

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES

February 6, 2006

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on February 6, 2006, at the hour of 7:30 p.m.

Mayor Mills called the meeting to order and presided.

The Pledge of Allegiance was repeated.

Present: Griffin, Hunt, Keen, O'Callaghan, Plomin, Satterly, Truitt

Also present were City Attorney Bauman, Clerk-Treasurer Rhodes, Director of Development Andrew, City Engineer Buck, Public Works Director Downey, Fire Chief Drew, and Parks Superintendent Payne.

MINUTES: Councilor Griffin moved for acceptance of the minutes of the January 5, 2006, Pre-Council Meeting, and the minutes of the January 9, 2006, Common Council Meeting. Councilor Satterly seconded the motion, and the vote was AYE.

COMMITTEE STANDING REPORTS:

STREET AND SANITATION: Councilor Satterly presented this report.

The January monthly highlights: Due to the unusual weather, the department has been able to clean gutters, fix potholes, and repair equipment, instead of removing snow. Superintendent Downey says, "Let it snow."

Councilor O'Callaghan said he's sick of cleaning gutters, huh?

WASTEWATER TREATMENT UTILITY: Councilor Satterly presented this report.

During the month of December, there was 241.57 million gallons of flow to the sewage treatment plant, 99.94% was treated. That reflects the fact that there were a few overflows at the Wet Weather facility. There were four hours during one event, Dehart Street; six hours during two events; Quincey Street had a very small amount for a quarter of an hour. The department cleaned over 10,000 lineal feet of sewer, and televised over 12,000 feet of sewer. That completes the report.

PUBLIC SAFETY: Councilor Keen presented this report.

I'm going to be brief. The Police Department and the Fire Department, both normal activity for the month, for the most part. I did want to just point out one thing: In January, the gas bill for the Fire Department was about \$1,000.00 higher than it was previously, which is about a 36% increase. So it has hit. The rest of my report will be on file.

PURDUE RELATIONS: Councilor Plomin presented this report.

We have, as is normal, Mr. Jonathan Foltz from Purdue Student Government, but before I turn the floor over to him, I'd like to mention that I've been working on legislation to mandate the level of light in highly populated areas, denser areas around campus, to put it in line with Purdue's. The progress has been slow; we haven't been able to line up good times to have meetings with all the appropriate people. So it's not on this month's agenda, but I expect it will be on next month's. And now I'll turn the floor over to Jonathan Foltz from Purdue Student Government, Local Government Relations.

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Mr. Jonathan Foltz said thank you, Councilor Plomin, Mayor Mills, Council members. It's a pleasure to be here again. Thank you for this opportunity. I just have a couple updates relative to Purdue Student Government that you all may be interested in. A small group of students from the Government Relations area of Purdue Student Government recently had a day trip to the Statehouse down in Indianapolis. It was very informative, and we're following this trip up with a visit on February 28. You're all more than welcome to help out and visit with us. Student leaders from other organizations on campus will travel along with representatives from Student Government. Additionally, we are organizing a Voter Awareness Week, which will run during the last week of March. This will be prepared as to communicate the importance of being an active participant in our elections. Going along with this, we will emphasize voter registration, and continue to pursue various political speakers to present to students during this time. The Purdue Student Government Senate is meeting during the normal time of 7:00 p.m. this Wednesday, in Krannert, Room G-18. You are all more than welcome to attend. That's it. Thank you again from everyone at Purdue Student Government.

Councilor Plomin said I would like to mention one more thing. On Thursday, February 16, Ann Coulter will be speaking in Purdue's Loeb Playhouse in Stewart Center. I believe the speech is scheduled for 7 o'clock and it's open to the public. So all who are welcome, please attend.

PARKS AND RECREATION: Councilor Hunt presented this report.

I have a short but somewhat "cool" report tonight. You'll understand when I get there. The Park Department is taking shelter reservations for summer of 2006. There's free tax preparation assistance being offered at Morton on Wednesdays through the end of February, from 1:00-4:00; if you might need some of this help, please call Morton for appointments. The "cool" part is for those interested in ice-skating in their bathing suits. I have this little pin here for the Third Annual Polar Bear Skate, which will be on February 10, from 7:00-9:00. Admission is \$5.00. Door prizes are given. Pizza and hot chocolate will be provided for those who skate one full lap in their bathing suits. They'll also earn a commemorative button with a polar bear on it. Attendance at the Riverside Skating Center has really increased significantly since opening late in November, and this certainly will boost the attendance. Some other important dates coming up: RiverFest is the 8th of July, Dancing in the Streets is the 29th of July, Global Fest is September 2 at Morton Center, and the next Park Board meeting is February 27 at 4:30 p.m. Thank you.

Mayor Mills said the Polar Bear Skate is this Friday night, and I think the weather forecast is still very cold, so it should be an interesting evening.

DEPARTMENT OF DEVELOPMENT: Councilor O'Callaghan presented this report.

The Redevelopment Commission met on January 20 and discussed the year end report, and just lots of exciting things going on with the Redevelopment Commission. I won't go into all the details, but I imagine the report's on the website? Is the annual report on the website? I meant to check with Josh [Department of Development Director Andrew]. That might be something that we can get done, so that people can access that. I will just mention that there is a new management team in place for the retail portion of Wabash Landing, and Dick's Bodacious Bar-B-Q is to open by the end of February. Optix has

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already opened. By May, should be a junior women's fashion place should open by the end of May, so we're excited about those things happening in Wabash Landing. Certainly, there are exciting things going on all over the— Spacibo, I'm not sure how to pronounce that, opening in Bell Plaza with some ethnic food, which will be neat. Also from the Department of Development, the first CDBG hearing was on Wednesday, February 1, and that was presentations from the various public service agencies. All the Councilors have received their rating sheets for those proposals, and those should be returned to the Department of Development. That's my report.

PERSONNEL: Councilor O'Callaghan presented this report.

I guess I might just mention that Bison Financial Group is providing free financial planning review for City Hall employees as a benefit. That's a pretty neat thing that they're doing for the City, so I appreciate that.

BUDGET AND FINANCE: Councilor Truitt presented this report

No report.

REPORT OF APC REPRESENTATIVE: Councilor Griffin presented this report.

We will consider a couple of issues that have come from the APC, a Woodbury Planned Development and Fairway Knolls Apartments Planned Development. Of course, APC is involved with many other things, but these are the two things that are coming before the Council here tonight.

REPORTS OF SPECIAL COMMITTEES:

Councilor O'Callaghan said I might just mention that some members of the West Lafayette Youth Council are here tonight, and they'll be speaking a little bit later. I guess I might also mention that a Board of Works member, Janet Broyles, her company, Automated Payroll Service, was the Small Business of the Year, and so I thought that was pretty neat to have these six copies of the publicity for her, to get her. We appreciate the work she does for the City and she still keeps her business going.

PUBLIC RELATIONS:

Mayor - State of the City

Mayor Mills said tonight, I am going to give the State of the City. I realize that it's a long Council meeting tonight, and I'll try to go through it quickly, but I think it's an important part of the democratic process, for me to report to the Council and you the citizens on the State of the City at the end of 2005 and the beginning of 2006. Good evening, members of the Common Council, colleagues, and fellow citizens. Thank you for joining us tonight as I report on the State of the City. I'm pleased to report that the City of West Lafayette is in good fiscal condition as we begin 2006. Our budget was approved by the Department of Local Government Finance and is fully funded. Despite declining revenues and a municipal tax rate that is in the lowest 10% in the state, the determination of each department to manage resources carefully has allowed us to continue to provide the level of service that our residents expect. We have done that without reducing services, without eliminating positions or reducing salaries. Instead, the efforts of each department continue to reduce our costs through best practices. Public safety continues to be a priority for the City of West Lafayette. The Fire Department, under the excellent leadership of Chief Phil Drew, hired 2 additional firefighters in 2005, Ben Jones and

