car to a unit, and then what do I do about it? The ordinance is silent as to that issue. Do we confront them? Here's another rub: The guests drive cars, too, and guests are allowed to be there. So how do I distinguish between an illegal occupant's car that's not permitted, and a guest's car that's not permitted? It just raises a host of issues. And how do I distinguish between a girlfriend or a boyfriend that stays over a lot, and a girlfriend that stays over more than 25% of the time? When an owner or manager determines that that boyfriend or girlfriend is no longer a guest and is an illegal occupant, because they've crossed that bright line 25% threshold, then what do I do about it? Do I go get a restraining order against the girlfriend? She lives two blocks down the street. It puts the owner or manager in a very difficult situation. And it forces me, as a landlord, to intrude substantially into the lives of my legal residents, and I don't want to be doing that. I want to be having a positive relationship with my residents, so that they renew and they have a good experience at my property, at Purdue, and in West Lafayette. Step number (E) provides that "an owner or manager shall not accept payment from non-parties to a

lease.” This begs a lot of questions. How do I distinguish between residents whose rent is being paid by someone other than themselves, a parent with potentially a different last name? A sponsor? Or any number of situations where the resident is not writing a check themselves. And what about online payments? We take online rent payments, and, for security reasons, we don’t necessarily who paid that bill. We have a name associated with it, a resident name, through the payment process, but I don’t know whose credit card necessarily it was done on. How am I supposed to monitor who’s paying the rent through our online credit process? And I’d note that even banks sometimes screw up. We have checks that clear our bank that were never even signed. And so banks, which are Fortune 100 companies with the most expensive systems on the planet, miss the boat on this, how are the small property management companies supposed to have systems that are foolproof? Because if you’re not foolproof, you’re subject to the fines. Step (G) provides that “an owner or manager shall monitor the number of occupants observable.” I note first that the word “observable” is used, rather than “observed.” The difference is significant. It doesn’t matter how many occupants the maintenance man actually saw when he went into the unit, it’s what’s observable, what he could have seen, which begs the question, if he didn’t look in the bedroom but there was an illegal occupant in that bedroom that he could have discovered had he entered, you’ve on the hook, under the current draft. Which makes me put my maintenance men into the position of being a peeping tom, when they’re in a unit, they need to look in every bedroom and every closet and every bathroom for the wet toothbrush, the sign of an illegal occupant. And I know that wasn’t your intent. Let’s also assume that my maintenance guy goes into a unit and he sees four guys sitting on a couch, playing a Wii. Next time he comes in, he sees four guys sitting on a couch, playing a Wii. And so on and so forth. And this guy has all 500 of his tenants memorized, and he sees that two of those four guys repeatedly are not legal residents of the apartment. What should the maintenance man do? What should the property manager do? What should the owner do in that situation, where they’ve seen two guys—we don’t know who they are, we don’t know if they’re guests, we don’t know if they’re illegal occupants--what do we do? I think, in order to comply with this, as drafted, we have to interrogate those guys. And my maintenance guys aren’t trained interrogators, and they’re not going to know if they’re being lied to. They’re not trained like the West Lafayette Policemen, in signs of the eyes scooting off to the right or the left, whatever it is. They’re not going to know, and they don’t want to be in that position anyway.

And I know that wasn’t your intent. What happens if there’s a very stealthy illegal occupant—I promised I’d talk about this—that slips past my extremely paranoid maintenance staff and leasing staff, and goes undetected, in spite of our diligent activities monitoring for one day past the three-month guest period? He goes past that 25% that first day. We’re on the hook for an \$18,400 bill for our first-time offense. Then, I still have that illegal resident in there. I suppose I have to evict him. Let’s suppose that that takes another three months, to actually evict them. Am I getting fined another \$18,400 for the next 90 days? Probably, under the current draft. And I know that wasn’t your intent. What if, next year, I have a second stealthy illegal occupant—I don’t know, they’re hiding out in the closet, whatever, we don’t detect them—we’re on the hook now for \$230,000, when they cross that 25% threshold, they go from guest to illegal occupant. And then when I take 90 days to evict them legally, get them out of there, I’m potentially on the hook for another \$230,000. And I know that wasn’t your intent. Because that’s a good landlord, in my hypothetical, that’s doing reasonable steps. In an ambiguously-written ordinance, we go to the trial of fact, and the steps weren’t good enough. And I know that wasn’t your intent to subject good landlords to \$250,000 and \$500,000 fines. So, what do we do? We continue the process that you’ve already started. We craft a reasonable ordinance with input from local landlords and apartment industry professionals that operate the business and can ask these questions about potential things that were not foreseen in the drafting and unintended consequences of the language that’s being selected. We explicitly define the duties of the landlords and use simple, straightforward standards. We limit

owners and managers' fines and penalties to situations where there was known or they should have known that there was over-occupancy, and we don't hold good landlords accountable for stealth residents. Only willful violations of the ordinance that you've crafted. And then you put the owners, managers, residents, and the City together, working as a team to craft something that works for everyone. Fourth, I want to point out as currently drafted, this places huge administrative burdens and costs on landlords. As currently drafted, there is huge, inordinate record-keeping. Putting on my legal hat again, I see this, I am terrified of that \$230,000 or \$500,000 fine, which is going to force us to paper every file. We're going to have to log every car—and I don't even know how we do that. I think I'm paying somebody to monitor a video camera, watching parking lots and mailboxes. And I know that's not your intent. And I know you don't want to do that to landlords that are already suffering from property tax increases, utility cost increases, labor increases, etc. When this ordinance could be narrowed to apply to the areas that you're most concerned about, specifically the unit types, where you're having the problems. Exclude the unit types where you're not having the problems. Narrow it to the area where you're having the problems, and leave the areas where you're not having the problems alone. There's no reason that apartment owners that don't have issues with over-occupancy need to be burdened. And I'll note that our portfolio is largely in the area that would be targeted, so I'm saying that without my own self-interest at heart. Owners and managers would not be subjected to ridiculously high daily fines, whether for the first time offense or for additional offenses. Except in the event of intentional willful violation, stealth occupants would not subject an owner to fines and hundreds of thousands of dollars. The goal is not to fine landlords, and I think you all agree with that. The goal is to solve the issue of over-occupancy and reduce the nuisance, the discovery of the problem and curing it. That's what the ordinance should do. I would ask that you reconsider tabling this ordinance and convene a working committee with representation by the Apartment Association and reputable local landlords, to craft an ordinance that accomplishes your goals in a manner that is manageable by local landlords, most of whom are good operators and are not part of the problem. Thank you.

Councilor Keen said can I ask a question?

Mayor Dennis said go ahead.

Councilor Keen said if I heard you right, are you an attorney of some sort?

Mr. King said I am.

Mayor Dennis said of some sort?

Councilor Keen said I just wanted to clarify for the record that you are an attorney. That was my point. In your opinion, does this ordinance, as it's written impede or violate the civil or legal rights of the occupants?

Mr. King said I will try to answer that, with somewhat of a non-answer, but I think that the large majority of local landlords would not be able to comply, to actually comply in a substantive manner with the current ordinance as drafted. So I think what you'd end up having is the extremely professional operators, the ones that have actual risk management personnel, are going to see this and freak out, and are going to start creating extremely expensive, labor-intensive systems, in order to create logs and records to comply. I think there are very few local operators that have the sophistication or the desire to expend the money to do that. And so I think, probably, the people that are violating right now are going to continue business as usual. So the folks that don't comply, obviously, I don't think there's an issue with civil liberties. With

the folks that do comply, I think it's problematic. I don't want my people looking in our residents' mailboxes, for example. I think that's just not—

Councilor Keen said my understanding is that's a violation of federal law anyway.

Mr. King said yes, I think that's not a good practice. But I think there are ways to craft this ordinance that achieve the goals of the City Council, without bumping into those kinds of areas. So I think that there is a common ground. I think that the goal can be accomplished.

Mayor Dennis said thank you.

Mr. King said thank you.

Mayor Dennis said further citizen comments?

Councilor Roales said Mr. Mayor.

Mayor Dennis said Councilor Roales.

Councilor Roales said I can go now, or we can wait for all the citizens' comments.

Mayor Dennis said let's wait, if you would, please.

Councilor Roales said okay, thank you, Mr. Mayor.

Mayor Dennis said Mr. Burgett.

Mr. John Burgett [510 Main Street] said I'm not going to say hardly anything here, because I don't want you to forget a thing that he [Mr. King] just told you. I would have said approximately the same thing. I'd have talked about having the parents' car towed, you know, because we don't have it on the sheet. All of these things that he talked about are very, very true. The novel thing that I see here is the one-fourth of the time thing, and the problems it's going to present. I also see the landlord certification program as a wonderful opportunity for trial lawyers, because you certify a landlord, the City says, "This is a good landlord." And when they have a fire, somebody's going to sue the City for \$3 million, because you recommended him. Don't forget what he said.

Mayor Dennis said thank you. Next citizen comment.

Mr. Eddie Van Bogaert [Chairman, PSG Senate Committee on Government Affairs] said [PSG] President Kline gave me the opportunity to come up here and speak on his behalf and on behalf of the students who make up, in my opinion, a lot of the renters we're talking about here. I want to thank the Council for addressing what is a very difficult and pressing issue. You know, we want to make sure we have a good ordinance here to control, to keep us safe on the other side of the bargain. I like the certification program. It appears to be an excellent compromise that uses good incentives for landlords, instead of penalties. I would note that I do have a student concerns, page 5, Section D, item 4, parts (D) and (E), which are the counting the cars and worrying about checks made from other parties. As a student who used to have a parent come forward and help me out with my rent, this was a little bit of a concern of mine. And I do have an assigned space which I really rarely park in, just because it's very difficult. Purdue and West Lafayette, in my area, really don't do a good job of providing a lot of available parking. I think

this will just present additional issues. But instead of throwing out the whole thing, because I do support the spirit of the bill here, maybe looking at an amendment that would remove those particular items from the bill. In really looking forward to, you know, a solution that protects students, you know, maintains good relationship with our landlords, and, most importantly, addresses the court's concern with the ordinance as it stands. Thank you, Mr. Mayor.

Mayor Dennis said thank you. Other comment?

Mr. Ted Wachs [505 Evergreen Street] said I must say, when I heard the first speaker, I had a question that obviously I can't ask him directly. Maybe somebody on the Council can, but the first speaker said that good landlords are doing very well, they're doing okay in the sense of, you know, monitoring their property, making sure there are no problems, but if it's so difficult to monitor, we heard all the reasons why they can't monitor, how do they know that? How do they know that, in fact, they're doing a good job, when we've heard all these objections about why you cannot monitor, basically. I think the other thing I would like say is that we will get input from a lot of people, saying this is a hardship for them. I would also like the Council to consider that this lack of an ordinance, this kind of ordinance, will be a hardship for the neighborhoods, those of us who live there, those of us who pay taxes, those who have to deal with the consequences of trash, overcrowding, and, if you will, seeing our properties deteriorate. We very much applaud the efforts of the City in terms of code enforcement. I think it's a fantastic thing, but if some of these fundamental issues are not dealt with, like overcrowding, then I'm afraid these great efforts are going to go to naught, basically. No, this is not a perfect ordinance, and from the viewpoint of those of us who live in the neighborhood, if anything, it's a bit too lenient. We'd like a little bit stronger code enforcement. We recognize there have to be compromises. And so we are afraid that narrowing is just another word for watering down. And watering down is not going to help the neighborhoods. And I hope when you vote, you will consider not just the landlords, but also the neighborhoods. Thank you.

Mayor Dennis said thank you. Further citizens comment?

Mr. Brad Heiss [501 Riley Lane] said I have two rental units. I park at one every day, when I walk to my job at work. I'd like to share some of the experience that I've had with that, as to why— Well, before I get into the experience, let me comment that I'm not against ordinances, I'm not against trying to make a better City, I'm not against trying to, you know, not have overcrowding or bad neighborhoods. I'm not against those issues. But I don't think the way West Lafayette approaches a problem is appropriate. Instead of Glasgow, we have a sister city right across the river, and there are no regulations on renters, because I've rented over there before. Maybe there are, but they're so watered down and not checked on that it's nothing like the police state that West Lafayette lives in. I think that we ought to wear a Star of David— when you put stickers inside people's houses, to let other people know that you are renting from somebody, I think that's terrible, that's disgusting. Okay. I also, on my experience, getting back to that, I park there every day. I've seen people come out of my rental unit that are possibly guests, and I've had the option to go up to them and say, "What are you doing here?" Is that an appropriate behavior, to approach somebody like that? I don't think that's appropriate. I think if this is a community that people are proud of— You know, why don't you instill pride? I've lived in many towns across the world, and there are better towns than West Lafayette, and I have a piece of property in a town that doesn't even have a police force. The houses are impeccably neat, people have a community pride. Why are we doing this with a wall? Why are we approaching people— The only way that I can find out if I have violations is do I have to go down in to my basement every night? And I would have to do this several times, because people come and go at all sorts of odd hours. Students don't do an 8:00 to 5:00. So I would

have to search my apartment every day. I'm concerned about this also, because I don't want additional people in my rental unit. I don't want others tearing it up. The added usage of the property that I put money into to make a nice presentable place, if there are multitudes of people using that place, it'll become a dump. And, you know, there's another thing about owning property, and if you've ever done property owning, is, if you keep a well-cleaned established rental unit, you don't begin to have the problems. It's like graffiti; it kind of grows. If you don't pay attention to it, it gets out of hand. So you have to pay attention to your rental unit. Now, I think that we need to put some more time into this, but then, I know this Council sometimes, you know, "My mind's made up. Don't confuse me with the facts." So I really wish you would listen to this, and give a longer period of time to do a good job, rather than a knee-jerk reaction. And, no, as a rental owner, I didn't know anything about this until I came to this meeting tonight. Thanks.

Mayor Dennis said thank you, sir.

Mr. Umesh Patel [1135 Kingswood Road South] said I'm a new landlord to the area. It's interesting, taking a look at this ordinance here, and I have to echo Mr. King's discussions about the ordinance. It's very ambiguous. I don't know what I need to do to follow the letter of the law. I'm really concerned about part (E) in here about payments. And it's just odd to me that in this country, that we're restricting trade to some degree, that a business has to take money from a certain individual and has to document that. I just find that very odd in this ordinance, completely. So my two main issues here, one is the ambiguity. How am I going to enforce this? I don't know. And then, specifically, (E) is just very, very odd to me. Thank you.

Mayor Dennis said thank you, sir. Mr. Stein.

Mr. Don Stein [1400 Ravinia Road] said I've been a landlord for both large and small units for 40 years, never had a known issue with either the City or a tenant. But, realistically, I'm also a businessman running 11 businesses, and I don't see how it's possible for me to comply with this ordinance as it's written now. I would strongly suggest and urge that we get some more mediation, so that we have input that will work compatibly for all. Thank you.

Mayor Dennis said thank you, sir.

Ms. Diane Damico [128 Blackhawk] said I just was thinking about the online payments. I didn't think it was such a big deal. I pay tuition online. I have to be an authorized user on my son's account. If he wants me to pay it, he'll put my name on there. I think that's the same with a lease; if you want to get a payment from someone else, online or by payment, I think it would be not too hard to do. I don't own 700 units, so I could be wrong about that, but Purdue's pretty big, and they take my payment. I also think that we did already discuss the parking, so when people bring up they can't monitor that, apparently we have been able to do that, so I think it's sort of a non-issue. And I feel a little bit awkward about the use of interrogation and looking— And no one's just said, just ask. If there's four guys playing on a Wii, say, "Hey, you guys all live here?" Doesn't seem like an interrogation. But wasn't the point of the way it was written was what came out of the court case from last year. And so these were not things that somebody just made up. We're getting too far away from why this was even changed, and hopefully somebody will go back and say the intended audience for this was to make a stronger case. I remember Attorney Burns saying we don't want to be too specific on that, because then there's going to be wiggle room. You can go into that if you want, but it seemed like we didn't want to have point-by-point-by-point, because that even made it more of a problem in a court case.