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Shawn Leuck, reflecting the department's commitment to provide the highest quality first responder and fire protection. It was a busy year for the department with two major fires in the Village. We appreciate our mutual aid partners—the Purdue University, Lafayette, and Wabash Township fire departments—who assisted our efforts in those fires. There were no serious injuries and the fires were confined, because of the excellent response from our firefighters. We also appreciate the community support, especially from the Red Cross and Einstein Brothers Bagels. 2005 was a year of increased training opportunities for the fire department. Twenty-six firefighters attended the Fire Department Instructors Conference in Indianapolis, taking advantage of classes in structural building collapse and aerial tower ladder operations. The department also participated in the State Fire Marshall's Summit, and Chief Drew was asked by the State Fire Marshall to be a member of the steering committee for the development of a State fire and emergency training academy. Brian Lancaster, our fire inspector, participated in a two-week course at the National Fire Academy in Maryland. In May, a house and barn, scheduled for demolition and made available by C.P. Morgan, were used for joint training with the Battle Ground and the Wabash Township Fire Departments. The Police Department continued to focus attention on neighborhoods in 2005, with proactive concentrated patrols, to discourage vandalism and noise. During the year, the department received 16,639 calls for service, down 7% from 2004. Despite that decrease, the department was busy, with an increase in the number of major crimes investigated—33—and a corresponding increase in the number of criminal arrests. Chief Dan Marvin and the department completed the first full year of working with Sheriff Anderson and the County on updating radio equipment and central dispatch, and completed the first full year of our K-9 program, becoming the host site for the Metro K-9 Program. Officer Jeff Dunscomb and our police dog Fonske have been invaluable resources in that program. The department implemented an internship program, a Red Light Enforcement Program, and continued with numerous safety programs, including Operation Pull-Over, Big Cities and Counties Grants Program, EVOC training, Project Child Safe, and the Seat Belt Enforcement Program. Equipment and software for the parking enforcement program were also updated this year. Planning and neighborhoods continue to be the focus of the Department of Development and Development Director, Josh Andrew. Released in June, the West Lafayette Strategic Plan Update was the work of an excellent steering committee and one hundred residents who participated in three public forums in the early months of 2005. A Citywide services survey was conducted as part of the planning process. Planning priorities included housing and neighborhoods, schools, City vitality, and City services. These priorities, along with strategies to accomplish the outlined goals, are the roadmap for all of the City departments in the coming year. We remain strongly committed to ensuring our neighborhoods are vital and safe. That commitment is evident in the ongoing programs of code and nuisance enforcement, support for the not-for-profit New Chauncey Housing, staff support for the Neighborhood Coalition, participation in the Community Issues Study Committee, participation in the annual "Meet and Greet," and discussions with campus leaders through the Vice President for Student Services' Office. Following the strategic planning process, code enforcement was ramped up and included emphasis on the exterior condition of properties, including snow removal. The difficult job of inspection and enforcement is handled by five staff members under the direction of Allen Grady. Safe housing throughout the City is the result of their hard work. I'd like to especially thank them tonight. They inspected 402 properties, which is 696 units, did 505 nuisance inspections, and investigated 13 tenant-based complaints in 2005. Last year, we once

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again invested Community Development Block Grant dollars for improvements in the target areas of the City. \$753,000 was used for curb and sidewalk replacement and curb ramps for accessibility issues on Columbia, Marsteller, Hayes, and Lincoln streets; on the purchase, rehabilitation, and sale of single-family homes, and for home-buyer assistance or repair assistance; on the purchase of property for a neighborhood park; and to help provide funding through our local public service agencies for 14 programs, community-wide, that assist low to moderate income families. The Department of Development was also involved in many other development and redevelopment projects in 2005. The second year of the Sagamore West Implementation Plan brought additional improvements along the Parkway in the form of new sidewalks, curbs, and landscaping from Osco Drugs to the Village Bottle Shop. Continuing our commitment to use local firms and “in house” talent, gateways, lighting and banner poles have been designed, and the permits are pending through the Indiana Department of Transportation. We were awarded a \$50,000 landscaping grant, a matching grant, from the Department of Transportation, and those funds will be used in the gateway project. Sagamore West has also seen an active year with private development that included the Hilltop planned development; additional redevelopment in Wabash Village, with the construction of Haville Chiropractic and Dog-N-Suds, the opening of Chico’s in University Square, and the opening of Sigma Medical and Sherwin-Williams in Town Center. The Route 66 Restaurant expanded, as did Wal-Mart to a Super Wal-Mart, and Tower of Ivory Townhomes were completed. Civic involvement along the Parkway was also in evidence in 2005, as the Sagamore West Area Business Alliance organized the very successful Sagamore West Farmers’ Market. This wonderful addition to the west side of the river not only provided us with fresh produce, but a community gathering place every Wednesday afternoon. I want to thank the members of SWABA, and particularly Larry Oates, for working to ensure the market’s success. I’m happy to report that the market will again grace the Cumberland Athletic Fields parking lot, beginning this spring, May 3. Private investment through development and redevelopment continued Citywide in 2005. In the Levee/Village, we had construction of Capp & Gino’s, the Chauncey Townhouses, Basham Apartments at Chauncey and Fowler, the Villas on Pierce Street, Panini’s, State Street Towers, Puccini’s, and plans for Chipotle and the Irvine and Woodbury Apartments. Additional residential investment continued with the construction of new cottage homes at Westminster, the expansion of Greentree, construction of homes in Catherwood Gardens and St. Joseph’s Court, and new phases of home construction in Arbor Chase and Amberleigh Village. Our partnership with the Purdue Research Foundation and Purdue University resulted in exciting developments in the Purdue Research Park this year. Endocyte moved into new laboratory facilities with the completion of the Purdue Technology Center expansion in April. The Ross Enterprise Center is now home, to not only Butler Engineering and its 100 engineers—many of whom are recent Purdue graduates—but the OnePurdue program. Research Park Associates, the home of the International Health and Fitness Center, has begun construction on Phase II of their project, and CST/Berger, a division of Stanley Works, moved its corporate offices to West Lafayette in July. FuturaGene graduated from the Business and Technology Center incubator into space at Vistech I, and QuadraSpec announced expansion plans and their decision to remain in the Research Park. The construction and provision of fiber optics throughout the Park, made possible through the Certified Technology Park and the Technology Development Grant Funds provided by the State of Indiana, are allowing us to be competitive in attracting and retaining these companies. The University and City also continued our partnership to

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address the transportation needs of the community for the next 20 years. After months of cooperative planning and decision-making, design plans for the Purdue Area Transportation Plan were finalized in early 2005. Representatives from Purdue, the County and City staff received Statements of Qualifications from 11 engineering firms in December for Phase I of the plan. Design, development, and land acquisition will occur in 2006 and 2007, with construction slated to begin in 2008. The plan received the support of Congressman Steve Buyer. \$5.6 million from the Federal Highway Administration is included in the 2006 Federal Transportation Plan. The Public Works Department, which includes Engineering, Street and Sanitation, and the Wastewater Utility, continue to manage and constantly improve services to citizens throughout the City. City Engineer Dave Buck and Public Works Director David Downey work to renew our infrastructure, while planning for future economic development. Streets and sidewalks were a major focus for public works in 2005, with projects advancing on many fronts. After many meetings with the Indiana Department of Transportation and Atlas Construction, an agreement was reached that allowed a temporary fix late in December for Lindberg Road. Material testing and additional survey work is ongoing, as the parties involved work to develop a long-term solution. Other projects that saw completion were the reconstruction of Kalberer Road; the reconstruction of South Salisbury that included new curbs and sidewalks and additional parking; the reconstruction of Brown Street and Tapawingo Drive intersection for traffic calming and speed reduction; the above-mentioned Sagamore West sidewalk additions; and \$380,000 worth of street resurfacing, which resurfaced for than 2.25 miles throughout the City. The planning and design of projects that will continue into 2006 included safety improvements to Sycamore Lane; the construction of Tapawingo South; Salisbury Street Safety Improvements, which may be discussed briefly tonight when we get to a new appropriation; and the reconstruction of Cumberland Avenue. In addition to these many projects, the Engineering Department has directed a review of parking needs and standards in the Village. A committee composed of Village property owners, library staff, local residents, Purdue students and staff helped direct and provide input for the study. A final report will be presented to the Council in March. The City's proposed annexation of 1,173 acres has also involved staff from each City department. This process began in November, but will continue well into 2006. Providing services and infrastructure to the annexed area will keep all of our departments busy in the coming years, but will allow us to be involved in the decision-making as growth occurs. Design engineering by Greeley and Hansen continues on the Western Interceptor Sewer project. Plans should be complete early this year, with construction beginning as early as this summer. Progress was finally achieved, through the persistence of Dave Buck and David Downey, on coordinating the sewer project with the State's US 231 Road Project. We have submitted a justification for INDOT approval, and believe this to be the last step in gaining approval for construction coordination. We also anticipate receiving approval this spring from the Indiana Department of Environmental Management for the renovation of the digesters at the Wastewater Treatment Utility. Construction should begin this year. The Western Interceptor and digester renovation are the final major projects in completing our long-term Combined Sewer Overflow Plan. Work continues on developing the new stormwater ordinance required under the federal National Pollutant Discharge Elimination System Phase II regulations. A fee schedule for new construction projects, plan review, and construction inspection is currently being developed. Options for implementing and managing a stormwater utility were discussed in the fall and will continue this spring.

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Supporting the stormwater and wastewater activities, the Street and Sanitation Department collected 338 tons of sand, dirt, and debris from our 82 miles of roads in 2005, helping us to keep the Wabash River clean. Six employees collected 516 tons of leaves that, this year, seemed to all fall down on one weekend, and removed 32 dangerous or dying trees. Our lone mechanic in the Street Department services all of our City vehicles, and repairs and constructs numerous pieces of equipment, saving the City countless dollars that would otherwise be used in the purchase of new parts and new equipment. Our one traffic technician maintains all of our street signals and in 2005 replaced all traffic lights with LEDs, cutting our electric costs in half. All of you should be proud, because West Lafayette residents recycled 1,962 tons of recyclable materials in 2005, our 15th year of recycling in West Lafayette. That collection generated \$92,809 in revenue, and saved the City \$73,378 in tipping fees at the landfill. During the 15 years of the program, recycling has had an economic impact of \$1.8 million, from revenue generated and tipping fees saved. The beautification of the City continued this year with Operation Releaf and the planting of 114 trees by the West Lafayette Tree Fund. Volunteers and City staff also pruned 1,003 trees. A Citywide street tree inventory was completed with the assistance of students at Purdue University. A tree steward manual and street tree urban forest management plan, written by Bev Shaw in the Department of Development, was adopted. Beautification efforts by City residents were recognized throughout the year with the Community Beautification Award. Another very deserving recipient will be recognized tonight. The City's expanding trail network, under the auspices of Park Superintendent Joe Payne, continues to be well used and appreciated by our citizens. The Northwest Greenway Trail network was extended in 2005 east from Sagamore Parkway along Cumberland Avenue and southeast along Kent Avenue to a new trailhead park at State Farm Insurance; south from Westminster Village to the Sagamore Park Centre; and east from Cumberland Park along Kalberer Road to Soldiers Home Road. Trees, shrubs, and grasses were planted along the Cumberland and Kent Trail, in Cumberland Park and along Kalberer Road. Activity along the Wabash Heritage Trail corridor included dedication of the Wabash Heritage Trail Overlook, in cooperation with and with grant money from the Lafayette Rotary Clubs, reconstruction of the site for a new trailside park at Wabash Pond, and continuation of tree planting at the Harrison Bridge interchange. A West Lafayette 2006 Bicycle and Transportation Facilities Plan was prepared for use with a grant application request for funding, to connect the Riverside Trail with the Trolley Line Trail in Happy Hollow Park, as well as to guide future development of the overall trail network. Tapawingo Park continues to be a hub of community activity. Events occurring in the park this year included the Earth Day Eco-Convergence, the Taste of Tippecanoe, De-trash the Wabash, Wabash RiverFest, and Dancing in the Streets. The Riverside Skating Center is enjoying another popular winter season, with attendance up over 20% over last year. Additional riverfront activity will occur with the proposed Purdue University/community crew facility on the Burnham's site, and the development efforts of the Wabash [River] Enhancement Corporation and their director Stan Lambert. The Celery Bog added a 10-acre parcel of land through a donation by Wal-Mart, while planting and vegetation management efforts continue there. Benches were installed along the Cattail Trail, and footpaths constructed in the wetlands. Neighborhood park development included the completion of construction in Dubois Park, and the purchase of new playground equipment for Lommel Park. The Morton Community Center continues to grow as one of the centers of the community. The 11th Global Fest, the spring dance recital—more dancing, "Seeing Jazz," and the Wabash

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Area Lifetime Learning Association classes were among the highlights of activities in 2005. Recreational programs and classes continue to evolve to meet resident demand. Grade school sports activities, in cooperation with the West Lafayette Community School Corporation, provide children the opportunity to learn and enjoy tennis, track, basketball, wrestling, and soccer. In closing, 2005 was a productive year for the City of West Lafayette. We accomplished much while keeping our tax rate low, and made significant progress in addressing our pension obligations. We begin 2006 knowing another year of careful management will be necessary to accomplish the tasks set before us. With the help of excellent department heads, the Council, and you, the citizens, we will continue to move forward to reach our goals. Together we can continue to make West Lafayette a great place to live. Thank you.

Employee Service Anniversaries

Mayor Mills said we'll move to a few other items in Public Relations, the employee service anniversaries. We missed anniversaries in January, and so I'm going to do them for January and February tonight. We have quite a few. Kathryn McCorkle from the Police Department celebrated five years in January. Adam Ferguson and Donald Hartman, both from the Police Department, also celebrated five years. Drew Fellure in the Fire Department, 15 years. Donald Callahan, also in Fire, 20 years. Lee Booth, in the Parks Department, 25 years. In February, we have three, Brenda Lorenz from the Parks Department, 5 years; Jeffrey Richards in Fire, 15 years; and David Downey, Public Works Director, 30 years. We want to thank them all for their many years of great service to the City. It's a long time, Mr. Downey.

West Lafayette Community Beautification Award

Councilor Griffin said with great pleasure I do this month. The February Beautification Award is being awarded to an individual instead of to a particular landscape. In fact, if we were to take pictures of the landscape for which she is responsible, they would go all the way around this room and more. This individual has served the City's trees since 1982, when she formed the Trees of Sagamore, and she persuaded everyone to send in donations. Because of her earliest efforts, Sagamore Parkway was planted with trees long before most communities started thinking about urban forestry. She received a Take Pride in America Award at the White House in 1987, received a George Award from the *Journal and Courier*, and even after all of these accolades, she has not slowed down. The City is pleased to present Helen Lillich with the February Beautification Award. Helen, would you come up, please. This award recognizes Helen for all of her work. I'm going to show you a picture, and I'm going to tell you that this picture is not staged. It was 19 degrees the morning when the picture was taken, and Helen is out doing work, trimming trees, because that's what she does. Helen's going to say a few things, aren't you, Helen?

Ms. Helen Lillich said I also pick up a lot of litter—I mean, tons and tons of litter. It's been my pleasure to serve the City. I love being outdoors, I love making things look better than they did before. I'm just happy you let me do it. Thank you.

Mayor Mills said thank, you, Helen. This past summer, on one of the hottest days, I can remember driving up Salisbury and seeing this woman on her hands and knees along the

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Grandview Cemetery sidewalk, pulling weeds. She really does an amazing job for us in the community.

Ms. Lillich said a lot of weeds.

Award from National Alliance on Mental Illness-West Central Indiana (NAMI-WCI) to Police Officer Jeffrey Decker

Mayor Mills said I have just one other quick item under Public Relations, and I want to share this. One of our Police Officers, Jeffrey Decker, was honored just several weeks ago as the Crisis Intervention Team Officer of the Year at the annual dinner for the National Alliance on Mental Illness, the NAMI group in town. He was recognized for "having shown exceptional skill and compassion in working with persons in psychiatric crisis." We have several officers who have been trained in this way, but it's really an honor, and we want to recognize Jeff Decker for his great work for all of us. Congratulations to Jeff.