Mayor Dennis said thank you. Further discussion? Yes, ma'am.

Ms. Linda Chase [522 Stockdale, Lafayette] said I'm a property manager, and I've been a property manager in this area for over 20 years, and I've done a lot of student housing. When I look at this ordinance and you're talking about going into students' apartments, I go into students' apartments all the time. They don't like to be interrogated, they don't want you to be their parent, they want to be on their own, they want to be adults. So when you go in there and say, "What are you doing? How are you doing it? What are you doing?," they don't want that. And that's what you're asking us to do. The parking is a nightmare. And, yes, we do monitor it, and, yes, we do have the people come through and do the towing and all of that, but then we get the parents calling us, saying, "You towed by son's car. He was there visiting with someone, and now we have to pay \$300 to get the car back" and all of those things. So all of those things happen, and those all come back to the landlord, to the manager, and we have to deal with them on a daily basis. And so we're dealing with that day after day after day. We can't go out there and do the inspections like we should; we can't do the things to keep the property up like we should, and doing all of those things, because we're doing all these little tasks. And then the other thing is what about subleasees? I bet there's nine out of ten students that come in and sublease in the summer. Are we going to do affidavits again in the summer, after we've done them? You know, they're still on the lease, but they're subleasing to someone else, so they're there sometimes six months, sometimes three months. It kind of just depends on what, you know, are we going to be required to do those things? And I think that, you know, if we want these in here, we need to say, "This is what needs to be and what needs to happen," so we as managers can follow down what we need to do, to make it straight. If you're going to say it, then just say it. That's all we need to know.

Mayor Dennis said thank you. Yes, sir.

Mr. Alex Cabot said I'm a recent graduate of Purdue University and also I work for a property management group here in the area. My question is in regards to the section (E), not receiving payments from persons other than the ones listed in the lease. I just have a concern as to how this coincides with Fair Housing regulations in regards to national origin for international students that come in. The property I work for does have a lot of international students that come in that don't have, let's say, the necessary means of making the payments on their own, in regards to deposits, application fees, rents, especially when they first come to this country. To meet such of those qualifications usually takes a few months, and usually need people to make those payments on their behalf. By saying they're not allowed to pay that, I'm just concerned of how that affects them. Are we discriminating because of their national origin? Because therefore we're saying they cannot make the right payment to live in our property. That's my concern. Thank you.

Mayor Dennis said thank you. Further citizen comment?

Mr. Mark Conover [Director of Communications and Public Relations, Indiana Apartment Association] said first of all, I'd like to thank all of you for the hard work you've put into this issue. Don't perceive the attendance of the Apartment Association here tonight has an attack on the issue. As many of you know, the economy and the increased property taxes have hit the apartment industry hard. The ordinance you're considering would add another burden to owners, especially for those with more than four units. I'm here tonight to ask, on behalf of our members of the Indiana Apartment Association, that you reconsider and table this issue until our representatives from the multi-family industry can provide input. Thank you.

Mayor Dennis said thank you, sir.

Mr. John Sprunger [2305 Wake Robin Drive] said I am chief operating officer of Granite Management. We manage more than 700 students in the greater West Lafayette area. I'd like to speak in regards to comments that [Councilors] Hunt, Bunder, and Roales said, about how this has been on the table for six months. The audience changed in this latest draft, from what I'm aware of, to include more than single family and R2 people in some of these ordinances. While sitting here, I texted some people that I manage for—well established members of the community involved in their properties regularly—they had no idea that this was going on tonight. So I just second the motions for an extension, since the audience has changed, so the public can respond to this accordingly. I also second everything that's been said in regards to point 4, about the complexities of that. And just to clarify the parking issue, we issue parking passes at the beginning of the year to tenants. Once they have that pass, they can put that in their car, or they can move it to their mom's car, or they can do different things with it. They could also choose to move that to the car of someone who's living there that shouldn't be living there. So it's not as clear as it seems. Some of the smaller places, we are able to get license plates and some of that information. Some of the places have more parking, we issue the tenant a parking pass, and so it's not as clear. They could put that parking pass in someone else's car that shouldn't be living there. Our goal is to comply. I think something needs to be done. We haven't had any issues. But some of these things, I agree with everyone that said it's going to be virtually impossible to be compliant. And, to respect our tenants, the students at Purdue that we enjoy working with, who we've heard from tonight that also think that this is not appropriate in its current form and needs to be changed. We've heard a lot of people speak, from landlords to property owners to large complexes to students, and when I hear all of that, I get real concerned that it's thinking about moving ahead.

Mayor Dennis said thank you, sir. Anybody else?

Ms. Carol Czaja [505 Evergreen] said although Ted [Mr. Wachs] and I don't always agree on everything, I have to say that on this issue, we need to look to the City. We're listening to all these landlords, and it's very powerful. Who's going to take care of us as property owners. That's all I really wanted to say, that we look to the City for help. Thank you.

Mayor Dennis said thank you. Other public comment?

Ms. Mary McKeown said I have lived in West Lafayette 23 years, and I appreciate everybody's comments. I think we're losing sight. Maybe the ordinance needs a little tweaking, but it's all about safety for all of us, the students and the homeowners and the landlords. I love the community I live in, but I've seen a lot of problems not addressed. There's raccoons, there's trash, there's too many people living in over-occupancy, so there's more trash. I think it's about safety for all of us. Maybe some tweaking, some input from the landlords, maybe some homeowners. I hate to delay your approving this, but thank you.

Mayor Dennis said thank you. Mr. Kesler.

Mr. Thomas Kesler (479 Maple Street) said I'll just add my presence to the residents' side of this issue. I want to express my continued worry about the conditions in the New Chauncey neighborhood. I'm still picking up trash, I'm still removing concrete from the alleys and sidewalks. This morning I went to work and saw the truck parked on the public sidewalk across the street. I do want help from the City on the issue. I think we have a long-term problem, and I'm glad to see something on paper. I'm glad to see people from both sides standing up here

and giving their thoughts, but I would like to ask one question. How was the activity of this amended ordinance advertised? Anybody could take that question. That's all I had.

Mayor Dennis said thank you, Mr. Kesler. Anybody want to address the question?

Councilor Bunder said the ordinance was introduced in April, has been the object of public discussion, the work of three committees. I don't know what else you could do.

Mayor Dennis said further citizen comments?

Mr. Sprunger said how has the ordinance been advertised in its current state? You said it's been an issue of public discussion, but in it's current state, how has it been made available to the public?

Clerk-Treasurer Rhodes said ordinances are filed on Agenda Day, which is 10 days before the Council meeting. The ordinance as amended from the May meeting, I believe—well, actually from the April meeting, and then postponed from the May meeting until September 14—that ordinance was associated with the Council agenda. The ordinance that we have distributed tonight was provided about six days later [September 9], the day before our Pre-Council meeting. All the Council members had it at the Pre-Council meeting on Thursday, September 10, and then the Council did not take any action at that meeting. So this is the first night at which the Council is considering taking any action on the amended/final version.

Mr. Sprunger said I'm just trying to analyze what you said. So if it was put on the agenda, like most things are, but not required is what I heard you say earlier, if I understood it correctly.

Clerk-Treasurer Rhodes said it wasn't put on the agenda.

Mr. Sprunger said it was not put on the agenda.

Clerk-Treasurer Rhodes said it was not submitted on Agenda Day, so it didn't become part of the items that are provided to all the Council members and posted for the public to access. It was provided on September 9, six days later.

Mr. Sprunger said just to clarify, it wasn't posted in the manner that the community can normally expect to understand what's going to be ahead at the meetings. Is that—You said a lot of dates, and I'm new—this is my—

Clerk-Treasurer Rhodes said Councilor Bunder provided it to our office. He wanted to make sure it was available to the Councilors on the Pre-Council day. That was, I believe, his instruction to us.

Councilor Hunt said may I ask a question? It was on the agenda. It was on the agenda. I mean, this is the agenda I received.

Councilor Burch said amended?

Councilor Hunt said it says amended.

Clerk-Treasurer Rhodes said but version of the ordinance was not put on the agenda, because there was no official action of the Council. The Councilors discussed that they would perhaps

consider it on Thursday, but they took no action at Pre-Council to put it on the agenda, amend it, take any official action.

Mr. Sprunger said okay. I think you answered my question. Thanks.

Mayor Dennis said further citizen comments?

Mr. Heiss said living in this town, family since 1893. Not newcomers. I live in a house. I have rental units around me. I'd like to make a proposal. You can always find us when you want to divvy out a fine, no problem there. So why won't you find us when you want to change something, send us a letter? That'd be really nice. Thank you.

Mayor Dennis said thank you, sir. Other citizen comments? Comments from the Council?

Councilor Roales said Mr. Mayor.

Mayor Dennis said Councilor Roales.

Councilor Roales said first I want to start by thanking all the petitioners tonight. I mean, it's not easy to give up an evening of your life to come here and sit through a meeting, and I appreciate the time and effort and input and the diverse opinions. It is the diverse opinions that make this community really special, so I appreciate that, from landlords, from tenants, from students, from community members. So thank you. You know, there's a lot of discussion about the timeline of the ordinance. Most of the petitioners tonight questioned the changes on page 5 or 117.08. That language has been unchanged for six months. That language has been unchanged for six months. You know, it's been in the public eye and the public record in the exact form it is today for six months. That section. And so concerns of that section, I believe at this point, are purely policy and philosophical. And, you know, there's a number of opinions. We have two attorneys that have weighed in on this and feel that this is good law and that this should proceed. We have case law that concurs with that. I believe a lot of the questions on the specifics on how this will be implemented are not the purview of code, should not be written into code, and should not be undertaken by the Council, but should be defined by the courts through case law process and the administration through their enforcement process. And so, I appreciate the concern about the questions about how these things will be implemented, how they're expected to be implemented by both the City and landlords and by students. I would ask that you allow the City to implement the program and refer to them when it's being implemented and refer to the courts. Here tonight we have in the Neighborhood Resource Team report, three over-occupancy investigations currently ongoing. Well, as those proceed, hopefully they won't reach the point where they go to the courts, but at some point a case will, and at some point a case law will be established again, under the new ordinance. And so the City's been incredibly reasonable with their code enforcement. I mean, we have a great program here that I feel works well with all of the constituencies. I would expect the same great program that works well with constituencies to go forward. I wouldn't expect them to be unreasonable or extreme in the enforcing of, you know, what cars are parked. I mean, we're dealing with rational people that like to work together in a community. I mean, I don't think that's going to be thrown out the window with the passing of this ordinance. And so, you know I understand the challenges of managing apartments in this City. I understand the challenges financially, compliance-wise of dealing with students, with tenants, and it's a complex issue. And we've taken six months to look at it. We've put a lot of effort into it by a number of committees, and I'm happy and proud of the effort that's gone into this. I think it's a good ordinance, and I again thank everyone for presenting their views. In the future, you know, I think, through the City's website, which we've

done a tremendous amount of work on over the past year for which I thank the Mayor, we've increased the amount of visibility of ordinances through the Clerk's work to help post those ordinances as they come in, through the website. You can now see ordinances much sooner, as they're proposed and as they're filed, than previously. And so we'll continue to do work in that area to make proposed ordinances more transparent and our process more transparent and give more advance notice. We hear that complaint. We hear that. We'll work to do a better job. But my concern tonight is most of the complaints about page 5 or 117.08 have been public record for some time. Those are not new, those are not sprung on the audience tonight. And so I would hope that we could get a policy-driven vote on those changes tonight. Thank you, Mr. Mayor.

Mayor Dennis said thank you, Councilor Roales. Other Councilor comment?

Councilor Keen said Mr. Mayor. I would just like to remind everyone that whether or not this particular version gets voted up or down tonight, we have an ordinance on the books that will ensure the safety and welfare and the well-being of the residents of our City. It's not like we're throwing the old one out and, you know, going with nothing here. Whatever we do with this, we still have something there. But I am still greatly concerned about the number of people who got up tonight and just are asking for a little bit more time to get input from other agencies and other people who have a vested interest in this process. I would like to offer a motion that we would postpone consideration of this ordinance until the October Council meeting.

Mayor Dennis said so we have another motion on the table to postpone until a time certain in October.

Councilor Dietrich said second.

Councilor Roales said Mr. Mayor, point of order. I'd ask Mr. Burns for the Robert's Rules interpretation of proposing a motion which has already been rejected.

City Attorney Burns said so long as it's time certain and it's a different date, then that is an appropriate motion.

Councilor Roales said thank you.

City Attorney Burns said as opposed to a table, where there would not be any debate. This is open for debate.

Councilor Roales said thank you.

Mayor Dennis said so we have a motion and a second to postpone Ordinance No. 3-09 (Amended) to time certain in October. Discussion?

City Attorney Burns said and a second?

Mayor Dennis said we've had a second.

City Attorney Burns said thank you.

Councilor Keen said I would just like to say I think the people have a right to be heard, and regardless of how long this has been under consideration, there are people here tonight—

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whether this has been under consideration for six months or six years—this particular version was the first time they've heard it tonight, and they deserve an opportunity to be heard.

Mayor Dennis said and, Councilor Keen, just point of clarification. I presume you mean for the Council meeting in October?

Councilor Keen said yes.

City Attorney Burns said that's the specific date.

Clerk-Treasurer Rhodes said October 8.

Mayor Dennis said further discussion? Non-repetitive public comment, please.

Mr. Loren King said I want to make just a few brief comments. One, I appreciate the fact that this ordinance has been worked on for six months. That's a long time, and I know that everyone here has put a lot of effort into it. I just wanted to point out a couple things. One, I did personally, on behalf of the apartment association, reach out to get involved, and I just learned today that I missed some messages—I don't know how—from Mr. Dietrich. So we have wanted to be involved for months now, and frankly just thought that our involvement wasn't wanted, when in fact that wasn't the case. It was a mis-communication. But it's not too late. Secondly, I've been waiting with significant interest, to see what the output was going to be from the working committees. We knew that there were three working groups going on, and it was a black box, from our perspective. We didn't know that the product coming out of those was going to be, and I'm seeing that for the first time tonight. So, regardless of who was involved or not involved during the past six months, there has been this ongoing drafting that we were hopeful about. And we're just hearing about that tonight. And now the audience and the folks—West Lafayette residents and landlords—are now having the opportunity to provide feedback on the work product of those work groups. So I don't think that the window should be closed. I think this is a great opportunity to continue the process that you've already been working on. Lastly, I would like to point out that there was a change, there was a significant change to code section 117.08, paragraph (d), that I think is extremely significant, and it's an example of the kind of input that you could get, if you were working with industry professionals. The last version that I saw, and maybe you can correct me if it wasn't, prior to tonight started off with the phrase—as far as the red line—“such personal monitoring of occupancy should include the following steps, as well as others that are reasonable under particular circumstances:” and then it had the seven steps. Tonight's version starts with the red line after block paragraph (d), “It shall be a violation of this chapter by the owner or agent to:” and it has a list of four items. The fourth of which, then, has the seven steps below. So there essentially has been three items that have been added to that paragraph. Number one, it has changed. So the question is, is the change significant? I would argue that it is significant, not because of the three items that were added before the seven steps, but because now, the way it reads, it is a finable offense in the situation where there is no over-occupancy, if the landlord failed to personally monitor the occupancy. So failure to monitor the occupancy in and of itself is now an offense, subject to first time fines of \$200 and second-time fines of \$2,500 a day. Now, I would argue that that was an inadvertent oversight on the part of the City Council that drafted this. I'm sure you didn't intend to do that. But you did. And there are other comments like that that we have, that we would like to share with the City Council, so that we can have the best final product possible. But that's not going to happen if the black box remains. So we would like to be invited to the table. We would like to share our insight to the unforeseen and unintended consequences of the draft, so that you

can achieve the goal of having the over-occupancy ordinance that you've been striving to achieve. Thank you.