Conflict of Interest Submittal

Mayor Mills said we have one other item, a Conflict of Interest submittal. Mr. Bauman?

City Attorney Bauman said I believe all of you have received this, and I think you're aware that that Councilman Truitt has recused himself previously from voting on the current annexation, because a portion of that area includes some property being developed by C.P. Morgan. It's the Lauren Lakes Subdivision. You have the disclosure, indicating that Mr. Truitt is working for C.P. Morgan. Under the Indiana Statute, he has made the Disclosure, which is required, and under the Statute, it would now be appropriate for the Council to accept the submission of that Disclosure.

Councilor Griffin said I move acceptance of Mr. [Councilor] Truitt's submission of Disclosure of his Conflict of Interest. Motion was seconded by Councilor Satterly, and the voice vote was AYE unanimously.

FINANCIAL REPORT: Clerk-Treasurer Rhodes

Clerk-Treasurer Rhodes said the Final Budget Order was received, and the Council received updates to the budget book at Pre-Council last Thursday. Detailed variance reports have been prepared and provided to the Mayor. They're available to the Council, at your request. Financial reports were filed with the Council at the close of the month on February 1, and a cash transaction summary report is provided tonight. The State Board of Accounts audit has begun for fiscal year 2004. Thank you.

Order of Business

Mayor Mills said we are going to move to Unfinished Business, and actually we're going to skip, for just a moment, and go out of order tonight, and move to Resolution No. 1-06. This is the resolution to adopt the fiscal plan for the annexation. Mr. Gary Malone and Mr. Deen Rogers are here from H.J. Umbaugh [& Associates], and because they come from Indianapolis, we are going to take that first, so that they do not need to sit through the entire smoking discussion. Councilor Griffin, would you like to go ahead and put that item on the agenda?

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Resolution No. 1-06 A Resolution To Adopt The Written Fiscal Plan For The Annexation Of Certain Lands Into The City Of West Lafayette (North Annexation) (Prepared by the City Attorney) Councilor Griffin read Resolution No. 1-06 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 Satterly.

Mayor Mills said I would start, just by making a couple comments. I sent Mr. Rogers or Mr. Malone, I can't remember who authored it, a letter—maybe Mr. Malone—to you all this weekend by email. I received it last Thursday when I was out of the office. I hope you had time to look at the information provided. I also provided you with a sheet on TIF revenues and the TIF District, the Kalberer/Cumberland TIF District [Kalberer/Cumberland/Blackbird District]. I hope that all of your questions were addressed with what I sent, but again Mr. Malone and Mr. Rogers are here tonight, to answer any questions. I will remind you, before we start the discussion, that the fiscal plan represents the “what if” scenario. It estimates the impact of the annexation on our tax rate, if development progresses as we anticipate. The numbers included in the annexation appeal that you were given months ago are an example, used only to demonstrate the impact that a possible appeal would have on our tax rate. I will, at this point, let Mr. Malone make any comments, or we'll start with questions from the Council.

Mr. Gary Malone [H.J. Umbaugh & Associates] said your pleasure. If it would be appropriate, I could spend just a moment, kind of briefly reviewing the letter, and then I'll be happy to answer any questions that you might have. Following the last meeting, Clerk-Treasurer Rhodes provided some questions to us, and we've summarized the answers to those questions in this letter. I thought I'd take a moment, just to kind of briefly touch on those. The first dealt with the ability of the City to issue Tax Increment Revenue Bonds within that District, to pay for a future fire station. We did go take a look at the work that was done this past summer with Sikorsky/Butler, looked at the TIF revenues, and made some judgments as to what current interest rates level were, and satisfied ourselves that the revenues would be sufficient to fund up to a \$2.2 million Tax Increment Revenue Bond with those revenues in that District, and still providing for about 140% coverage of the debt service. That should be an adequate level to adequately market those bonds. So based upon today's interest rates, we feel that those revenues are sufficient to fund a fire station, if that is your wishes. The second question deals with possible Tax Increment that might be captured within a possible expansion of the Purdue Research Park. This week, I was out of town all week, but Mr. [City Attorney] Bauman did provide us some information on some of the detail. There are two phases in that project. Phase II is still yet to be developed. There's an additional 60 acres in that area. It's our understanding that that could take as few as five years, as many as 10 years, for that area to be built out. But if it is built out in the same proportion as the existing area, that build-out could produce about another \$19 million of incremental assessed value within Phase II. Within Phase III, and again, it's our understanding that Phase III would likely begin after the completion of Phase II, so it could be a few years down the road, but that 340 acres, if it is developed at the same rate as the existing area, that that could generate an additional \$108 million of assessed value in Phase III, measured in today's dollars. We've not made any adjustments for inflation in those calculations. We've not included those possible Tax Increment revenues in this analysis. The reason for that is oftentimes, we find that new revenues within a Tax Increment area are usually needed to help build the infrastructure

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and fund the incentives necessary to bring the growth to that area. A great example of that is the Butler project, this past summer. We needed to use the TIF areas out of that area in order to entice Butler to locate there. There is a safety guard, though, in the event that these estimates are too conservative and there does end up to be more TIF revenues in that area than the City needs, there is a mechanism where the City, through the Redevelopment Commission, can release excess assessed value each and every year. I think we've talked about that in the past, that that's the safeguard, so if there is too much revenue, there's a way to begin releasing that assessed value from that District. The next question deals with our calculation of the Local Option Income Tax, and I apologize for any confusion that that may have caused you. The calculation itself, we looked at the income tax revenues per capita, and, unlike an annexation where the area's already developed and we're simply taking an area that was in the County and moving it to the City, most of this area has yet to be developed. So we felt that it was fair to include some recognition that, as that area developed, that the population generally would increase, and with increased populations, there should be some increase in revenues. We've included a schedule at the very back of this handout that shows population projections for Tippecanoe County increasing from about 148,000 in the year 2000, to 175,000 in the year 2020, so that's a little under a 20% increase in the growth rate. The growth rate in population due to this project is roughly 6,000, which is also in that 20% range. Just before the meeting, Clerk-Treasurer Rhodes shared with me some of the work that she has done, and that work demonstrated the volatility that we see in income taxes, and the City, like many cities in Indiana, have seen income taxes to be very volatile over the last few years. So that reminds us that income taxes are not just a function of population, they're also a function of the economy. But still, to be fair, we wanted to include some recognition that income tax revenues would likely grow within this area. If you recall, on page 2 of the fiscal plan—this goes back a ways—that there's a column on the far right-hand side that shows the amount of revenues that we've projected that exceed the annual expenditures within that area. We can see that, by the year 2021, the revenues exceed the expenditures by about \$300,000. Now, when we compare that \$300,000 of excess revenue to the \$275,000 of COIT and the \$238,000 of EDIT revenues, we can see that there is some cushion. So if these revenue projections are not correct and if something does happen with the economy, that there is some cushion that these revenues could be—actually, they could be as much as 60% less than what we're showing here, and that the total revenues would still be sufficient to meet the annual expenditures. But to be fair, it's not simply a function of population; it's also a function of the economy. Last but not least, there's a discussion of Certified Technology Park. This past summer, we worked with the City of Jeffersonville, with a project called MedVenture, and during that project, we learned that the State has changed its course with respect to the creation of Certified Technology Parks. We're finding that the State is much more reluctant to allow local governments to create Certified Technology Parks than what we saw in the past. But if it was possible to create a Certified Technology Park for this particular area, what happens is the additional taxes, withholding taxes that are paid or captured by the businesses are then the taxes that are captured and remitted back to the Redevelopment Commission through the Certified Technology Park. Those can be up to a total of \$5 million. About one-third of that comes from the local government, and about two-thirds of that comes from the State. So our thought with this was simply that it would likely be several years before a Certified Technology Park could be approved, and a significant number of revenues would be collected. It's questionable whether or not the State would even

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approve a Park in the first place. But once again, in the event that that's not the case and there is a Certified Technology Park, years down the road, that could reduce the amount of Local Option Income Taxes that are collected by the City at that point in time.

Councilor Keen said you made reference to the Certified Technology Park. What is your estimate on the likelihood that a Park would be approved in that area or not—50/50? 60/40?

Mr. Malone said it's really difficult. The State has told us that they're going to approve those Parks on a case-by-case basis. The fact that the City has a Park already may be a good thing, the proximity of Purdue may help quite a bit. It's difficult to really speculate on if that Park might be approved or not. I think the key, though, isn't necessarily that, but how long in the future is Phase III actually going to be developed.

Councilor Keen said right.

Mr. Malone said and if it's more than 10 years down the road, that's a long, long time out to try to predict.

Councilor Keen said for clarification also— Cancel that question. I just found it out.

Mayor Mills said other questions for Mr. Malone?

Clerk-Treasurer Rhodes said I have one question, maybe just a request for clarification. As population would increase in the County, of course, it would hopefully increase Local Option Income Tax collections, so the pie would get larger.

Mr. Malone said that's correct.

Clerk-Treasurer Rhodes said and so the pie would get larger, roughly if we believe that population is linearly related to income tax collection, we would say that the percentage increase in the County population would be roughly the percentage increase, let's say, in the Local Option Income Tax collections. Would that be about the way to look at it?

Mr. Malone said over time, that's correct.

Clerk-Treasurer Rhodes said over time. And so then the portion that we would get would be determined by the ratio of our levy to the levies of the other jurisdictions that share in the EDIT and COIT tax, and there are different combinations of jurisdictions with those individual taxes. So one can imagine that our slice of the pie is fixed. It would only change by us increasing our levy relative to all the other levies, but the pie itself would get larger. Would that be a way to look at how income tax revenue would increase in this area?

Mr. Malone said I think that's fair, that the adjusted gross incomes, Countywide, as they grow, assuming all other relationships remain static, then that would, in turn, increase the revenues that the City would receive.

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Clerk-Treasurer Rhodes said the only caution I had to the schedules that it might have appeared— Was it a per-capita type estimation, based on West Lafayette's growth, when it really would depend on how our growth figures into the County?

Mr. Malone said right.

Clerk-Treasurer Rhodes said particularly with this kind of county, we really have our eye on our neighboring jurisdictions, as the pie is divided. Thank you.

Mayor Mills said any other questions?

Councilor O'Callaghan said just that you said that we would likely be able to do this \$2.2 million bond issue and still provide 140% of coverage of bonds, and that's a good safety valve, that SRF is 125%, is that right?

Mr. Malone said that's correct. Now TIF revenues are a little different than wastewater revenue, they tend to be more volatile. But you've had a history of the banks in Tippecanoe County being very supportive of these types of projects, so based upon your experiences to date, 140% coverage for this type of bond issue should be sufficient.

Councilor O'Callaghan said and you gave us a number for the amount of increase in the Tax Increment in Phase II, and I missed that. Did you say \$19 million?

Mr. Malone said I apologize. I should have jotted that down in the letter—

Mayor Mills said \$19 million.

Councilor O'Callaghan said \$19 million.

Mr. Malone said \$19 million in increased assessed value. That's not Tax Increment dollars, but that's the increased assessed value.

Councilor O'Callaghan said thank you.

Councilor Keen said I have another question, Mr. Malone. In reference to the debt coverage, is there a minimum set for TIF areas? I know Councilor O'Callaghan said 125% for wastewater. Is there a minimum set for TIF areas?

Mr. Malone said the minimum is really set by the market and the buyer of the bonds. With the wastewater, the City goes to the State Revolving Fund, and the State Revolving Fund has rules, and their rule is the coverage has to be 125%. The coverage for TIF is really a function of who buys the bonds. You might find a bank that is comfortable with 120% coverage or something less than 140%.

Councilor Keen said okay.

Mayor Mills said other questions?

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Councilor Plomin said I have one. On your Schedule of Estimated Debt coverage for the TIF bond to fund the fire station, the lowest it gets is 132%, and most of the time it's up near 140% or 150%. Does this estimate any other activities, using funds out of that TIF area?

Mr. Malone said no, it only reflects the obligations, the bond obligations that are presently being paid out of that area.

Councilor Plomin said and the revenue is generated from additional businesses coming into the Research Park TIF?

Mr. Malone said actually, the revenues that are shown are from the businesses that are already there. From the tax—

Councilor Plomin said so this doesn't estimate any activity we would do, like the Butler/Sikorsky deal?

Mr. Malone said Butler/Sikorsky is included. I apologize.

Councilor Plomin said future. Hypothetical activities like we pay for office space or whatnot, like we did for Butler.

Mayor Mills said expansion, you mean?

Councilor Plomin said to attract new businesses.

Mr. Malone said right. The revenues only include increases in assessed value that come from tax abatements. As those abatements peel off, then that creates new assessed value, and that is reflected in these numbers, but it doesn't project any other growth, other than the Butler—

Councilor Plomin said so any new businesses that come in would increase the AV?

Mr. Malone said correct.

Councilor Plomin said okay.

Clerk-Treasurer Rhodes said one last comment. We had a brief discussion before the meeting, and we probably don't want to get involved in it now, but would you say that it's possible the income tax revenues might be somewhat overestimated?

Mr. Malone said I would say time will tell, because I think the key is the one schedule that shows the population growth, and actually the population growth within the County—and this is from Indiana University—is pretty close to that 20% population growth that's imbedded in these numbers. Hindsight will be 20-20. If I knew the answer, I wouldn't be working.

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Clerk-Treasurer Rhodes said the only reason why, I wanted to make sure that there was a clear discussion about different ways to calculate the increase in Option Income Tax and whether, in fact, if there was a shortfall then, there would be other revenue sources needed for the annexation. This is the best forecast that you have. There might be a range of events that occur, though.

Mr. Malone said that's absolutely correct. And that's the reason for the need for that coverage to show more revenues than expenses, because of that unforeseen. Thank you.

Mayor Mills said other questions?

There was no further discussion.

The roll call vote:

<u>AYE</u>	<u>NAY</u>	<u>RECUSED</u>
Griffin		Truitt
Hunt		
Keen		
O'Callaghan		
Plomin		
Satterly		

Resolution No. 1-06 passed on first and only reading, 6-0, with Councilor Truitt recused from the vote.

Mayor Mills said thank you, Mr. Malone and Mr. Rogers, for being here. We appreciate it.

UNFINISHED BUSINESS:

Ordinance No. 28-05 (Amended) An Ordinance To Repeal Chapter 64 Entitled Health And Sanitation And Reenact It With The Title Smoking In Public Places And Places Of Employment (Submitted by Councilor O'Callaghan) Councilor Griffin read Ordinance No. 28-05 (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 Satterly.

Mayor Mills said we will begin tonight, and I will ask Councilor O'Callaghan to discuss the changes, the amendments that are included tonight, and then we will have discussion and public comment. Councilor O'Callaghan?