Mayor Dennis said other citizen comments, specific to the motion on the table.

Ms. Mary Cook [former West Lafayette resident] said about postponing?

Mayor Dennis said yes, to October.

Ms. Cook said I am a former Council member that worked on the ordinance that's in place now. I fought very hard to keep the sticker not on the front door during the present ordinance's discussion process. What comes to me again is, in this motion to take more time to discuss the issues, is anyone on this Council currently a renter in West Lafayette? Or does everyone on this Council live in his own owned property?

Councilor Bunder said does my kid count?

Ms. Cook said it's not an invasive question, so everyone here is not subject to someone walking into your place of residence, at any time of day, under any conditions? That's what I fought for before and what jumped out at me this time. We all need to coexist, get along, we can't do anything in this town without our West Lafayette students, our Purdue students. We can't do anything without the community that lives here and takes care of the property and owns the property and the businesses. So to take one step back, one more month, and discuss how you don't invade upon a person's private property and rights. And how you give everyone the best safety and the best consideration. I don't think it's an unreasonable request by a lot of people who have been here tonight. Thank you.

Mayor Dennis said thank you, Mary [Ms. Cook]. Other citizen comments on the motion? Further Council comments on the motion?

There was no further discussion.

The roll call vote:

AYE	NAY
Burch	Bunder
Dietrich	Hunt
Keen	Roales
	Thomas

The motion to postpone consideration of the amendment of the amended final version until October 8 failed, 3-4.

Mayor Dennis said and now we go back to the top of the hill. We have a motion on the table to amend the ordinance as amended by substitution. It has been motioned and seconded. Is there further Council discussion?

Councilor Burch said Mr. Mayor, I just want to say that this Councilperson has not received any updates from the subcommittees, and it was my first time tonight to hear the subcommittee reports.

Councilor Keen said I would echo that.

Mayor Dennis said other comment?

Councilor Bunder said to the motion generally?

City Attorney Burns said to amend by substitution.

Councilor Bunder said didn't we already do that?

City Attorney Burns said we'll have to get that done. No, sir, we have not.

[overtalking]

Mayor Dennis said so we now have a vote on the motion to amend by substitution.

There was no further discussion.

The roll call vote:

AYE	NAY
Bunder	Burch
Hunt	Dietrich
Roales	Keen
Thomas	

The motion to amend Ordinance No. 03-09 (Amended) by substitution with Ordinance No. 03-09 (Amended/Final) passed, 4-3.

Mayor Dennis said now we're to the ordinance itself. Now we're ready to discuss this ordinance. Is there anything left?

Councilor Burch said Councilor Bunder, is one of the goals of this ordinance to make money for the City? I mean I'm not opposed to that.

Councilor Bunder said no. My pay doesn't go up, so, no, it's not to make money for the City. In fact, in some of these, given the landlord certification, we might lose some money.

Councilor Roales said Mr. Mayor.

Mayor Dennis said go ahead, Councilor Roales.

Councilor Roales said Councilor Burch, it's my understanding that Councilor Dietrich's subcommittee and Councilor Dietrich proposed the fine structure that's included in the ordinance at this time. Thank you, Mr. Mayor.

Mayor Dennis said other comments?

Councilor Dietrich said just for a point of record, it's still Councilor Bunder's. The subcommittee reported to Councilor Bunder; he had the choice and the option to put it in. We certainly worked on it together, but I don't take sole responsibility for it.

Mayor Dennis said other Council comment?

Councilor Bunder said well, first let me say, I'm happy to take responsibility for the ordinance. And second, to say again, the submission is a red herring. The question has changed to this extent, I think, and that is the most controversial portion of [Ordinance No.] 03-09 (Amended), not to be confused with [Ordinance No.] 03-09 (amended and final), was the material on security deposits. And, with that gone away, and with all of the rest intact, and, I would suggest not much altered except for the removal of commas in the entry of numbers in the later sections, this is the same ordinance that we began with six months ago. Is this ordinance producing anything that is a novelty? The answer is no. This ordinance produces nothing new. If you are disconcerted by the way in which the City of West Lafayette conducts housing ordinance and rental regulation, you will continue [tape change]. Nothing changes. The same policies. The same personnel are intact. What does change is this, in response to Appellate Court, we have done our best, quoting almost directly from the court decisions, to take those items which might help the prudent landlord make the best possible decisions about monitoring property. I can only say that our audience here, again, as the Whereas states, is the Indiana Court of Appeals. Our goal is to make it possible for the City to proceed as forcefully as possible in its enforcement of the over-occupancy ordinance.

Mayor Dennis said further Council comment?

Councilor Hunt said I need to ask a question, if I may. On page 6 of 6, (f), I think a period needs to be a comma. It looks like the fine goes from \$500 to \$1, and I think that period after 1—

Mayor Dennis said where are you?

Councilor Hunt said Clerk-Treasurer Rhodes found it. Thank you for reading it carefully.

Mayor Dennis said so what do we do, just consider it a scrivener's error?

City Attorney Burns said what is the intention? Is that \$1,000? I would direct that it certainly could be treated as a scrivener's error, without any need for a motion, so that 1_000 is 1,000 in (f) on the last page of this [Ordinance No.] 03-09.

Mayor Dennis said we'll not that in the record, please. Further Council comment?

Councilor Burch said Mr. Mayor, I just want to say that, based on what I've heard tonight and the short amount of time that I've had to go over this, I cannot vote for this.

Mayor Dennis said we will do a roll call in a minute. Further Council comment?

There was no further comment.

The roll call vote:

AYE	NAY
Bunder	Burch
Hunt	Dietrich
Roales	Keen
Thomas	

Ordinance No. 03-09 (Amended/Final) passed on final reading, 4-3.

Ordinance No. 18-09 (AMENDED) An Ordinance Vacating A Portion Of South Chauncey Avenue In The City Of West Lafayette, Indiana (Submitted by Dan A. Teder; sponsored by Mayor Dennis) **PUBLIC HEARING**

Councilor Keen read Ordinance No. 18-09 (Amended) by title and moved that it be passed on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said for our discussion, we have Dan Teder here. Dan, if you would, please.

Mr. Dan Teder [Reiling Teder & Schrier, representing the petitioner] said Mr. [Councilor] Bunder, if I were in your shoes with my name over there, I hate to imagine what I would be called. I will stop with that.

Councilor Bunder said I appreciate your concern.

Mr. Teder said again, I gave my comments at the last Council meeting, I gave by comments at caucus both times. This is 440 South Chauncey. It's the dead-end portion of South Chauncey. We have some easements coming back to the City that the City demanded. Those have been reviewed by Mr. [City Attorney] Burns, as well as the [City] Engineer Mr. Buck; they have approved those. This is all part of the PD that will come after this ordinance. I'd be happy to answer any questions that you might have.

Mayor Dennis said do the Council have any questions for Mr. Teder? It's been motioned and seconded—are we going to do them both at the same time?

City Attorney Burns said I'd do them separately.

Clerk-Treasurer Rhodes said we also have a public hearing. It's for the next one, the public hearing is, correct?

City Attorney Burns said after this, correct?

Clerk-Treasurer Rhodes said I think it's for the vacation.

Mayor Dennis said Council discussion?

Councilor Hunt said I have a comment, if I may, please. Mr. Teder invited me down to look at his property, and I'm not sure which one—[Ordinance No.] 18-09 or [Ordinance No.] 15-09—but this is a quite blighted apartment building, very old, at the end of a street. Mr. [Street Commissioner] Downey was there, and if I remember right, he didn't have any complaints, and felt that he had access for emergency, etc. I think this very well might be a big improvement for what's there. I had photos before, and I think they were impressive about, "We can do better than this."

Mayor Dennis said further Council discussion?

City Attorney Burns said we're going to want to get a motion for a public hearing.

Mayor Dennis said I need a motion for a public hearing.

COMMON COUNCIL MEETING MINUTES, SEPTEMBER 14, 2009, CONTINUED

Councilor Keen said I move that we open a public hearing on Ordinance No. 18-09 (Amended).

Councilor Burch said second.

Mayor Dennis said any discussion?

The vote to open the public hearing passed *viva voce*.

Mayor Dennis said we are now in public hearing. Any comments? Comments from the Council? Hearing none, I need a motion for the public hearing to be closed.

Councilor Hunt said so move.

Councilor Keen said second.

Mayor Dennis said the hearing is now closed.

There was no further discussion.

Ordinance No. 18-09 (Amended) passed on final reading, 7-0.

Ordinance No. 15-09 An Ordinance To Amend The Zoning Ordinance Of Tippecanoe County, Indiana To Rezone Certain Real Estate From R3W To PDRS [440 South Chauncey Avenue] (Submitted by Area Plan Commission)

Councilor Keen read Ordinance No. 15-09 by title and moved that it be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said discussion? Hearing none, citizen discussion?

There was no further discussion.

Ordinance No. 15-09 passed on first and only reading, 7-0.

Ordinance No. 16-09 An Ordinance Requesting An Additional Appropriation – Perimeter Parkway Fund (Prepared by the Clerk-Treasurer) **PUBLIC HEARING**

Councilor Keen read Ordinance No. 16-09 by title and moved that it be passed on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said motioned and seconded. Discussion?

Councilor Burch said Mr. Mayor, I have a question.

Mayor Dennis said go ahead

Councilor Burch said is there a particular part of the perimeter parkway, specific section, or is it the whole thing?

Mayor Dennis said Mr. [City Engineer] Buck, do you want to address that?

COMMON COUNCIL MEETING MINUTES, SEPTEMBER 14, 2009, CONTINUED

City Engineer Buck said the current part that we're working on is Phase 1A, and it's the first part of Phase 1A. Basically, it's Harrison Street, from Marsteller west to what's now called Jischke, formerly Intramural, Drive. The other part is through Grant and Chauncey and Williams Street; that's Part 2 of Phase 1A. This is for supplemental contract modifications Number 1 and Number 2, so that we can have that additional spending authority for those grant funds.

Councilor Burch said thank you, Mr. Buck.

Mayor Dennis said thank you for the clarification. Further discussion? We need a motion for the public hearing.

Councilor Keen said I move that Ordinance No. 16-09 be opened for public hearing.

Councilor Burch seconded the motion.

The vote to open the public hearing passed *viva voce*.

Mayor Dennis said we are now in public hearing. Citizen comments? Hearing none, I need a motion for the public hearing to be closed.

Councilor Burch said so moved.

Councilor Keen said second.

Mayor Dennis said the public hearing is closed. Any further Council discussion? Hearing none, any discussion from the public?

There was no further discussion.

Ordinance No. 16-09 passed on final reading, 7-0.

Ordinance No. 17-09 An Ordinance Requesting An Additional Appropriation – Cumulative Firefighting Building & Equipment Fund (Prepared by the Clerk-Treasurer) **PUBLIC HEARING**

Councilor Keen read Ordinance No. 17-09 by title and moved that it be passed on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said it's been motioned and seconded. Discussion? Hearing none, we are obligated to do a public hearing. Gerry [Councilor Keen], if you would.

Councilor Keen said I move that Ordinance No. 17-09 be opened for public hearing.

Councilor Burch said second.

The vote to open the public hearing passed *viva voce*.

Mayor Dennis said we are now in public hearing. Any citizen comments? Any comment from the Council? Hearing none, I need a motion to close the public hearing.

Councilor Keen said so moved.

Councilor Dietrich said second.

Mayor Dennis said we are now back in regular session. We have a motion on the table, Ordinance No. 17-09. Any further Council discussion?

There was no further discussion.

Ordinance No. 17-09 passed on final reading, 7-0.

RECESS

Councilor Roales said Mr. Mayor, I know we originally discussed taking a break after Ordinance No. 23-09, but we've been in session I guess a little longer than we expected at that time. Would it be appropriate to take a break before New Business?

Mayor Dennis said I would absolutely entertain that motion.

Councilor Burch said second.

Mayor Dennis said we're in recess for five minutes.

NEW BUSINESS:

Ordinance No. 19-09 To Rezone Certain Real Estate Within The City Of West Lafayette, Indiana And Designating The Time When The Same Shall Take Effect [202 South River Road] (Submitted by Area Plan Commission)

Councilor Keen read Ordinance No. 19-09 by title and moved that it be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said discussion? I see we have Mr. Teder still here.

Mr. Teder [Reiling Teder & Schrier, representing the petitioners] said I represent Jim and Sheila Cochran. Jim's present this evening; he would respond to any questions that you might have. As Councilor Keen said, this is 202 South River Road. It's approximately a 1.5 acre tract, and presently we have 32 units on this site, 16 one-bedrooms of approximately 649 square feet, 16 four-bedrooms of approximately 1200 square feet. We have existing parking of 98 parking spaces. The ordinance only requires 94, so we've met the ordinance requirement there. We are also 100% occupied at this site. We are requesting a rezone so that we can add 18 one-bedrooms and two two-bedrooms to this site. We will have 111 parking spaces; the ordinance only requires 107, so we satisfy the ordinance in that request again. In talking to a couple of the Council people, I think the question tonight is should R4W be an appropriate zoning in West Lafayette? I think that's really the issue here. You get to that when you look at units per acre. Any time you go over 15 units per acre, then you either must do an R4W or a Planned Development. That's how we got here. We looked at the Planned Development, however we thought that this was a better approach to it. One of the things with this site is its location; it's a very dense area, a lot of retail, a lot of commercial uses, and a lot of students in this area. Some people will call this the new downtown for West Lafayette; that may or may not be the case, but it sure has changed how West Lafayette looks a little bit. You see a lot more density in this area. We get even better bus routes down there perhaps. In listening to the last ordinance, maybe this is one of the solutions for the City of West Lafayette. This, in fact, will take from the neighborhoods—New Chauncey, other neighborhoods that have a lot of density—

and, in my opinion, help to bring that density down to an area where it belongs. I gave you a handout at Council caucus; I hope you all still have the handout. I only have a couple more, but I can pass those out, if somebody doesn't have it. On the first page of that, it just shows you the location, but I wanted to bring that out, because, if you look our location, it is presently zoned R3W. We have the eastern part of it is zoned GB, and surrounding it is all GB. Our units per acre presently are 14.65; with this approval, we would go to 20.01. The property to the west is zoned R3W; the property to the northwest is Linwood, and it has 35.07 units per acre. State Street Towers, just north of that, has 26.7 units per acre, and River Market directly north of us has 14.75 units per acre. All three of these examples show that what we're proposing is in the range and we're at the low end of that range, as well. The difference between what we're proposing, in my opinion, and what we have there is all of those started with a clean slate. They were PDs, but they started with a clean slate, which means that it was either a vacant piece of ground or what was on there was removed; they started from scratch. What we're doing here is adding to some existing units, so in my opinion, that's a reason to have the R4W *versus* the PD for this one. In a PD, you also go to Area Plan, you discuss the giving and taking. That's the reason for the PD. When we talked to Area Plan about that, one of the comments made was that, "You've already given." We're going to do underground parking here, so that was one of the elements of that. The second element of it, another reason for going to the PD is that you do variances. So you get away from the variances, you combine those in that PD process. We don't need any variances here. So another reason not to do the PD. Again, another element of it is that there's more engineering costs, if we would have to go back and do a PD for this particular one, because we already have an existing unit, *versus* the bare ground concept where it's an easier fix from the engineering standpoint. With that in mind, I want to go back to the handout again and just briefly go through it. The second page just shows you the number of parking spaces that we would have, which would be 111, with the new proposal. It shows you where those parking spaces would be located. The third page shows you the overlay of the new apartments that we're proposing, the 18 one-bedrooms and two two-bedrooms, which would sit in back, and they would sit above where the parking would be. That's how we would achieve the parking. But the real issue, I think, is, if you go to the last page, I think this is where the meat of the whole thing is located. Again, it talks about the address, it talks about the area, it talks about the number of units, it talks about the density. We've already done that. It talks about minimum lot area. We have more than is sufficient for minimum lot area. Minimum lot width, we have more sufficient for that. The maximum lot coverage, we are under that requirement, so we satisfied that. The minimum vegetation cover, we exceed that; we satisfied that. The minimum front setback, we've exceeded; the minimum rear setback, we've exceeded; the minimum side yard setback, we've met. The building height, we've met, and we've exceeded the parking. So I think one of the concerns perhaps with the R4W is, unlike the PD, are you going to give us what you say you are? Yes, we are, because if you look at that back requirement, especially under lot coverage and minimum vegetation, we're talking about 0.3%. So we say we're going to build 20 units. It's my opinion, after listening to my client, that maybe we could do 21 units. I don't think that's possible; he thinks it might be. But if you look at the lot coverage and minimum lot vegetation, there is the possibility of no more. You can't build it without having a variance or some other types of approval. So if we go in with no variances, what you see that we're proposing is what you're going to get. And I think further than that, my client has been in West Lafayette since the early 1980s. He built, developed units. His word has been his bond. He'd be committing suicide if he says before you, through me, that we're going to build 20 units and then come back and build 21. He could never show his face in here again. That's not going to happen. To me, I see a real distinction between this R4W and the PD, because the PD works the very best, and in this case, if it were a vacant piece of ground, it would be appropriate for it; that would work real well. But here what we're doing is an addition to an existing unit. You have all the protection in place, just like you would for a PD, allowing to

put the density in this particular area, which I think is where it belongs. I would respectfully request your approval. I'd be happy to answer any questions that you might have. Thank you.

Mayor Dennis said questions for Mr. Teder?

Councilor Roales said Mr. Teder.

Mr. Teder said yes.

Councilor Roales said is there underground parking currently on the location?

Mr. Teder said yes, there is. That's underneath the existing units, you can get to it two different ways. By both entrances, you go underground. If you haven't been to the site, it's a little difficult to understand that, but if you look at the drawing on the first page, you see two entrances, one on the south and one on the north; the one on the south, you go down and you get into the parking that way. The one where it says, "East Wood Street," you get to the parking underneath the apartments on the north that way. And then there's another driveway on the north, just south of the "East Wood Street," and then you would get to the rear parking that way—presently. So what we would propose is that you're going to come—if you go in on the one to the south, you go underneath the proposed apartments that would be built, you'd get to the existing apartments from East Wood Street. It's a little confusing, because we just have the overlays and the next two pages, but I think that gets the point across.

Councilor Roales said what would be the construction kind of timeline? When would construction begin there?

Mr. Teder said I think he's looking at doing it in the summer type of period. I'm going to say it probably takes less than six months to do that—I would say three or four months, in that period of time. Maybe not totally finished, but by the time you put the beams up and get the structure up above the ground, then I think you can do it on a more leisurely scale, but I think he's planning on doing that bottom portion during the summer, so it's less disruptive for any existing tenants that might be there in the summertime.

Councilor Roales said we've discussed previously—

Mr. Teder said yes.

Councilor Roales said and I'll just reiterate that for the public record. You know, I don't have a concern necessarily with the density on this site or with the project at this site. I'm familiar with the landlord; I've rented from the landlord before, and, you know, he is a pillar in the community, like you mentioned. And—

Mr. Teder said I got one thing right tonight.

Councilor Roales said you know, my concern stems with the R4W, and the introduction of that in West Lafayette. This would be the very first project that would be R4W, and I'm not sure that I understand all the ramifications of that, for that being a precedent-setting project that would allow future R4W. Now I understand that this is a building being added on to or a current site that would be added on to, but I would be interested in the Council's interest in tabling this for a month or two, if it wouldn't impede with the construction timeline, just to further understand the R4W and implications on our community. Yes, we have current developments that are this

dense; they've all been through the PD process with the Council has familiarity with, which I have familiarity with, which we have comfort with. Zoning is not a specialty of mine. This is something we're learning as we go, and, you know, you talked about a detailed area. And so it would be my preference to, you know, learn more about R4W and the implications of that and what that would mean to our community. I'd be interested in public comment on that, as well as Council comment on that as well.

Mr. Teder said can I ask something, before someone else does, Mr. [Councilor] Roales?

Councilor Roales said sure.

Mr. Teder said I think the PD process—and I guess I want to reiterate that—is a great process. We've done that with give and take back and forth. A lot of it's done in West Lafayette. What I was trying to achieve or tell you in my discussion is that, I think you can distinguish R4 if you look at it attaching to an existing unit. I think if this was a bare piece of ground, the PD would probably be a better process for it.

Councilor Hunt said would it financially hurt you to put it off a month? Or maybe even two? If we tabled it, if I may ask a direct question.

Mr. Teder said I'd ask my client to comment to that. Obviously, we'd like to move forward, because we've got probably a good two months' worth of planning to do to get to that point. But we're at Council's pleasure, obviously. If you would table it or continue it, I would ask you to do it to a time certain, so that I know when to come back for my 9:30 meeting again.

Councilor Keen said Mr. Mayor.

Mayor Dennis said Councilor Keen.

Councilor Keen said if I may impose, we have a resident expert on zoning issues with us tonight, with the Executive Director Sallie Dell Fahey of the Area Plan Commission. If you would speak to the R4. Would you mind doing that?

Ms. Dell Fahey said no.

Councilor Keen said I would appreciate that.

Ms. Sallie Dell Fahey [Executive Director, Area Plan Commission] said you're absolutely right. This is, to some extent, record-breaking, because this is a zoning district that was added to the Zoning Ordinance that you all adopted in 1998. It's just never been used before. Particularly in West Lafayette, where it's been important, from the point of view of our staff, your staff, and the Council, that it have pretty detailed information about new developments coming in. We have always recommended that, particularly new apartments, follow the Planned Development process. Mr. Teder is correct; where the land is either vacant or it's a complete redevelopment of the property, the PD process is much desired for a high density project. I also agree with Mr. Teder that, in this case, there is not a redevelopment of this project. There's some adding-on to an existing project of units, and in our staff opinion, in an area that is perfectly capable of handling this kind of density and is a density that we would be promoting for the Levee. In terms of its use in other parts of West Lafayette and what you might potentially see, in terms of requests for R4W in other locations, I think under similar circumstances, where somebody's adding on to a project, in an appropriate location for more than 15 units per acre density, then

we might recommend to you again that R4W is appropriate. But for anything that is redevelopment, for example, the South Chauncey property rezone that you just heard, that's a complete redevelopment. There are existing buildings. That developer is not going to use that building; it's going to be a scrape and rebuild. So we all, including your staff, all feel, in those circumstances, that PD is the appropriate vehicle. It's been over 10 years since R4W has been available, and the fact that this is the first time, I guess I don't see that there will be a mad rush for its use. In terms of the particulars, comparing what could be done with R4W and what could be done with R3W, it is a little difficult to compare, and my example will be the difference between this site and River Market, for example. River Market's density, I think Mr. Teder said, was 14.75, but it's the style of development. They did not build a parking garage; they chose to use surface parking. If that site had been developed with parking garages, the site probably could have supported much greater density than that. In this case, we have a much smaller site, but the developer is using underground and garage parking, which allows the density to increase in a smaller space. And any Planned Development that currently exists in West Lafayette we would be highly reluctant to recommend a rezoning back to a straight zoning district like R3W or R4W, and doing away with a Planned Development. I just can't imagine that we would recommend in favor of that.

Councilor Roales said okay.

Mayor Dennis said further questions from the Council? Actually, we need a motion.

Councilor Roales said actually, I think the people still have comments. I haven't made a formal motion yet, so, I mean, I'm interested—

Mayor Dennis said I was just trying to see if you were awake.

Mr. Teder said I'd add one more comment, if I could.

Mayor Dennis said sure.

Mr. Teder said there's also in this Zoning Ordinance a limitation on the height, so we couldn't go any higher, unlike River Market. You couldn't build a five- or ten-story in the R4W. You're limited to the height, so our height on this new addition will even be less than the existing one. It'll blend in, the same kind of coloring and all that, but it will not go any higher. So another reason we can't exceed the 20 units that we're proposing. Like I said, I think, perhaps, you could do 21, but it would be a stretch at that. So what we're telling you we're doing is indeed what would be done at that site. Yes, Mr. [Councilor] Bunder.

Councilor Bunder said I'm sorry. This is just out of ignorance. Why couldn't you go higher?

Mr. Teder said because the Unified Zoning Ordinance says that you cannot.

Councilor Bunder said in any zoning district or—

Mr. Teder said no, in R4W. And we both missed that. It was in the back of the Ordinance somewhere. I didn't catch it; staff didn't catch it, and we finally all together saw it.

Councilor Bunder said height has been a concern for the Council in other conversations.

Mayor Dennis said from time to time. Further discussion on the part of the Council?

Councilor Hunt said I have a question, if I may.

Councilor Hunt said Sallie [Ms. Dell Fahey], may I ask you another question?

Ms. Dell Fahey said certainly.

Councilor Hunt said even though I've been here almost as long as Mr. Keen on this Council, anyway, my question—and I don't know the answer—but my question is, if we do this, what—and I trust Mr. Cochran; he does have a good reputation, I think with many, many people, mine included—but what could be done without coming back to the Council that we might not like, because this is R4W? Anything? Am I articulating? I mean, could we have put a heliport on the roof or—I don't know, a rollercoaster or—I don't know, a bar?

[overtalking]

Councilor Bunder said if he wanted to do something sneaky, what would it be? Well, there's an interesting question.

Councilor Hunt said I mean, are we ultimately—

Mr. Teder said if he would go in for a variance, he could perhaps increase the density. However, it's just like the sign ordinance that was passed a number of years ago; if you note in West Lafayette since the Unified Zoning Ordinance has the new sign ordinance, there has been no approvals for variances. Joe [Attorney Bumbleburg, in the audience] and I both tried it a couple times, we both got beaten up a couple times, and we both tell our clients today, "If you want a sign variance in West Lafayette, don't come to us, because it's not going to happen." So I think the same thing applies here, is that one, that's why I'm simply giving you our word on it, but I don't think, with the elements that I brought out in the various portions of that, without a variance, you can't increase it—and even with a variance, I think he's very limited in the number of units that he could increase it to, because we have a height problem, as well. There can't be variances.

Ms. Dell Fahey said I clearly agree with Mr. Teder about the variance. We are, as a staff, based on the ordinance, variances are not granted for economic gain. Variances are only, by our staff, recommended and typically granted for things that are highly unusual topographically or when it's not a self-imposed hardship solely, but there is some other reason, ordinance-induced to compel the variance. So they are not easily obtained. I suppose that the most shocking thing that might happen, from your perspective, would be if someone purchased this from Mr. Cochran and wanted to scrape off what he had built and build something new, which they would have a right to do under the R4W zoning. But they would still have the same restrictions on height and greenspace and parking and everything else. So you're not likely to get anything too different that that, on this shaped and sized lot.

Councilor Hunt said okay. Okay. Thank you.

Mr. Teder said I keep bringing up the height, and I think that's a real issue here, unlike the R3, you can scrape and you can do 10 stories or whatever the case might be. R4W you cannot do that, which we all found out. Any other questions that I can answer?

Mayor Dennis said questions from the Council?

Councilor Bunder said just a comment, and I know it's not the intent of Mr. Cochran to do any harm the quality of life here in West Lafayette, but to again paraphrase my good friend from the apartment industry who was with us a few moments ago, it makes me very nervous to have any R4 in West Lafayette. And that's simply a reflection of the energy that is sometimes brought to bear on Council by those who have other plans.

Mr. Teder said I would just hope that this would help with the neighborhood problems that you have.

Councilor Burch said and I suspect it will. Even though it's not my district, it is an issue for my constituency whether or not R4 reappears.

Mayor Dennis said questions? Comments?

Councilor Roales said Mr. Mayor. You know, I think the height restriction is a critical factor in the R4W. I wasn't aware of that previously, and I appreciate Mrs. Fahey's—not only here appearance here tonight, but—all the effort she does. And, you know, when we're thinking zoning, we're thinking long-term, past Mr. Cochran, past myself, past Mr. Teder. You know, we understand the relationships and the good people we're working with here today, and I don't think that's the long-term concern. I think the long-term concern is what are the long-term R4W implications, and I think, to that end, the height limitation assuages some of those concerns. And so I appreciate that for tonight. Unless there's any strong objections by the Council, I don't see a need to table this at this time.

Mayor Dennis said further Council discussion? Discussion from the public?

There was no further discussion.

The roll call vote:

AYE	NAY
Bunder	
Burch	
Dietrich	
Hunt	
Keen	
Roales	
Thomas	

When his name was called to vote, Councilor Bunder said after consultation with District 1 Councilman, I vote yes.

Ordinance No. 19-09 passed on first and only reading, 7-0.

Ordinance No. 20-09 To Amend Certain Portions Of The Unified Subdivision Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect [USO Amendment #5] (Submitted by Area Plan Commission)

Councilor Keen read Ordinance No. 20-09 by title and moved that it be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said discussion? Any questions on the part of the Council?

Councilor Keen said I was just going to say that this is simply a change in the Unified Subdivision Ordinance that's required, so that the definitions found both in the Subdivision Ordinance and the Unified Zoning Ordinance would remain identical.

Mayor Dennis said further discussion?

There was no further discussion.

Ordinance No. 20-09 passed on first and only reading, 7-0.

Ordinance No. 21-09 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect [Amendment #61, Omnibus] (Submitted by Area Plan Commission)

Councilor Keen read Ordinance No. 21-09 by title and moved that it be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said any discussion?

There was no further discussion.

Ordinance No. 21-09 passed on first and only reading, 7-0.

Ordinance No. 22-09 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect [UZO Amendment #62, FIRM] (Submitted by Area Plan Commission)

Councilor Keen read Ordinance No. 22-09 by title and moved that it be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said motioned and seconded. Any discussion?

Councilor Keen said I would just like to make one comment. If this does fail, then we would no longer be able to participate in the National Flood Insurance Program.

Mayor Dennis said good to know. Further discussion?

Ms. Dell Fahey [Executive Director, Area Plan Commission] said I would like to make a comment about this amendment, because this really is truly a very happy day. West Lafayette, Lafayette, Tippecanoe County, Dayton, and Battle Ground entered the National Flood Insurance Program in 1981, by adopting some parts of the zoning ordinance and the flood insurance rate maps that were prepared for our communities at the time. Several big parts, actually, about this, but one is that being a member of the National Flood Insurance Program not only provides disaster relief to citizens whose homes and businesses are in our regulated floods, which we typically call the 100-year flood, but it also gives the community and its government disaster relief for cleanup from floods. So, for instance, if Happy Hollow Park would have flooding problems in a generalized flood, in which the community was part of a declared disaster area, the City would actually receive money to clean up the Park, as the County Parks Department has in a number of cases on Burnett's Creek and the City of Lafayette has along the golf

course. The big thing about this particular set of new FIRM maps is, for the first time, they are digital. So we will be including these—in fact, we've been waiting for these for a long time—because it's the last piece of the puzzle, so that we can also have digital zoning maps. We will be able to finish the digital zoning map project as soon as these maps are adopted, which do, as Mr. [Councilor] Keen said, keep you eligible in the National Flood Insurance Program. So we are very excited about this day, and to have these new maps. Thank you.

Mayor Dennis said good stuff. Further discussion?

There was no further discussion.

Ordinance No. 22-09 passed on first and only reading, 7-0.

Ordinance No. 23-09 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indian, Designating The Time When The Same Shall Take Effect [Northpointe PD, PDMX to PDMX] (Submitted by Area Plan Commission)

Councilor Keen read Ordinance No. 23-09 by title and moved that it be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said it's been motioned and seconded. I do believe we have some representatives. We've got one representative that is approaching the podium currently.