Councilor O'Callaghan said there are several changes that are incorporated in this version that we discussed at Pre-Council. One is Section 64.01, Definitions. We changed the definition of smoking, just because there was some confusion about the possibility of "combustible substance" may include more things than smoking, so we replaced it with a definition that we felt was a little bit more clear. Then in Section 64.05, Reasonable Distance, there was a concern from the Village merchants that really no distance amount would help them, since the businesses are connected, and there's also been a concern expressed that someone walking past a business smoking a cigarette could technically be in violation of the footage requirement. Now, I think that that would be common sense, that it would not be a violation, but just to make sure, we put that common sense into the

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ordinance with the term, “reasonable distance.” With a Citywide ordinance like this, it’s more difficult to be specific about the distances, like the County is with the Courthouse, it’s 30 feet from the entrance, and the Statehouse is 100 feet from the entrance, but this “reasonable distance” we felt was the best way to address the Citywide ordinance. Then in Section 64.10, Public Education, we added a section that, “The City shall promote its smoke-free businesses, including restaurants, taverns, and nightclubs through a marketing campaign.” Mayor Mills has been gracious enough to say that she would use some of her PR budget to conduct that marketing campaign. Simply, in Section 3, Effective Date, we just needed to strike out the six-month phase-in period for all public places of employment, and also under that Section, we added that the Common Council shall examine the impact and effectiveness of this ordinance after it has been enforced for a period of one year. Then the other change, in Section 64.03, Prohibition of Smoking in Public Places, we deleted number 16 that dealt with the outdoor areas for smoking, and, to make it easier for businesses to have an outdoor area where smoking is permitted, we simply said that, “Smoking shall be allowed in a contiguous outdoor area of a restaurant, tavern, or nightclub or hotel, restaurant, tavern, or nightclub,” and just provided that that designated smoking area represents a separate and discrete area and is completely separated by a physical barrier from any indoor non-smoking area. So those were some changes that were accepted by all Council members, and then an additional change in Section 3, in terms of when this would be effective, and that was changed to that, “for restaurants and bars which allow smoking as of January 1, 2006, the enforcement provisions of this ordinance shall take effect on July 1, 2007, so that effectively makes, for those restaurants and bars which do allow smoking now, more time to adjust to the ordinance.

Councilor Satterly said Patti [Councilor O’Callaghan]?

Councilor O’Callaghan said yes.

Councilor Satterly said you said July. You mean December?

Councilor O’Callaghan said oh, that’s right. I wanted it July. I wanted it December 31, 2006, then July, but the one that was approved exactly, you’re right, excuse me, is December 31, 2007. So those are the changes that were approved at Pre-Council.

Mayor Mills said are there comments from the Council, before we take public comment or any discussion from the Council?

Councilor Hunt said would you just clarify again, the smoking that is—bars and restaurants— Tell me if I’m correct, Patti [Councilor O’Callaghan]. Bars and restaurants that allowed smoking as of January 1 this year, 2006, will be exempt—that’s not quite the right word—but exempt from this smoking prohibition until December 31, 2007.

Councilor O’Callaghan said exactly. So they have more time to adjust.

Councilor Hunt said and then we drop out the six-month phase in. Okay.

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Councilor O'Callaghan said for all the other indoor public places and places of employment, it remains July 1, 2006.

Mayor Mills said other questions from the Council? Councilor Griffin?

Councilor Griffin said were we going to give some guidelines for public input?

Mayor Mills said I will.

Councilor Griffin said thank you.

Mayor Mills said ready for Councilor Keen.

Councilor Keen said I had a few questions, actually. I went through this over the weekend, kind of read through it a little bit and came up with just a few questions. On the first page, on page 1, the fourth WHEREAS says, "WHEREAS, in creating certain exceptions in this chapter, the Common Council and the City of West Lafayette have balanced the needs and desires of businesses and employers, as well as the needs and desires of smokers and non-smokers;" can you define for me how we have balanced the needs and desires of businesses and employers with this ordinance?

Councilor O'Callaghan said sure, several ways. First off, with the various changes that we made all along the process, since it was first presented, and then the businesses that depend on tobacco, those retail tobacco stores and businesses that more than 25% of their business is from tobacco, and even, more recently, the new amendments that we've put in. So those are some of the ways we've balanced the needs and desires of businesses and employers, as well as smokers and non-smokers.

Councilor Keen said I guess when I look at the needs and desires of the business— I guess I don't see where this is really done much of a compromise in addressing their needs and desires. Most of the needs and desires I've heard have been that this is going to be damaging to their businesses and that sort of thing. I was just trying to see if there wasn't something else we might be able to entertain there. But I had a couple questions. Over on page 2, it has a definition for "outdoor area," it says, "shall mean any patio, courtyard, sidewalk café, backyard or roof of a restaurant, tavern, or nightclub or hotel restaurant, tavern, or nightclub." Can you define—I could not find it in here—what a "tavern" is?

Councilor O'Callaghan said no, we didn't actually define "tavern." I guess we had defined bar, so that should be "restaurant, bar, or nightclub." Thank you.

Councilor Keen said can you define, as well, what a "nightclub" is?

Councilor O'Callaghan said I think so.

Councilor Keen said I think those are important distinctions to be made, because the one thing that is excluded in this definition of an "outdoor area" is what is a "bar?" Why isn't a bar included in that exception to "outdoor area?"

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Councilor O'Callaghan said actually, that's what I meant by— I've researched so many different ordinances and taken pieces from different ones, and I should have used the "bar," which is what we do define, as meaning "any building, room, or area used primarily for the sale of alcoholic beverages for consumption by guests on the premises and in which the sale of food and the provision of entertainment is merely incidental to the sale of alcoholic beverages." But we did not define "nightclub."

Councilor Keen said can we—

Mayor Mills said substitute?

Councilor Keen said I don't know that we need to substitute, I would just like to add the word "bars" in there, to give them an opportunity to be able to have an outdoor area.

Councilor O'Callaghan said oh, sure. I really did intend it to be "bar" which is what we have defined, instead of "tavern."

Councilor Keen said then I'd like to make that motion to include "bars" in that paragraph, and also on page 4, in paragraph (B), the same thing exists there, the word is not there, I'd like to make that motion.

Councilor O'Callaghan said that makes perfect sense, and I would second that motion.

Councilor Satterly said would you take "tavern" out?

Councilor O'Callaghan said page 4—

Councilor Keen said no, just add the word "bars."

Mayor Mills said page 4, where?

Councilor O'Callaghan said well, I think we do need to—

Councilor Keen said paragraph (B).

Councilor O'Callaghan said in paragraph (B), page 4. I guess I would respect, totally request, that we just change "tavern" to "bar," because that is what the intent was, and that's what we have defined.

Councilor Keen said just add the word "bars" in both of those paragraphs.

Mayor Mills said all right. We have a motion. Do we have a second?

Councilor O'Callaghan said I seconded it.

Mayor Mills said we have a motion and a second to make two changes: On page 2, in "outdoor area," to include, where it says, "outdoor areas shall mean any patio, courtyard,

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sidewalk café, backyard or roof of a restaurant, bar, tavern, or nightclub, or hotel restaurant, tavern or nightclub.” And then on page 4, similar language in Section (B), “Smoking shall be allowed in a contiguous outdoor area of a restaurant, tavern, or nightclub, or hotel restaurant, tavern, bar, or nightclub,” we are adding the word “bar” to both of those points. Are there questions or comments on that?

Mayor Mills said are you ready to vote on that amendment?

Councilor Plomin said I have a question on this amendment. In “outdoor area,” why do we define “outdoors” as only a place that’s part of a nightclub, hotel, restaurant, tavern, or hotel?

Councilor O’Callaghan said that’s just—

Councilor Plomin said it seems like a pretty limited definition of “outside.”

Councilor O’Callaghan said well, excuse me, it’s just as it refers to the outdoor areas of these places—the restaurants or bars. It’s just the definition as it relates to these—

Mayor Mills said businesses.

Councilor Plomin said okay.

Mayor Mills said all right. Are you ready to vote on the amendment?

Councilor Keen said no, I’ve got several more questions, please.

Councilor O’Callaghan said just on that?

Councilor Keen said go ahead. This is a vote on the motion. I’m sorry.

Mayor Mills said you are now voting on the amendment to add those two words, “bar” on page 2 and page 4—

Councilor Keen said I do want to clarify that. The word “bar” needs to be inserted in both those sentences in two different places.

Councilor Griffin said because it pertains to restaurant bars, etc. and hotel bars, etc. in both locations.

There was no further discussion on the amendment.

The motion to approve the amendment passed by voice vote, 7-0.

Mayor Mills said all right, Councilor Keen, what else?

Councilor Keen said I’ll go back to my original question. Can you define a “nightclub” for me?

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Councilor O'Callaghan said no, I didn't have that defined. I did not do that.

Councilor Keen said and the "tavern" is the same way?

Councilor O'Callaghan said a "tavern" is a bar, that is what my intent was. "Nightclub" I did not remember that I did not have that defined.