Mr. Joe Bumbleburg [Ball Eggleston, representing the petitioner] said I do have some others with me—Mark Hiatt, Tom Gall, Brandon Fulk—and you have met that cast of characters in this whole process many, many times. This matter comes before you tonight with a recommendation of approval of the Area Plan Commission. It also comes here based on the hard work of the developer's team and the City team and the Area Plan Commission team. There has been tremendous input by all those units and teams, and to that I would add, there has been a significant amount of discussion with neighbors in regard to this matter. This is, I think, maybe the third iteration of this particular project, and each time, again, there has been the neighbor input, and much of this neighbor's input has been adopted in this matter. This proposal is a mixed use planned development. There will be a residential unit with 83 bedrooms, four stories; a hotel with 100 rooms, four stories; and a 7,000 square foot commercial building. Those uses will be supported by 274 parking spaces, and they will be set, so that there will be cross easements, and there will be a cooperation built into the process for those parking spaces. This is, as you will all remember, the site of the Family Inn, which is now gone. I think the other night I called this a festering sore in West Lafayette, and I think probably everybody and the law enforcement sitting back there are all nodding yes at this point right now, because we knew what the calls were coming to this particular area for emergency service. This whole site will be having 25% greenspace. There are plantings that will be in the plan, and there will be a drainage plan. The conditions in the Area Plan Commission Staff Report were acceptable. We told them that at the time, and they still continue to be so. This project can be phased, if necessary, under the plan. All of you have a packet, a document that looks like this, and this is kind of a new distribution. I've spoken to a couple of the members of the Council, asking, "Is this the kind of material that you might like for a Planned Development?" Because what this is is essentially a shrunk-down copy of what the Area Plan Commission staff reviewed and what was used in the vote. There is also a document with that that looks like this, the Northpointe PD narrative final, dated July 29. If you deal with Planned Developments, you know that these two documents are kind of read together, because the narrative came along in the history of Planned Developments because, if we were to put all of this on 3-by-5 sheets or

something like that, it would be an immense roll of paper, and be very unmanageable. The narrative actually does set forth in verbiage exactly what's going to happen in many of the areas. It does talk about general descriptions; if there's a chart required, those are in here, having to do with uses and parking. And so it's those two documents that the final detailed plans would be measured against, when the final detailed plans are indeed filed with the Plan Commission. They will look at those, and that's where they put the project together. This project is on a site that was previously zoned General Business. And I think that if you were to go back and look at the ordinance and see what General Business could have done to this site, it might make you uncomfortable, because this Planned Development has lowered the height, the General Business site would have permitted a much larger height, and the General Business would have let you have numerous uses. I printed out of the ordinance this afternoon all the various uses for General Business, and it's a smattering of all kinds of uses across all general use categories. This project has great benefit to the community. Based upon the negotiations and everything, seven stories was reduced to four. The distance between the east line is now about, if my engineers are correct, 100 feet from that line to the building. Significantly farther away than previous. There will be much better drainage, and that drainage will be in conjunction with the University. The number of access points on Northwestern has been reduced. This will add assessed valuation to the City of West Lafayette. Continuing through, and you'll see some places in the narrative that there will be a continuing control over the design by the City of West Lafayette. And I guess the great public benefit to this is there is no Family Inn. We would respectfully request that this Common Council approve this Planned Development. The team back here will answer questions, if you have those to direct to us. Thank you.

Mayor Dennis said thank you very much, Mr. Bumbleburg. Questions from the Council?

Councilor Bunder said Mr. Bumbleburg, or cast, my good friend Jim Knapp asked me to ask, where's the water going this time? Is it going to the same place? Where is the water going?

Mr. Bumbleburg said you mean the drainage water?

Councilor Bunder said yes.

Mr. Bumbleburg said Mr. Gall can explain this more, but we're going to attempt to—

Councilor Bunder said still going to across the—

Mr. Bumbleburg said still go under the street and into the wetland that will be part of the golf course. That's a really interesting, if you will, green project.

Councilor Bunder said yes.

Mayor Dennis said further discussion? Further questions?

Councilor Thomas said yes, I have a comment, question. I believe when we first heard about this new development, the residential portion was being touted as for higher end students, higher end individuals. Have you done any studies to see if there is a market for the higher end clientele for this type of development?

Mr. Mark Hiatt [954 Fairfield Drive, Marietta GA, developer of the site] said yes, we have done our own surveys of the residential developments or existing residential developments that are in

the West Lafayette area, particularly in this market. We plan to, if we are approved this evening, we plan to develop an apartment complex that is priced and designed towards a more upper level renter or lessee. We would probably look at an average rental rate of about \$900 to \$1,000 per month. We don't believe that we're going to get the same types of interest as we would in selling condominiums to sports enthusiasts. It's a completely different product. We're not gearing this apartment complex with its 58 units towards that type of market. That market does not exist right now, and we don't believe it will exist for some time. That was the major reason for the change in this PD, was to go to something that was more appropriate to this market, and that could be supported by the market.

Mayor Dennis said further questions of Mr. Hiatt?

Councilor Dietrich said I have one comment. I attended one of the neighborhood meetings. I thought you did an excellent job of listening, explaining, and cooperating with the group as they provided. There's lots of changes that we've seen, I think, that do incorporate the neighborhood concerns.

Mr. Hiatt said thank you, sir.

Councilor Bunder said my question is, three-bedroom apartments? Yes? No? Numbers of?

Mr. Hiatt said no, sir, we will have one- and two-bedroom apartments.

Mayor Dennis said other discussion from the Council?

Councilor Roales said Mr. Mayor.

Mayor Dennis said Paul [Councilor Roales].

Councilor Roales said I just want to thank the developers on this project. I mean, you spent quite a bit of time with the public and thank you for being willing to participate in that process and stick with this location. I personally appreciate the redevelopment of this site.

Mr. Hiatt said thank you, sir.

Mayor Dennis said public comment?

Mr. Terry Fincher [Lafayette] said I do rent, and I am house-hunting. I may be a West Lafayette resident sooner or later. I just moved here from Chicago, and I am the Area Director of Sales for the Holiday Inn and the University Plaza Hotel here in West Lafayette. I've lived in Iowa City, I've lived in Chicago, and I'm enjoying myself, and I commend the Police Chief—and I've told him this before—you do a great job with traffic here. I hear him say that this is great for the community. I've been in the hotel business for 20 years. I've worked for Hilton, Blackstone, Marriott, and now Hostmark out of Chicago, and one of the reasons I was recruited to Lafayette-West Lafayette was that hotel rooms are drying up. Your hotel business is not here. One of the things that I do and one of the expertises that I have is that I come into areas and I go into Indianapolis and Cincinnati, and I draw business to your area to fill up your hotels. There is not a need for 100 more hotel rooms in this area. White Lodging, who is doing another project in the area, had originally planned on adding over 12,000 hotel rooms in 2009 to their portfolio, and now they're trying to add none. Your occupancy rate—you know, some questions I would encourage you to ask them is do they know what your current occupancy rate is, do you guys

know what your current occupancy rate in your hotels are? Your hotel people are having a hard time making money right now in this community. And one of the new things I do when I come to a community is I do a one-year, five-year, and ten-year plan, marketing plan. And it's not going to improve in the next five years. I promise you that the hotel business is not going to improve in this town in the next five years. Next year, Chicago is decreasing the amount of hotel rooms, Indianapolis is decreasing the amount of hotel rooms that they're projecting will be filled in their cities. Marriott has only—first time in the history of Marriott, last year—the current year we're in, 2009, was the first year they allowed their hotels to project a decrease in hotel rooms, because they had to be able to meet Wall Street's demands and be accurate in their forecast. And so they came in and they allowed them to—anywhere from a 2% to 7% decrease—forecast in their hotel rooms, and what they're finding out is they should have projected a 9% to 27% decrease in hotel rooms. I'll be brief. I'm just here to tell you that there's no need for another 100 hotel rooms, and I would encourage you to ask certain questions. One is, do they have the financing for the hotel? Do they have a management company for the hotel? I've heard Marriott is interested. I promise you, Marriott's not coming to West Lafayette or Lafayette in the next year. I promise you Hilton's not coming or Starwood's not coming. It would have to be a management company, and management companies are having a problem financing their deals right now, and they're cutting way back. So I would encourage you to ask them if they know what their occupancy is, if they have a management company on staff, if they have their financing in order for this hotel. And that is all I have to say. After being here tonight, I appreciate the job you guys do a little bit more.

Mayor Dennis said thank you very much.

Councilor Roales said Mr. Mayor.

Mayor Dennis said go ahead, Councilor Roales.

Councilor Roales said is it appropriate now to ask a question, or should we wait—?

Mayor Dennis said go ahead.

Councilor Roales said I had a question for Mrs. Fahey, if it's okay. Are you sure we wouldn't rather wait until—?

Mayor Dennis said go ahead.

Councilor Roales said Mrs. Fahey, I mean, you have far more experience with planning and development and that sort of cycle, I mean, would you feel it's appropriate for the Council to consider one, the economics of a project or two, the financing and viability of a project? Do you feel that that's an appropriate purview of the Council or the Area Plan Commission?

Ms. Dell Fahey said probably not the financing, but I think probably the economics and what you feel is appropriate for the City. I think clearly, as a staff operating with your staff, we are looking at those kinds of issues. In fact, in this project, not so much for the hotel, but for the apartments, we clearly wanted to know that we were going to get a design that would be attractive to persons who might be working at the Research Park, somebody who might come in as a visiting professor and be here for several months or a year. And, to a great extent, the way you design, in this case, apartments, will make it less attractive to typical undergraduate students and much more attractive to the market that we, as a staff, were interested in. If the hotel in this case is a residence hotel, I think that fits pretty well with the notion that it might be

used by visiting faculty on longer than a three-night basis. So, particularly residence hotels would be, as a staff, our bigger interest in the hotel market.

Councilor Roales said thank you.

Mr. Fincher said could I address that?

Mayor Dennis said we're going to go ahead and work through, and we'll give you a second shot in a minute.

Mr. Alex Cabot [Wilkinson Asset Management/Willowbrook West Apartments] said my question is just, in my position, I deal with sales and marketing for the property, and my question is for you guys to call him to question. I know they said they conducted surveys, but I'm just trying to consider the source of those surveys, just when it calls into the need for more bed spaces in the West Lafayette area, especially with year after year, especially with our current economic situation, tuition rates going up, and less students being admitted into the University, of the need for more beds into an area where pre-lease occupancy is dropping for our properties across the board. Like I said, this is information that it's part of my job to gather, from our competitors and from our own property, and evaluate the need for beds. That's pretty much why I was just here today, was to see, just to express that maybe you should look at the need for such a property in our area, like I say, especially with our current economic situation and our just being our lease up for properties that are existing already decreasing. Thanks.

Mayor Dennis said thank you.

Mr. Eddie Van Bogaert [Chairman, PSG Senate Committee on Government Affairs] said I'll be real concise here. I just wanted to register strong student support for this development, and I urge the Council's consideration. Thank you.

Mayor Dennis said thank you. Other citizen comment?

Mr. George Molnar [906 Princess Drive] said I would like to thank the Mayor and the West Lafayette City Council for this opportunity to comment on the current proposed development for the property being considered for rezoning this evening. There are three areas which I would like to address. As some of you may know, my wife Marion and the Mayor's wife were both born in Ireland. All that I guarantee, is while I may not be as brief as you would like, I will certainly be more brief than either of them would be. Between Marion and Mary, they could fill up reels of tape. I realize that this board or any other zoning or land development board can base their decisions on people's opinions. But I do think as a couple of the previous speakers mentioned, that there are some considerations with regard to the enabling acts, going back to the Indiana Code 36, the Zoning Ordinance, or—I have to learn the language here in Indiana, because I'm more familiar with the language in Pennsylvania—what we used to call SDLO, subdivision land ordinance; I guess here it's called USDO. Typically it involves questions of environment, questions of quality of life, and the productive use of the land. And I think once you look through the height of the buildings, the setbacks, the square footage and all those, and remove yourself from that and look at the environment, the quality of life, and the productive use of the land. But my first point really has to do with the perception. Or rather the myth that this development is welcomed, approved, and supported by the residents whose properties are close in proximity to the proposed development. The material provided by the developers, the local news media, and, in fact, several elected officials at both the City and County level, has perpetuated the falsehood that it is supported by the residents. To me, and I hate to use sports

analogies, but it sounds like it's the coming of the Colts to Indianapolis and the coming of the Olympics to Chicago. If I were less polite, I would shout out, "It's a lie." But since I have this opportunity, I would like to politely dispel this myth. The developer has continually referred to their working closely with the community and their positive ongoing relationship and dialogue. I would like to give you several examples of why this is not true. First and most importantly is the response of the developers at the Area Planning Commission meeting last month. Several people spoke about their concerns with this project. Given an opportunity for rebuttal, the developer offered this comment. This was the first comment the developer offered: [Mr. Molnar played a tape recording of Mr. Bumbleburg speaking.]. That's the first comment that the developer had in response to what I think were intelligent, well-founded concerns about this project. He insulted the people who made these comments. First of all, the first words out of this mouth were to attack those who were expressing concerns about the development—not to address the substantive points that were made, but to attack the residents with whom they claimed to have such a kinder, gentler relationship. This response indicates their total disregard for the community, but even more importantly, it shows their total lack of concern for the process itself. The citizens were accused of criticizing the West Lafayette City staff. And, by the way, if any of you wants a recording of this, I have an audio recording that I purchased from the APC. Three points. First, this was a Tippecanoe County APC meeting. No mention of the West Lafayette staff was made. Second, it was totally inappropriate to condescendingly refer to concerned citizens in this manner. Third, the fact that citizens had questions and concerns about the proposed development does not logically lead to the conclusion that these citizens were criticizing anyone. The developer's comments were inappropriate, inaccurate, and logically flawed. In fact, if anyone were to be accused of insulting the relevant governing bodies, it should be the developer. This developer who did nothing to clean up the property for almost two years, until a few days before the Area Planning Commission meeting. This developer, who has done nothing since that meeting, except this afternoon when they decided to push around a little more dirt, I was surprised they didn't bring in a truckload of plastic plants and put them around the border. Marion and I don't have any children. We have dozens of nieces and nephews. The developer's actions are a lot like, "You'd better clean up your room before your father gets home." And if the community is so much in favor of this project, why hasn't anyone from the local area spoken out in favor of it? I'm not talking about people from Northwestern Heights or Hills and Dales. I'm talking about people who live here. Anyone can be in favor of a project that doesn't adversely affect them. The developer has not presented one resident from any of the adjacent streets that is in favor of this project. And to those of you living on Western, Garden, Ravinia, or other streets, let me ask you: How would you like the traffic? By their own admission, 400-500 cars each day, twice a day, going down your streets, and that's what will happen with Carlisle, Windsor, and Princess. How would you like the noise, the pollution, the construction, the lights—which there are no ordinances concerning the lights that this development has to be regulated by. If you don't want it in your back yard, don't put it in mine. My second major point has to do with the material presented to you for your review. As I understand it, you are to base your decisions on the report from the Tippecanoe County Area Planning Commission and the documents that the developer submitted to them prior to the decision on 08.19. These documents, specifically give the minutes of the Tippecanoe County Area Planning Commission on 08.19 and the so-called narrative, contain both factual and substantive errors. I spoke with the head of the APC on Friday regarding these errors. She informed me that I would be given an opportunity to correct them at the next meeting of the APC. Until then, they could not be modified. Based on these errors, I request that you postpone any decision on this until you can receive an accurate report from the APC. My third and final point is that this is a bad deal. It's a bad deal for the City, a bad deal for the local residents, and a bad deal for the taxpayers. The developers failed in their first attempt, the so-called Game Day condos. They claimed that it was due to the economy. I claim it was a failed

business model from the get-go. During the same time period, they claimed the economy was the cause of their failure, from 2007 to 2009, other university locations successfully built and occupied not only Game Day condos, but high-end motel spas in multi-use residential areas. Penn State alone, as an example, built Game Day condos, a hotel, and a semi-retirement community. And, yes, I know this is not Happy Valley, but that's precisely my point. This is not Happy Valley, it's not Ann Arbor, it is not Ithaca NY, it's not Norman OK, it's not Columbus OH. The market was never here, is not here, and never will be here for that type of development. Their second proposal was even more risky, given the overbuilt rental market here. Their current proposal flies in the face of the greatest downturn in the tourism and hospitality industries in decades. They want to build a hotel, for which they have no franchise and no funding. They want to build an upscale restaurant, for which they have no tenant. And have been turned down by two of the most successful restaurateurs in this town. They want to build apartments, for which there is not even a market, and if there is one, it's saturated. They claim their market is upscale apartments for people working at the Purdue Research Center. With all due respect to the PRC, most of the firms there are a University professor, two or three graduate students or post docs, and a part-time administrator. Tell me, who of those people are going to rent these apartments? I admit that I have very little experience in commercial real estate, but I do have experience in business. Before I invest in a business, I look at their track record, the current situation, and what's 6-12 months down the road. I make sure that they have verified the market, which they haven't; and if they have, they certainly haven't presented it to anyone. Figured out how to beat their competition; they have no idea. Know their start-up costs; there is no financial information associated with this plan whatsoever. Know the resources they need; nobody's explained that. And have a contingency plan; they failed twice already with no contingency plan. They have none at this point. And most importantly, I ask, "If I invest in your firm and you need more money, what happens to my investment?" My understanding right now is that West Lafayette has authorized \$300,000 to them for some kind of sewer abatement or whatever. This proposal has no financial plan, no traffic plan, no environmental plan, no market analysis, no resource management plan, and it has no backup plan. What I am requesting is you postpone this decision until you get enough information to be able to make a decision based on facts. And, in addition, you require an escrow, a sliding escrow scale, so that as they do things, there is enough money in the escrow account to, in a sense, mediate, if, in fact, they fail. Also, please do not give them any tax abatements or any infrastructure payments until they've accomplished something. And if you vote to approve this dream, when you go home tonight, I want you to tell your spouse or significant other, "Well, honey, we approved the plan." But make sure you're confident enough to tell them, "And I took all of our IRA or 401(k) or TIAA/CREF or Vanguard or Fidelity or MPP, cashed our kids' 529, took a second mortgage on our house, and invested it in this development." Because if you're not willing to commit your funds, don't gamble with my tax dollars. So in closing and with completing my terrible sports analogy, I would hope that Chicago is successful in having a profitable Olympics, but I fear that this development would be more like Montréal is 1976, when it took decades to pay for. I would also hope that West Lafayette has as much to gain as Indianapolis did with the arrival of the Colts, but I fear that this will be more like the Colts sneaking out of Baltimore. Thank you for this opportunity. If you need any documentation of what I've said, I'll be glad to provide it, or if you have any questions.

Mayor Dennis said thanks, George. Other citizen comments? Comment from the Council?

Ms. Gale Charlotte [1124 Windsor Drive] said first of all, I'd like to thank the developer Mark Hiatt of Northpointe Property for graciously agreeing to meet with the neighbors, as he began the process of redoing the plans for the former Family Inn/Champion's Centre site. He was courteous, and he did listen, as he did incorporate many of our suggestions into his final plan

now called Northpointe. I still have two issues with the plan. I don't know what you guys have in front of you, and I don't know if you brought site plans or anything, but the first one is very simple. It's the proposed exit onto Windsor Drive. At the last time that we spoke with Mark, we had talked about some things that they could do, so it didn't appear to be a direct exit onto Windsor Drive. I don't know if that was incorporated into his plan, but we talked about even changing lanes, so that there was more of a zigzag onto Windsor, so it wasn't apparent that you could get out of there. The reason why we were very adamant about that is because Windsor Drive is a neighborhood street. I understand the need for access for emergency vehicles, but I guarantee it will be used far more by residents of the apartments and guests at the restaurant. My fear is that a quiet neighborhood street will very quickly become a dangerous shortcut. And actually, I can guarantee to you that that will be the case. I don't think that it's an exaggeration to say that it's an accident waiting to happen. In the past two months, we've had the privilege of adding three new families on our street, Windsor Drive, each with preschool and lower age children. Each one of these families are homeowners, not renters, so I see them being a part of our community for a long while. It's frightening to think of the consequences of sending over 200 cars down Windsor Drive on any given day. As a gentleman said before, that is what's going to happen. There's just no other way to get on to Northwestern at peak traffic times. The shortcut is Windsor to Carlisle to Lindberg to the lights. I will also mention that, if you've never been on Windsor Drive, we do not have sidewalks. We are exposed on the streets. It's a lovely, wide street, but the potential for an accident is there. My second point is far more complex. But this Council is older and wiser and will perhaps grasp the wisdom of my remarks this time, as opposed to January 2008, when you were very new, most of you. Back in January 2008, the issue before you was whether to rezone a very small piece of land from GB to PDMX. Since 1969, various City Councils had voted against this rezoning, as this small piece of property is what really protected the neighbors from any towering development being built. When you agreed to rezone the property, you agreed to allow a seven-story condominium/parking structure to be built there, on what is now called Northpointe. In my opinion, it was fortunate that the development fell through. It would have put the tallest structure in the City of West Lafayette smack-dab in a residential area. Again, I don't know what kind of plans you have to refer to, but if you look at Northwestern, you have the gas station, then you have the entrance to the property, and pretty much at the top, right there, is where Northwestern is. What the developer has proposed is all of his buildings are back on the site, farther back. I mean, it's a good, you know, four acres back. That puts it, if you'd like to use this analogy, you look out your front door, you look into your neighbor's back yard, and there is four stories of structure. I don't think anybody on the Council right now is looking into a four-story building from their front door. I do agree the development is an improvement, size-wise; downscaling is better. But I still question the need, demand, and support for a development of this size. Three- or four- story buildings will still tower over the one-story structures of the rest of the neighborhood. I do not agree with the sentiments expressed by Councilman Bunder in January 2008. He said, "The question is not whether or not density will increase in West Lafayette, but how this community will deal with that increased density and what kind of urban development we'll be able to maintain." I question also that you have a concern with an R4W on the Levee tonight, but why are four-stories in a one-story neighborhood okay? This site is not the place to begin urban development in West Lafayette. It is a neighborhood of single-family homes. It's far more practical and, indeed, the Council has been approached, even tonight, to begin to build hotels and restaurants closer to campus. The areas around campus are dense because, well, people want to be close to campus. You heard from Mr. Teder tonight. That's why it's just sensible to develop Wabash Landing first. What I urge the Council is to be cautioned in its decision this time around. Think about your vision for West Lafayette. Do you want to maintain the neighborhoods we have, or are we just going to be a city of inappropriate looming structures thrown up wherever, to accommodate the developments that

are inappropriate and, in this economic climate, doomed to failure from the start? I wish to point out also that this site has been unable to support a restaurant and a hotel in the past. Family Inn had both of those. Why would this restaurant and hotel and apartment development be any different? You heard it before tonight, but it bears repeating: Slow down. Really envision what the City of West Lafayette should look like. This is your chance to make it more safe and beautiful. Thank you.

Mayor Dennis said thank you. Other citizen comments? Yes, ma'am.

Ms. Carol Marshall [2001 Carlisle Road] said at the Area Plan Commission meeting of Tippecanoe County, August 19, 2009, there were only two West Lafayette City Council members present. Therefore, I would like to read two letters by citizens living adjacent to the 1920 Northwestern address. These concerns have been discussed before, and need to be discussed further. We are asking that the vote be tabled this evening, until issues are resolved regarding all phases of relevant issues not yet resolved. Our neighbor Paul Addison could not be present, because of a previous engagement. He asked that I read two particular concerns that he has. Paul resides at 2009 Carlisle Road, directly behind the property in question. The second letter was written by me, Carol Marshall, representing people in our neighborhood who are adamantly opposed to the high density building in a small area of land. This is the letter from Paul:

My name is Paul Addison. I live at 2009 Carlisle, directly behind the property in question. I have two particular concerns: With 274 parking places, means potentially well over 200 cars park there overnight. In morning rush hour traffic, these cars will not be able to turn off on Northwestern. Most are going to turn right on Windsor, come down Carlisle Road. That traffic will be very disruptive in this quiet well-established residential neighborhood. A four-story building, while much better than the seven-story condominium that was proposed previously, is still completely out of place in a neighborhood where there is nothing over two stories anywhere in sight. For both these concerns, if the developer would reduce the apartment buildings to two-stories, I think the residents would be satisfied, and even be supportive.

Thank you.

This was my letter to the Area Plan Commission of Tippecanoe County that I read August 19, 2009, the sentiments from our neighborhood people.:

This letter represents and are the sentiments of the neighborhood surrounding the property known as 1920 Northwestern LLC, West Lafayette, Indiana. Since the dissolution of the project known as the Champion's Centre on that property because of the downturn of the economy, the developer then proposed a plan to build on the site student housing. The proposal was not supported by the surrounding neighborhood, and was heavily debated at a meeting in West Lafayette City Hall on the evening of April 2, 2009. The developer has since planned a proposal of a 100-room four-story Residence Inn by Marriott, a 7,000 square foot restaurant with outdoor seating, a four-story apartment building, and possibly a couple of retail spaces. We are opposed to the four-story hotel and four-story apartment complex, as

there are no other four-story buildings next to a residential neighborhood. We are also concerned about the apartment complex the developer wants to build on that site. There are apartment complexes in Tippecanoe County sitting at a high percentage of vacancy. As we see it, more are proposed to be built. The Family Inn was an example of police, firemen, and ambulance visits quite frequently in the area that were made up of apartments before the building came down. There is also the issue of lighting on the surrounding property into the neighborhood. Noise and traffic will be affected. After speaking to West Lafayette police officers, we know this to be a fact: The neighborhood will be affected with inferior traffic patterns, affecting Windsor, Carlisle, Hall, Princess, and Lindberg, due to the fact that it will be difficult for anyone wanting to make a left-hand turn from the parking lot at 1920 Northwestern onto Northwestern. Many people at the complex will be travelling to Purdue. The developer stated yes, there will be traffic issues, but that really wasn't his concern. Maybe it isn't his concern, but he's creating it. We have seen plans for the apartments. Are the proposed floor plans guaranteed to stay as they are sketched in the drawings? This also is a concern of ours. Since the developer had to give up plans to build the Champion's Centre because he could not get the funding for the project during the time our economy was in a dire financial situation, we are interested in knowing if the developer will have money in escrow to pay for each phase as the building progresses. We don't want to see the development halfway completed, then sit there because of a lack of funds. If this project is allowed to go forward, is the developer willing to meet us halfway, with a two-story complex, or, at the most, three stories? This is the consensus of our neighborhood, and what they are willing to compromise.

Ms. Marshall said now I have a question, and [Councilor] Vicki Burch?

Councilor Burch said yes, ma'am.

Ms. Marshall said you are supposed to be our District representative. I have two questions for you: We would like to know how are you going to keep the traffic out of our area? Are you interested in knowing if the developer has the financing to complete this project? Do any of you Council members know if funding is available? This is an extremely important issue that has hardly been addressed. Thank you.

Mayor Dennis said thank you. Other citizen comments?

Mr. Al Parker [1015 Lindberg Road] said I'll be brief. I'll try to be short here. First a quick discussion on the plan itself. This is a better plan. It's a step in the right direction. There is no question about it. A four-story building towards the sides and the front of the property is certainly better than a seven-story building in the back. I'm grateful for that. However, the bottom line is this did not come out of the goodness and graces of the developers; it's been developed because the last business plan didn't work. Simple as that. I'm not even sure it's anybody's fault, other than the fact that it just didn't work. The plan wasn't going to work. This property is surrounded on three sides by a one-story neighborhood. This is not a great place for a high-density building. We've discussed this before. So why are they putting four stories in

there? Why are they packing so much in there? It's simply to get more money. I mean, you know how this is going to work: They're going to develop the property, they've got an apartment complex that's going to go over here, a hotel that's going to go here. They're going to open up the area for a commercial storefront, maybe a restaurant, maybe some other business. And then they'll try to sell the pieces to various groups that want to invest in this. It's just a matter of trying to make money on this. They're trying to make the most money, to cram the most stuff, in this given area. A little while ago, I heard discussion going on about R4W and the density factor. You're looking at 60 units in this apartment complex that may or may not be built in phases. You're looking at 100 units in the hotel complex. Do the math. It's a 6-acre lot, and you'll find it's a very dense area that you're putting in here. That's why it's a PD. Comment made over here by our good Councilor in District 1. He said is it right for us to consider financial ramifications in something like this. The Area Plan does their job by saying, "Could this be built here?" It is the Council's job to day, "Should this be built here?" And that's the true difference between them. You really need to consider, "Should this be built? Is it good for us?" And that's one of your main functions, I think, on this Council. You are our last position of safety on this. You are to be representing our interests in this. It is to consider how this financial plan goes forward and the business plan is altogether right to consider this as you go forward on this. I know Mark Hiatt. I've actually had a chance to sit down and eat with him a couple times. We had breakfast. I like the guy. Good fellow, good fellow. I'm not crazy about the plan. When we talk, we discuss other things that could be there, other suggestions. This isn't it. I think, since this seems to be the night to quote Councilor Bunder, I think I'll pick up on one from him, too. In the article that he was writing about his own neighborhood, he was talking about over-occupancy, kiddie condos, landlord problems of his own, and he made some words there in the article in the *Journal & Courier*, and I think they hold true in a larger area. He said that, "Once sold, and in this place rezoned, the property becomes playing cards. Bought, sold, and traded." That's right. You have one chance on this thing to handle the zoning, and the, after that, it's out there. That's how it's going to go. The point is to make money through rent, appreciation, then rezoning change. Sympathy for neighbors is limited. You've seen this before. And you know what? We have seen this before. We've seen this right here before on this same lot. The whole plan that sets up a great plan that is offered you, with an offer of a ton of money has come here before. But you have to scratch and look by that little bit. Don't jump at some of the bait on this thing. You've got to really ask, "Does this make sense? Is this possible?" There's one vote and only one vote on this property tonight. That's it. This is our last shot here. You are rezoning for a four-story apartment building. You've already heard that we already have an overabundance of apartments in the area. You cannot guarantee the floor plan on this building. That's not part of the package. They can suggest that you have this floor plan or that floor plan, but the truth of the matter is, when it comes down to build it, once it's approved for a four-story apartment building, that's what it's going to be. It can only have one master bedroom. That's a limitation. Only one master bedroom. Well, okay, it's a maximum of one master bedroom. All the dorms at Purdue don't have a master bedroom, any more than one master bedroom, so that's not really even an issue. You don't have a guarantee on the floor plan of what this building's going to be. You are zoning for a four-story hotel, although our current hotels are struggling to stay afloat, and another one is already in the planning works. Do we really want another one here? Why are we putting this into the mix? You are zoning for commercial area for a restaurant or other storefront properties. Right now, you go up and down Sagamore Parkway, we have empty storefront properties all over West Lafayette. Why do we want to add more to this? Does this sound like a good business plan? Why would you give this a green light? Just think about it a little bit. We've been here before. We've heard promises. Is the funding and the actual business plan behind it? Of course they're going to say, "Yes, it is. It's a great plan." Well, it's better, but, you know, we've been here at this position and we've had two years of empty promises and looking at a mud lot. That's enough. The worst case scenario is

not the blank lot that's sitting out there, not the eyesore. The worst case scenario was starting construction and having something go wrong and not be able to finish it. Then what do we do? Are you protecting us from this? Have you seen protection against this? I ask you to take another look at this project and protect us. I ask that if you're not 100% sure that this is the very best that we can do for this property, if you're not 110% sure that all the finances are in place and this will absolutely be built on the timeline that they tell you, if you're not absolutely 110% sure this business plan is going to be absolutely successful, then I ask you just to table this for a while. Let's dig deeper into the records and consider this. I'm not asking you to kill the plan. I'm asking you, let's talk about this a little bit deeper. Let's go deeper into this plan and take a look at it. Thank you for your time.