Councilor Keen said okay.

Councilor Satterly said I don't think "nightclub" is mentioned.

Councilor Keen said well, not under the definitions, it's not. Stepping down just a little bit, on page 2 still, under "place of employment," it says, "A private residence is not a 'place of employment,' unless it is used as a childcare, adult day care or health care facility." Can you define what the intent there is of a childcare facility? Is that, if I'm caring for my own children? If I'm caring for my children and the neighbor's children? Or if I am caring for a number of children? I think that distinction needs to be made there.

Councilor O'Callaghan said that is if it is being used as a child care, where other children are coming in and it is a private residence, but it is being used as a business for a child care, or adult day care, or a health care.

Councilor Keen said so it's not if I am allowing people to do babysitting?

Councilor O'Callaghan said right.

Councilor Keen said and that sort of thing, so— Okay. That is not well defined in there, and the same thing with "adult day care." There's a number of families in the town who have to care for elderly parents and elderly relatives and that sort of thing, is that going to include them? Or is it not going to include them? Is it going to include for hire only?

City Attorney Bauman said Gerry [Councilor Keen], I think those terms are all defined in State law.

Councilor Keen said well, I'm just asking for questions. I just want some clarity on this, really. I think they're fair questions. I'm not trying to be facetious, I'm just trying to get a simple definition of some things. And "health care facility" is not defined there, either. Again, I looked through the entire ordinance. I couldn't find those things defined. Who, specifically, do these terms include? And who, specifically, do they not include? Is really where I was going with that.

Councilor O'Callaghan said and the intent is that it is when it's actually a business that it is a private residence but it's used as a business for those things.

Councilor Keen said well, I mean, that is the assumption, I know, but I just wanted to clarify that. On page 7, under item number (A), it says, "A fine of one fifty dollars," I think that's a typo there.

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Councilor O'Callaghan said yes. It's, "A fine of fifty dollars." Thank you.

Mayor Mills said where, Gerry [Councilor Keen]?

Councilor Keen said on page 7, item (A).

Councilor O'Callaghan said it's (d)(2)(A).

Councilor Keen said I'm sorry. It just says, "A fine of one fifty." I just want to make sure that was clarified, as to what the fine is actually going to be.

Councilor O'Callaghan said thank you. And it is as it is in parentheses, the fifty dollars. Thank you.

City Attorney Bauman said let me suggest, for purposes of keeping this clear, that you probably should formally amend that, to strike the word "one."

Councilor Keen said so move.

Councilor Griffin said second.

Mayor Mills said all right. We have a motion to strike the word "one" from page 7, Section (d)(2)(A), "A fine of one fifty dollars (\$50) for the first violation." We are removing the word "one."

There was no further discussion on the amendment.

The motion to approve the amendment passed by voice vote, 7-0.

Councilor Keen said another question that I have on page 4, back to page 4, under 64.04(a), it says that "employers are not required to incur any expense to make structural or other physical modifications." And then on page 6, I believe it is, [64.07] (a), (b), and (c) require that placards and signs be posted in a number of different areas. My question is, who is going to be the one required to pay for these changes, since the other says that physical changes should not have to incur an expense for those? Who's going to be required to pay for the materials and the labor to hang those signs?

Councilor O'Callaghan said certainly for the signs, I did think that would be the business. When I was talking about "incur expense for structural or physical modifications," I was thinking more along the lines of things like ventilation and stuff that we are not requiring.

Councilor Keen said so it will boil down to the businesses being required to pay for those?

Councilor O'Callaghan said to pay for the signs, yes.

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Councilor Keen said also, on page 6, under 64.08, the enforcement section, it says that the enforcement of this, in item (b) would be implemented by the Mayor's Office. Can you define more specifically what that will involve?

Councilor O'Callaghan said we have spoken about that before, and that is not something that we have defined at this point, but it is often the health departments of cities that enforce this and/or police and/or code enforcement. So that is something that the Mayor said that she shall address, once the ordinance is passed.

Councilor Keen said I guess my concern with that one was are we going to end up hiring somebody to enforce this? What kind of cost is going to be incurred in enforcing this? Do we have a budget attached for this purpose?

Councilor O'Callaghan said actually, studies have shown that there are about 95% compliance with the ordinances, and so hopefully we'll have that or even greater here in West Lafayette, and wouldn't have to worry about that.

Mayor Mills said that is something we will address in the next several months.

Councilor Keen said okay. Under the penalty section, 64.09, is there—I'm sure there's probably an implied appeal process, but it didn't define it there, as far as what an appeal process might be for someone who is so charged with this offense.

Councilor O'Callaghan said it just refers to the Ordinance Violation Bureau, as established by the City Code, and so that would be in—

City Attorney Bauman said it's also set forth in 64.08(d)(5).

Councilor Keen said okay, I didn't see that. Thank you. On page 7, then, in section (e), there are a number of terms there—

Councilor O'Callaghan said I'm sorry, Gerry [Councilor Keen], I missed what—

Councilor Keen said on page 7, paragraph (e), under the same penalty, 64.09, the term "multiple violations." Can you define for me how many violations that would include? Is that two? Three? Four? Five? Or is that open to whose ever interpretation?

Councilor O'Callaghan said I think that is something that is commonly—this is common language, that it gives some discretion to the people that are enforcing it.

Councilor Keen said the next sentence down, it says that the City legal and law enforcement departments, if they have reason to believe, and so on and so forth. Does that terminology there imply that enforcement will be through the Police Department?

Councilor O'Callaghan said that certainly is a possibility.

Councilor Keen said but it hasn't been—

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Councilor O'Callaghan said defined.

Councilor Keen said defined. The other thing I wanted to ask there is about, if they have reason to believe that the fines will not be effective, what criteria is attached to determining whether or not that would be effective or not?

Councilor O'Callaghan said that goes to the same thing about the multiple violations. If someone is a repeat offender, that does not seem as if the fines are being effective, because they're constantly violating. Again, I certainly hope we don't have that problem in West Lafayette.

Councilor Keen said can you define for me also in 64.10, same page, I know we talked a little bit about that as well, but a marketing campaign. Can you give me a better idea of what specifically we're looking at? Are we looking at an ad in the newspaper or just a brochure going out to everybody? Are we going to do television ads? Are we going to hire a PR person? That's a pretty broad spectrum.

Councilor O'Callaghan said it is a pretty broad thing, and the Mayor has contracted with a public relations person, and she would know more about what would be an effective campaign than I would, I mean she, the public relations person. There are certainly plenty of materials that are available from other communities that have done this kind of thing, and it's not like we'll have to reinvent the wheel. There are lots of materials and templates out there for us to incorporate.

Councilor Keen said I'll have some more questions in a little bit, but I want to hear what other people have to say, too.

Mayor Mills said other comments from the Council or questions? All right, we will take public comment again tonight. We are going to limit comment to two minutes tonight, we are going to time carefully, and we are actually going to cut you off and ask you to sit down at the end of two minutes. This is the third Council meeting where people have had an opportunity to speak, in addition to several other public meetings and a Pre-Council meeting on Thursday. In the interest of hearing people that have yet to speak, I hope that some of you who have spoken repeatedly and very eloquently would consider not speaking tonight and just re-saying everything that the Council members have already heard. I think many of you, the Council people all know exactly where you stand on this issue, so I hope that you will let new people who haven't had the chance to speak, speak tonight and if you feel you must speak again, please limit yourself to two minutes. Again, this is the more than third public meeting and many of you have spoken at each one. So, we'd ask you to be concise and brief tonight. We'll take the first speaker. If you'll come to the microphone and—

Ms. Mary Cook [co-owner of Harry's Chocolate Shop] said you talked about amending that date and then didn't do it, did you?

Councilor O'Callaghan said yes, we did.

Councilor Keen said we amended it at Pre-Council.

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Councilor O'Callaghan said at Pre-Council.

Ms. Cook said okay, and that's a written title.

Mayor Mills said it's correct in the—

Councilor O'Callaghan said in the one that's dated February 5, 2006, it does state it, and it's December 31, 2007.