Mayor Dennis said thank you, Al [Mr. Parker]. Citizen comments? Yes, sir.

Mr. Brad Heiss [501 Riley Lane] said something that concerns me about this project is I have property on Windsor. There is sewage in the basement, which is the fault of the City. You're not willing to rectify it. Apparently you probably don't have the money to rectify it, to make an adequate sewer system, and now we're going to put how many more units next to me? And that's going to require a sewage system that's going to be flowing into our sewage system, and it's going to tax the water and the pumping and everything else. You can't even support what you've got now. Why are you adding more to the City? I know you all have, on your mind, how you're going to vote on this. This is a futile effort to even talk to you. But, go for it. But, you know it'll be like a lot of the other blunders this town has made, and I hope your names are remembered for what you do to screw up West Lafayette. Thank you.

Mayor Dennis said other citizen comments?

Mr. Don Marshall [2001 Carlisle Road] said have you been out and looked at the apartments out at College Station and Campus Suites and those next to Campus Suites, Baywater? They're only three stories, and they're sitting out by themselves. There are no residences around, single-story residences around, and then they want to put a four-story here on this lot. Also, back in July 2008, they failed to plug one of the sewers in these homes on Windsor, they were flooded. Now they've failed to secure the property with a security fence. I'm glad they finally leveled off all the mounds of dirt, so now I can see clear around the perimeter of the property, and on the south end of the property, there's no security fence on a portion of it. And I'm not sure—maybe you can answer the question—is there a written code or an ordinance stating a security fence must be around the perimeter of a construction site? If there is, then they're in violation of code, because there is no fence. So they failed to secure the property with a security fence, they failed to keep the land cleaned up. When the neighbors have called in, they did send somebody out to mow the weeds. It looks like there are many failures that they're having. And I see all these failures and it concerns me, and it breeds mistrust. So you might want to ask them, is there a code, because those are safety issues there. Thank you.

Mayor Dennis said thank you, sir. Additional citizen comments? Mr. Bumbleburg.

Mr. Bumbleburg said I'm going to do something tonight that I rarely do, and that's come back with rebuttal. The problem with remonstrators is many times, in their zeal to protect their interests, they overstate their position. And one wonders in the overstatement just where that would end. You were told here tonight, as a fact, that we have no franchise, and that's simply not true. That's an overstatement. It was discussed about the question of our lighting, and it was indicated that we had no plan for that. I tell you to read the narrative. The narrative says "Site Lighting," and then there's a whole paragraph. The final analysis of that, though, says

“Final site and exterior building lighting systems will be approved by the administrative officer in the final detail phase.” What did I tell you earlier about the continuing control of the City of West Lafayette? Right there is an example of that. What did you have to look at? You had the same thing tonight to look at that you had on Thursday night to look at, and that the Area Plan Commission had a look at earlier. Now I was accused of being insulting at the Plan Commission meeting. And I’m not so sure to whom that was directed, because when I hear people stand up and say that the West Lafayette infrastructure is unsuitable, and I have been to meetings with your staff and I hear them discussing this, remember in the Planned Development process, the concept of the parties who come before the staff of the Plan Commission in the negotiations. Pick a few: Representatives of the Police Department have a shot at this; representatives of the Fire Department have a shot at it; the Sewer Department; the Water Company; the City Engineer; the Parks Department—all of these people, everybody gets a set of plans and gets a shot at it. When people then essentially say, “This plan is bad, because...” there is an implication then that the City people didn’t do their jobs, that they didn’t come and say, “You can’t do this because...” We work our way through those kinds of things, and I think it’s only fair for you to understand how much time that the City people put in on their comments. If you go back and look at the Staff Report of the Area Plan Commission, and Sallie’s [Ms. Dell Fahey’s] crew go through these things, and they go through all of it, and you look at the titles—“Zoning History and Area Zoning Patterns,” and they give history of this area; “Land Use Patterns,” likewise; “Environmental and Utility Considerations;” “Traffic and Transportation;” and then they capsulize that into comments. And upon that, then they put the Staff Recommendations. Now those are the things that go before the Area Plan Commission. That Commission, 15 citizens—you know, one of your members is there; he was at the meeting—can tell you how detailed this planning process is. The Area Plan staff has promoted the concept of Planned Development, and they have done it with good reason. And probably the best reason is it has served West Lafayette well. I can’t think of—and I’ve been involved in some of them—how the areas have been developed, and it’s turned out an awful lot better because of the Planned Development, than it would have if it had been a straight zoning. This piece of property right here was General Business, and what could be the worst case scenario? A Planned Development fails and somebody come back in and ask you to put this thing back, as a GB zone. Nobody would like that solution. It would not be good for West Lafayette. And, you know, the other interesting thing here tonight is listening to this question of the hotels and the motels. I represent probably one of the largest motel owners in this community; I deal with him all the time, and he’s not ready to throw in the towel. I just finished doing sign work for a Marriott Courtyard, and they don’t look to me like they’re throwing in the towel. They put in really nice rooms and put up some really nice signs. I went by there Sunday morning, and their parking lot looked like it was full. One wonders if, in time, some of the people who complain about this are not suffering, of course, from the economy, but maybe the concept of competition plays a role in this whole matter. The bottom line for you folks, though, is is a Planned Development put together the way Planned Developments are planned in Tippecanoe County, good for the City of West Lafayette. And I think, if you read that plan and if you look at the narrative and everything, you will come to the conclusion that it is good for West Lafayette. Thank you.

Mayor Dennis said thank you, Mr. Bumbleburg. One point, George [Mr. Molnar].

Mr. Molnar said just a quick question. You criticize me for saying that I said—

Mayor Dennis said George [Mr. Molnar], we’re not going to engage in this. We’ve got an issue above the Council, for the Council to make a decision—

Mr. Molnar said can I just ask him a question?

Mayor Dennis said if you have a challenge with Mr. Bumbleburg, that can be taken somewhere else.

Mr. Molnar who do you have a franchise with.

Mr. Bumbleburg said sir, I didn't come here to engage in comments with you. My client and I have proprietary information. You asserted something to this Council which was not true, and I told them that. Now you have to live with that.

Mayor Dennis said Mr. Hiatt.

Mr. Mark Hiatt said just very briefly, let me bring you up to date on where we are currently with the property. Right now, we do have an active franchise with Marriott Corporation. In fact, I spoke directly with our franchise manager, project manager, two and a half weeks ago. They are very excited about this project, very intent upon us moving forward. This was right after the APC meeting and the APC's approval. They're very excited and happy to hear about that. One thing that many of you may not know that's important to know is when Marriott considers granting a franchise, and an interested party buying that franchise from them, they do their own market studies. They know more about what's going on in the market than just about anybody. It's their business. They've been at it for more than 45 years. They were very excited about this particular location a year and a half ago, and they remain that way. You also have to understand that we're not talking about a current economic situation or condition. We're talking about a condition in real estate parlance is 20 to 24 months of where we are right now. I understand a little bit about what your economic situation is as a community and as a region, and I have to believe that it will be better in two years. As real estate developers, we're always challenged with that situation of having to predict what's going to happen in the future. This is a good—and I use that word very strongly—a good situation from an economic standpoint for us, because we believe that in 20 to 24 months, your economy here, not only here but in the region, will be much better than it is. It's an ideal time for us to do what we need to do. Now, in addition to Marriott doing their own research, we commissioned our own independent market research study. It actually indicated that a hotel of 110 to 120 rooms would be supported by this market. In terms of financing, we, for the largest part of this project, the hotel—the most expensive part—we have a lending commitment for 70% of the cost of the hotel. So we have a debt commitment to go forward with the construction on this hotel. Currently, in fact this afternoon, I was involved in an active negotiation for a letter of intent to lease the entire restaurant site. We've been approached by two independent groups to assist us with the development and construction of the apartment complex. Now, everybody else who was interested is waiting for the outcome of this vote tonight. They have told us that. They're not going to commit the time and the resources to involving additional financing—and committing additional financing, doing the due diligence that they are ready to do, until they know they can go forward. They don't want to waste the time. That's the current condition of the financing market these days. We're very encouraged, even as difficult as it is to get financing for commercial real estate projects, we have commitments. We have interest in leasing the different parts of our project that can be leased. So from our standpoint, there are a lot of positive things going forward, and we are ready to begin. Thank you very much.

Mayor Dennis said thank you. Comment from the Council?

Councilor Bunder said I was going to ask Chandler [Director of Development Poole] if he'd like

to say something. Probably not would be the answer. But I would like to hear from the City Director of Development.

Director of Development Poole said when I got here in June of '08, the Champion's Centre was still kind of going and then it kind of died, because of what happened in the economy. We started to work with the developer. Mark [Mr. Hiatt] was very gracious to say, "We've got some new ideas, some new thoughts." He came up with the idea of the student housing component, and we said, "Okay, this is interesting. You're going to have to sell the community before you sell us." And we had the public meeting where we had the boards with the seven different buildings. It didn't go well, and I think he got the idea we weren't too thrilled with that type of a product. The developer then went back to the drawing board, came up with a new plan. We had another public session. What I've seen on the site and how it's developed and how it's progressed, is that I believe the developer has listened to the City and asked for as much protection as possible from the surrounding community by shifting the buildings as far as to the west as possible, to create as much of a buffer on the east side of the site as possible, to also take, on the north side where the residential component will be, to move the balconies and focus them toward the interior of the site. I think that's a rather generous offering by the developer, to try to protect the neighborhood as best as possible. It's a good site. I think they've done a good job listening to the community, listening to the Council, listening to my offices. I've had yelling matches with Mark [Mr. Hiatt] about certain things. I'm proud of what we've come up with.

Mayor Dennis said thank you, Chandler [Director of Development Poole]. Any other Council input? Councilor Dietrich.

Councilor Dietrich said I just have a question as to whether there's any concern. We've heard a couple different theories, I guess, about what impact his might have on the City's infrastructure. Is there any concern? I'd like to ask an expert, if I could, please.

Mayor Dennis said Dave [Wastewater Utility Director Henderson] and David [City Engineer Buck].

Wastewater Utility Director Henderson said yes, the basement backups that were experienced on Windsor Drive aren't a failing of the capacity of the infrastructure. We had a couple of power failures at the lift station, and then there was the one incident that the root cause was a connection that wasn't properly sealed off when the Family Inn site was demolished.

Mayor Dennis said has it been fixed?

Wastewater Utility Director Henderson said that's been fixed. That was our first problem. And then the last two backups were power-related with the lift station. I know it's not an immediate relief, but the upshot is that the Windsor lift station is scheduled to be retired when we complete the Western Interceptor Project. So it will all be gravity sewer in two or three years.

Mayor Dennis said okay. Mr. [City Engineer] Buck.

City Engineer Buck said he pretty well got it. There was a failure to plug the sewer on site that no one knew about. It was an abandoned sewer that had no mapping. Our office sent a letter out to all the affected residents in that area, explaining the situation to them, and asking them to contact the City's insurance carrier and their own homeowner's insurance carrier, as well as our office, if they had any questions. That situation was rectified; it did require a large rain event for

it to occur, as well as a power outage for it to occur, which happened, I believe, two times. So there was a series of events that lead to that situation happening. That sewer was not designed to handle the amount of stormwater that got into it. It was designed to only handle sanitary sewer water, and so it was an eight-inch pipe instead of a 24-inch pipe. The design of the project and the routing of the project, stormwater will be sent to the west, the sanitary sewer connection will actually be sent to the new Western Interceptor, as Dave [Wastewater Utility Director Henderson] was saying, the entire Windsor lift station will be eliminated. That flow will not be pumped any more; it will all flow by gravity, all the way to the treatment plant. In a very large and new pipe. So we feel we have very good capacity at this site, both stormwater and sanitary, for future development.

Mayor Dennis said any further questions of our two experts?

Councilor Hunt said I have one.

Mayor Dennis said Councilor Hunt.

Councilor Hunt said if I may. I don't know, Mr. [City Engineer] Buck or whichever David. There are drainage plans for stormwater that go along with this construction site, is that correct?

City Engineer Buck said there are, yes.

Councilor Hunt said and this will significantly improve the stormwater drainage that's a problem now of standing water in many of the back yards?

City Engineer Buck said there have been a lot of changes to stormwater ordinances since the Family Inn was originally constructed. A lot of modernization has taken place in the requirements that are dictated for new development. In this case, both stormwater quantity and how much water you're allowed to release from your development site, but also now stormwater quality, in terms of the sediment and anything in the stormwater that might get into a river or a stream, a water body of the United States. This site will be required to accomplish both of those design requirements for their site. Some of that is going to be in conjunction and cooperation with the Purdue golf course at the corner of Northwestern and Lindberg and creating an area that satisfies part of their water quality and water quantity, detention storage requirements as it sends water on through the golf course in a quite intricate system that the Purdue golf course has developed there, too, to clean their stormwater.

Councilor Hunt said thank you.

Mayor Dennis said further questions on the part of the Council?

Councilor Burch said yes, Mr. Mayor. I have some comments, I guess, more than questions. I have to ask myself a question that I asked Mr. [Councilor] Bunder earlier. Is this development going to bring money to our City? I'm all for money coming to our City, to increase our tax base. I live on River Road, and behind me is Happy Hollow. So I know about truck traffic, I know about cars and trucks going more than 50 miles an hour past my house, I know what it's like to try to pull out onto River Road or from River Road to turn in to my driveway. So I'm aware of the traffic. When the Catherwood Gardens was being developed, I asked the Council not to approve that development. I wanted a park there, connected to Happy Hollow Park, to extend the Park. But as Patsy Cline has been known to say, "people in hell want ice water, but that doesn't mean they get it." And, last of all, I've heard what you don't want, but I haven't heard

what you do want, except when Mrs. Marshall read the letter from Mr. Addison tonight, saying, “I don’t want a four-story building, I want a two-story building.” So if you all do not communicate with me, call me up, email me, whatever, I am not aware of this until tonight. So I don’t know what you want. I’ve heard what you don’t want. I don’t know what you want. Thank you, Mr. Mayor.

Mayor Dennis said thank you. Further Council comment?

Councilor Keen said I have a question, really a couple questions that I could direct to Mr. Parker or Mr. Molnar. If, by some reason, this were to be continued for 30 days, what information could you gather that would help you or your people who are interested in this, what could be done, what could be found out that could make things change for you. I mean, what could we accomplish with that 30 days that, if it were, I guess is the question I’m asking.

Mr. Molnar said form me, as somebody who’s invested in a lot of companies, I would want to see a pro forma, I would want to see financial statements, I want to see a marketing plan, I want to see a resource management plan, I want to see a traffic study. I want to make sure that the Environmental Protection Agency and every other government agency has approved this. But most importantly, I want to see where the money’s coming from, what the project schedule is, what are the milestones in terms of funding—because nobody’s going to give them \$5 million or \$6 million or \$7 million up-front; they’re going to give the money gradually over a period of six months, nine months, twelve months. I want to see where that money’s coming from, I want some of it escrowed, and I want to see what the project milestones are in terms of when that would be released. Because they have an obligation to, in a sense, come up to code. I’m sure we’ve all seen on television 10-story condos in Ft. Myers and Ft. Lauderdale with one family living in them, and I don’t want to see that happen. Because if their funding isn’t guaranteed and they don’t have a project plan with milestones, so that money is released to them as they complete certain aspects of it, then it’s a dream, it’s not a plan. So I would want traffic studies, environmental studies, I would like to see some type of market resource management plan that says, “Yes, here is the market for this hotel. Here is the market for these apartments.” Simply not just saying, “Well, Marriott says it’s okay.” But I would be more concerned with the financial schedule. Give me a pro forma. I lived and died with financials for 25 years. I can take a look at something and in 10 minutes and tell you whether it makes sense or not. I don’t need a month to analyze it. I understand you’re asking me to analyze it for a month. But I’m saying, that’s what I would want.

Councilor Keen said well, in response to—kind of what you’re saying—I mean, I know that traffic studies either have been done or are in the process of being done for this. I mean, that’s just part of the process. And as far as environmental studies, those all get done on projects like this as well.

Mr. Molnar said I understand, but my point is how can you vote and approve something when those things aren’t done. And I don’t mean to be sarcastic, but if you were to ask right now to vote on Obama’s healthcare—not being political—people say, “I don’t know anything about it. How can I vote?” I’m saying, if I were sitting on your side of the desk, I would say, “I don’t know anything about this. I hear that we have maybe a franchise, maybe a restaurant, maybe a market study.” Why weren’t those things given to the Area Planning Commission for their review?

Councilor Keen said I think Mr. Parker answered that one, in that that wasn’t the APC’s—that wasn’t the scope of what they were doing. Their scope is, “Could this be done?”

Mr. Molnar said fine, right. Okay. So it's setbacks, it's height, it's other things.

Councilor Keen said right.

Mr. Molnar said so what I'm saying, your responsibility, as Mr. Parker said, is to say, "Does it make any sense?" And what I'm saying what I would like—you know, I don't want to be redundant—what I would like to see is a financial schedule of when the money's coming in and what it's going to be used for and what the progress is. And then have somebody from the City monitor that, and make sure that there's enough in escrow, so that if they bail out in the middle of the night, we're not left stuck with hundreds of thousands of dollars in legal fees. This City spent—what?—\$147,000 to enforce an occupancy ordinance. How much money do you think it's going to take if those guys leave halfway through the night?

Mayor Dennis said point taken, George [Mr. Molnar].

Councilor Keen said I understand your concern and I appreciate your concern. I think there's a lot of legal issues involved in what you're talking about, though.

Mr. Molar said we pay for it.

Councilor Keen said right. Would you like to address any of his comments? I'm just trying to get to the—I'm trying to help everyone here to come to an understanding here. Even though it is quarter to 11.

Mr. Hiatt said it's very true. When you do invest in certain companies, primarily public companies, you have access to the kind of information that has been discussed. You have access to 10Ks, various types of statements, pro formas, projections, marketing studies, everything that he's related just a couple minutes ago. This is a private development.

Councilor Keen said exactly.

Mr. Hiatt said a private development. As part of the development process, in trying to get the appropriate approvals, we are not required to submit this information. It doesn't mean we don't have it. I've been developing for over 20 years. My first hotel, a Hyatt hotel in Atlanta, was in 1991. So I know a little bit about developing hotels. The other thing that you have to realize, too, is, over the last year, as everybody has known, we've gone through a significant economic trial in this country, in fact, in this world. Because of that, the banks have adopted some very unique and different strategies for lending money. You know, I've heard a lot of information, a lot of discussion about posting an escrow. Well, in effect, banks already do that, through the processes that they move forward when they lend money. There will be a lending schedule, for example. We won't get all the money in six months. In fact, we'll probably get 75% of the money by the time each of the projects is complete. There will be bank inspections. You're all probably very familiar with this. Before money is disbursed, we will have our general contractors post bonds, so that if they don't finish the work, we can finish it for them. There are a number of guarantees within the commercial development process that have been in place, been in place for decades, that we will employ on this project. That will protect the project to get finished. You won't have a half-built building over there. And with all the due diligence that the FDIC, both at the federal level and your State banking regulation offices are exacting on banks these days, and other states as well, before any approval is given all the information that he's talking about, we will provide them, and we will give them, and they will debate with us on it. I

mentioned now we have debt financing already in place, already committed for the hotel. This process happened a year ago. And every three months, every quarter, we've had to update it, update the situation, conditions, projections on construction costs for the hotel, and so forth, which, because of the economy have gone down slightly. So a lot of the very specific financial checking that's been debated and talked about will be in the loan approval process. And how moneys are disbursed for this project. And that's been the case for decades. There's nothing new there. But I'll tell you very directly, to provide private negotiated information between my company, many of our lenders, to a public forum like this, I will not do that, because that is a violation of several of the agreements that we have in place right now. I could provide you with a copy of our franchise agreement with Marriott Corporation, but I can't, because I am limited by our agreement with Marriott to do that. It is a private agreement. I can't provide that to you. I'd be in violation of that agreement, and we could lose our franchise because of it. So, just to add some more information to what's been discussed so far, yes, in a public setting with a public company, that kind of information is easily available and, by law, required. In a private development of this type, we have no obligation to provide that. I've made statements in certain respects that give you more information—

Councilor Keen said but we have your assurances that these things do exist.

Mr. Hiatt said yes. I would not say that unless they were in place. Now going forward, what will happen over the next—if we're lucky enough to get an approval this evening, what will go forward over the next several months, by regulation, by your laws, we have to complete final detailed plans. And we have to complete construction documents for at least the land development portion of that. We have to take a business plan that we already have in place and present it to our bank. They said, "Once you get final approval, we will consider your business plan for going forward with the development of the horizontal land portion." We have \$2.8 million from our original land acquisition and development loan—that was the total amount of the loan. You can verify that amount. It's a matter of public record at your County courthouse. We have money left within that original loan to start the land development. So we could, after the bank approves our plan, they have to go through a loan committee to approve different sections of the development itself, we can move forward. But it's going to take several months to get the detailed plans complete and reviewed by the City, and permits issued. Our ultimate objective is to start the major part of the project, which is the hotel, by early spring of next year. Thank you.

Mayor Dennis said thank you. Any questions of Mr. Hiatt?

Councilor Keen said could I ask Mr. Parker the same question I asked Mr. Molnar, what would 30 days give you? I mean, what would you be able to accomplish, in trying to ascertain more information on what would be helpful for you?

Mr. Parker said I think the answer to that question just came from what we just heard. Much of the information we'd like is private information. It's not going to be put forward. It's an interesting situation you're in. You're voting on something that you don't have all the answers for yet. By the time you get all the answers for, the vote's going to be done. If you're not absolutely confident that you have all the information you need to make sure that this project is a go, if you're not absolutely confident that you have been convinced that this is absolutely going to be built by the same people who told you that the last project was absolutely going to be built, and on a similar time schedule. If you're not absolutely sure of that, then you need to look a little bit farther. And I'm not sure how that information to convince comes forward. I'm not convinced. We've been here before. I'm not convinced. The sad thing is, this is the time

for the vote. It's not like we can vote on this, get the information later, then make a judgment. This is the time for the judgment. If you can't honestly sit there and say, "This is absolutely going to happen in the way and the manner as perceived," well then I think it's wise to table it to a time that you can say that.

Councilor Keen said I can certainly appreciate where you're coming from. But I think—and I would consider tabling this if I thought there was a chance that we could get information in a reasonable amount of time that would make everybody more comfortable with this project. However, I think that by doing that, that may actually endanger the project in getting things signed and continued on in a reasonable fashion. And, unfortunately, you sat in this chair before, this very chair, actually, and you've been on this side, and so you know what it means to have to vote on something and not have quite all the information that you would like to have. And it's not an easy decision. It's really not. I don't know that anybody in this room—I don't think that Mr. Hiatt himself could get up here and say he's absolutely 100% sure that this thing is going to go forward. I think that's unreasonable to ask that kind of a commitment in your thinking for something to go forward. Although I can certainly appreciate where you're coming from, as far as you're concerned and that sort of thing. I mean, both of you guys, and the question has to be begged. The first project didn't go anywhere. And so what's different with this one that's, you know, different from the first one that this one will and the first one didn't? I don't know that I can answer those questions. Although I can say I like this plan 100% better than the other plan; I can say that. I think it's a much better plan and a much better project that what was previously planned. Can I address one question for you, Gale? You had mentioned when you got up something about this setback on the building was being way far back?

Ms. Gale Charlotte said it was.

Councilor Keen said because on my map, I'm showing 75 feet off of the curb.

Ms. Charlotte said see, and I'm not privy to what you are looking at. I mean—

Councilor Keen said I'm just looking at a drawing of the whole thing, and from what I'm looking at, we have approximately 140 feet from the back to the building, and about 75 feet from what appears to the curb line to the front corner of the building.

Ms. Charlotte said okay.

Councilor Keen said so to me it looks like the building has moved substantially forward from where it was.

Ms. Charlotte said which is an improvement. Like I said, I appreciate that he has taken our comments into consideration. I just think—and to sort of reiterate what Mr. Parker said, I'm not so sure that we're asking you to table it. I think we're asking you to maybe say no and what can you come back to us with that would be even better. I mean, if the first one wasn't good enough, and this one is a little bit better, what can they come back with? And is this the project that you want to see on this site that will beautify and be safe and, you know, make this part of the City a better place. That's what you have to ask yourself, just like he did when you were considering the R4 rezoning tonight. Is that something that's going to make this part of the City better? Or can they come back with something that will be agreeable to us and will work for the benefit of the City Council?

Councilor Keen said can I ask one more question?

Mayor Dennis said yes.

Councilor Keen said Mr. Hiatt. I'm sorry. Thank you, Gale [Ms. Charlotte]. In light of what Gale just said, if this were to be denied for whatever reason tonight, what is the likelihood that you would come back with another project of some sort? Or would you simply move along and let somebody else take it over? How would that work? I mean, I don't mean to get into private information or anything like that, but just as a— I know it would be a huge financial issue for you to start over. I mean, it would be for anybody. But could you address that line of thinking?

Mr. Hiatt said certainly. You know, way back in the beginning when Mr. Parker and I met, sat and talked, the concept of a two-story development came out very soon. Right at the beginning, both in terms of either just a hotel or just an apartment complex or maybe a single family home, residential-type development. We looked at all of those concepts. The problem that we have is—well, let me take the commercial to residential move, taking a commercial site originally zoned as a commercial site and has the land costs associated with a commercial site moving to a residential. It very rarely works for economic and financial reasons, because of the cost differential of the land. Commercial land is usually much more expensive than residential land. So trying to get that to work, you have very expensive homes. I've seen it happen only a couple of times in my career. To try and move to two story structures, we would have to eliminate one or the other of the four-story components. The problem is we get into a capacity issue with parking. On fairly constrained sites like this, we always get into, and I apologize for getting a little bit technical, a trade-off between parking and the density of what we're trying to build. We've run financial scenarios over and over and over again, trying to see if a two-story structure, of either an apartment complex or a hotel will work. And it cannot work, given the costs we already have into the land. We cannot make that work economically. So we considered it. And, to be very direct and very blunt, but given the already-sunk costs that we have into the land. The cost of the land, tearing down the original Family Inn and so forth, we cannot make the economic plan work.

Mayor Dennis said thank you Mark [Mr. Hiatt].

Councilor Keen said thank you.

Mayor Dennis said questions on the part of the Council?

There was no further discussion.

Ordinance No. 23-09 passed on first and only reading, 7-0.

QUESTION TO THE COUNCIL REGARDING THE NEXT ITEM OF BUSINESS

Mayor Dennis said Council, the next agenda item is the first reading of the budget. I've got a PowerPoint prepared. I will accept the decision on the part of the Council. I can go through a real brief narrative of some of the points specifically, the goals.

Councilor Keen said I'm okay with that.

Mayor Dennis said if that would suit the pleasure of the Council.

Councilor Hunt said what's new that we haven't gotten, either in a memo or on our CD?

Mayor Dennis said nothing. It's the budget we've crafted, just in a PowerPoint presentation.

The Council received the paper copies of the Power Point presentation.

Councilor Hunt said I don't need to see a PowerPoint, but I don't know how other people feel.

Mayor Dennis said what I don't want is to take advantage of an extended meeting. What I don't want is for any representative of the Council or that guy in the public to feel as though they're being shorted any information or conversation.

Ordinance No. 24-09 An Ordinance Setting The 2010 City Budget And Setting The 2010 Tax Levy On Property And Tax Rate (Prepared by the Clerk-Treasurer)

Councilor Keen read Ordinance No. 24-09 by title and moved that it be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said quite clearly, because we've all been involved in this process extensively since about February, the basic budget goals: We're going to maintain the expected high level of City services. We're going to focus on public safety, including Police, Fire, and safe roadway infrastructure. We're going to have a balanced General Fund and Operating Budget. We're going to lose no positions, and we're not going to add any positions, and we're going to make sure there's no increased insurance cost for employees. That's the basic tenants of the budget. There's a great deal more. I'd be more than happy to go on. I will open it up for discussion on the part of the Council. Again, this is the first reading.

City Attorney Burns said that's why they make first readings.

Councilor Dietrich said it's not like the first time we've seen it either.

Mayor Dennis said any questions, concerns, discussion on the part of the Council?

There was no further discussion.

The roll call vote:

AYE	NAY
Bunder	Roales
Burch	
Dietrich	
Hunt	
Keen	
Thomas	

Ordinance No. 24-09 passed on first reading, 6-1.

Clerk-Treasurer Rhodes said I would like to state that there will be a public hearing on the budget at the next Council meeting October 8. Final passage is scheduled for October 29 at the Pre-Council meeting. Thank you.

Ordinance No. 25-09 An Ordinance To Fix The Salaries Of Appointed Officers, Employees, And Members Of The Police And Fire Departments Of The City Of West Lafayette, Indiana, For The Year 2010 (Prepared by the Clerk-Treasurer)

Councilor Keen read Ordinance No. 25-09 by title and moved that it be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said it's been motioned and seconded. As a point of discussion, it's the same as last year. Discussion on the part of the Council?

There was no further discussion.

Ordinance No. 25-09 passed on first reading, 7-0.

Ordinance No. 26-09 An Ordinance To Fix The 2010 Wastewater Treatment Utility Salary Schedule As Submitted By The Board Of Public Works And Safety For Approval By The Common Council Of The City Of West Lafayette, Indiana (Presented by the Board of Public Works and Safety)

Councilor Keen read Ordinance No. 26-09 by title and moved that it be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said any discussion on the part of the Council? Again, this is the same as last year.

There was no further discussion.

Ordinance No. 26-09 passed on first reading, 7-0.

Ordinance No. 27-09 An Ordinance To Set The Salaries Of The Elected Officials, City Of West Lafayette, Indiana, For The Year 2010 (Prepared by the Clerk-Treasurer)

Councilor Keen read Ordinance No. 27-09 by title and moved that it be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said discussion? Again, the same as last year.

There was no further discussion.

Ordinance No. 27-09 passed on first reading, 7-0.

Resolution No. 11-09 A Resolution Appropriating The Necessary Funds Resulting From The 2009 Community Development Application Of The City Of West Lafayette Under Title I Of The Housing And Community Development Act Of 1974, As Amended (Submitted by Department of Development)

Councilor Keen read Resolution No. 11-09 by title and moved that it be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said we have a motion and a second. Any discussion? We have Chandler [Director of Development Poole] here if there are any questions.

There was no further discussion.

COMMON COUNCIL MEETING MINUTES, SEPTEMBER 14, 2009, CONTINUED

Resolution No. 11-09 passed on first and only reading, 7-0.

Resolution No. 12-09 A Resolution Appropriating The Funds Resulting From The 2009 Community Development Block Grant Recovery (CDBG-R) Funds Authorized And Appropriated Under The American Recovery And Reinvestment Act Of 2009 (Submitted by Department of Development)

Councilor Keen read Resolution No. 12-09 by title and moved that it be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis said motioned and seconded. Any discussion from the Council?

There was no further discussion.

Resolution No. 12-09 passed on first and only reading, 7-0.

COMMUNICATIONS: None.

CITIZEN COMMENTS: None.

ADJOURNMENT

There being no further business at this time, Councilor Keen moved for adjournment. Motion was seconded by Councilor Hunt and passed by voice vote, the time being 11:02 p.m.