Ms. Cook said no, the back page of February 5, Section 3, it says, "for restaurants and bars"—okay, the December 31, 2007. That was the one.

Mayor Mills said all right. We'll take the first comment. Please come to the microphone and identify yourself. Again, please limit yourself to two minutes. No comment at all tonight?

Ms. Carrie Ehresman [co-owner of Triple XXX Restaurant and Route 66 Diner] said first I want to say I am a lifelong non-smoker by choice. Greg [Mr. Ehresman] and I provided our customers with an opportunity to express their views on the proposed West Lafayette smoking ban. By the way, Route 66 Diner is an all non-smoking restaurant at our discretion and with a substantial financial commitment by us alone. Anyway, we received over 238 signatures at both locations in just 11 days, with 95 of those who signed being non-smokers. Much has been said about the economic impact to our business. 143 signatures were smokers. If just 10% of those patrons no longer patronize my business, that translates to over \$96,600 in annual gross revenue, with over \$67,000 in net revenue lost. As noted by Mr. [Councilor] Satterly on January 30, 2006, while at the Triple XXX Restaurant, Mr. Satterly commented, "That dollar amount is your margin." I can't survive with that kind of revenue loss. After the Mayor's report this evening on the State of West Lafayette, it appears that West Lafayette is indeed flourishing, even with citizens smoking within the City of West Lafayette. So why do we need a smoking ban to be progressive or to attract new business? In closing, I'm asking you to exempt the existing bars and restaurants from this smoking ban. Thank you.

Mayor Mills said thank you. Thank you for sticking to the time. Next person, please.

Evan Apotheker [Purdue Student Government] said I'd like to thank everybody who's taken so much time into this, and I'd also like to make an opening statement to acknowledge that I am very young and idealistic, being part of the Purdue Student Government. But I've seen a lot of compromise go on this, and I realize that maybe the best solution sometimes in a democracy is one where nobody exactly is happy. It seems as if both sides have had to give up a lot, and nobody exactly is getting what they want out of it. I personally know that my constituents— actually, [Councilor] Ann Hunt had a meeting at my fraternity house, which I'm an alumni of, and every person there said that they would not change their habits going to the bars and restaurants if this was enacted. I'd also like to say that most people, and, in fact, everybody who I've spoken to, has been very disappointed that it's going to be pushed additionally back. People were very much looking forward to having, as of this summer, smoke-free all businesses. With those

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regrets, I'd like to say that Purdue Student Government did and still does support this smoking ordinance—did support it in the original form—and to hope very much for this passage of this with the stated regrets. Thank you.

Mayor Mills said thank you.

Mr. David Rosenthal [West Lafayette Youth Council] said two months ago, I stood here in support of this ordinance, on behalf of the West Lafayette Youth Council. I said that the Youth Council represented the youth of our community. Then, I began to wonder: How could a small group of people represent the youth, when we hadn't even talked to most of them about this issue? So we decided to develop a petition, to see just how many young people really did support this ordinance. The results have been overwhelming. In just one week, we collected over 250 signatures from West Lafayette High School students. Through this campaign, I personally have spoken to dozens of students to whom this ordinance is very important. The text of our petition is as follows: We the undersigned call upon the West Lafayette City Council to enact the smoke-free workplace ordinance. This ordinance would make us all safer, as second-hand smoke is very dangerous, especially to young people. This ordinance is very important to us, and would create a much healthier environment for all of us to live in. If this ordinance is passed, we would also be much more willing to patronize local restaurants, as we greatly value a smoke-free environment to dine in. We hope that this petition will encourage all City Council members to vote in favor of this ordinance.

Mayor Mills said thank you.

[Mr. Rosenthal presented the petition to Mayor Mills.]

Mayor Mills said next, please.

Mr. Lee Stall [West Lafayette] said I went to high school with several of your children. I know a couple of you guys very well. I have a son. That's why I wasn't here for the last one, because he was sick. But I need you guys to understand something, I could be in trouble. If this passes, this could make me a lot less money, this could hurt me and my family. I want you to know that I lived in Boulder, Colorado, when the smoking ban was imposed there. I lost my job, because the bar wasn't making enough revenue for me to be able to keep my job there. That doesn't do me very well. I didn't have a child then, but I do now. But I moved to Tempe, Arizona. I was a waiter at a bar when Tempe went non-smoking. My tips basically dropped by a third. That did not do me very well. Now, I've got more than one mouth to feed, and that's going to hurt me a lot. You guys passing this is going to hurt me. I've been there, I've seen this. You guys have to understand that. For you children, understand that you guys, you know, you're young. A lot of you guys are voting against this, but this will affect you later on. So what I'm saying is, for nightclubs, if you are 21 and over and you want to listen to bad music and you want to come in and drink and smoke, allow yourself to do that. Allow the ability for you, as a smoker, and for smokers in this City, to be able to go to a place 21 and over. That way, restaurants and possibly restaurant bars, but nightclubs—restaurant bars, no smoking, that's fine—but there are going to be a lot of people that you guys are going to be hurting, if you pass this. There are a lot of people you're going to be saving by passing this, but

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by punching holes through this in the beginning, we realize that there's still a lot more that we have to discuss on this issue. There's a lot more that we have to discuss, and I understand it's going to take two years. I hope that—make those changes in the next year. Thank you.

Mayor Mills said thank you. Next?

Matt Hunter [owner of Hunter's Pub and two Lafayette bars and restaurants] said right off the get-go, I was torn. I own a bar right across the river, and I thought, "Wow, I could triple my income if this thing goes through." Then I wonder about my west side restaurant, what's going to happen with it. I guess I've got a lot of notes, but since we're going to limit it to two minutes, I'll knock them down. Really, in talking with the people I've talked to in my bar, my family, who almost everyone up here knows very well, my family's friends who are very prominent business people in this community, no one's against the smoking ban, but they're against West Lafayette going alone. That's what they're against. They all say, "That's ridiculous, Matt. You need to stand up and fight for it." So that's what I guess I'm here doing, I'm standing up and saying, you know, you need to get on board with Lafayette and Tippecanoe County before you do something like this. That's what we're all, all of us business people, are scared to death of. If you made it one fell swoop, you wouldn't have these arguments up here. You might have some of them, I won't speak for everyone back there, but I think that's the bottom line. I think you've got to know that most business people that I've talked to are for a smoking ban for Tippecanoe County, Lafayette, and West Lafayette. One swoop, one deal. Until then, thanks.

Mayor Mills said thank you.

Mr. Bill Brown [co-owner of Jake's Roadhouse] said I believe what was just said there. I believe that it's not going to be a factor in people quitting smoking, they're just going to be moving on the other side of town. Last time, in trying to talk very quickly, I'm afraid I came off angry, which I'm not, I'm just trying to be emphatic. That is, that I'm still very concerned that you are going to be causing drunk drivers on the road. You're going to be putting—the hazards that you're trying to prevent are going to become more prevalent, because people aren't, the kids—the young people, they're not kids—but the people that are 21 and over that are smokers that come into the establishments over here, are not going to quit. They're going to get in their car and they're going to drive across the river. And so you're going to have them out driving. But, to go along with that, I just—there's been some—I'm trying to talk fast, Mayor—we had some faulty science, I think. We had a gentleman who gave a real good sound bite for the TV who said, "Allowing a non-smoking area is like allowing a peeing end in the pool." I find that a little disgusting, but anyway, that is faulty, that is such strange science, I can't even relate to it, because no pool—and I can refer to my wife, who was your pool inspector for nine years, as the health inspector for Tippecanoe County and inspected all your West Lafayette pools—no pool turns over its water. It's the same thing going over and over and over through a filter, where a restaurant—I have calculated it out—the cubic feet in our restaurant and the cubic feet of air we move out, we turn over the air—completely dump it out and put in fresh air every nine minutes. No pool dumps all the water and puts in new water every nine minutes. It does not happen. I'm going to try to get this story in real quick here, but during the years that I was a fifth grade teacher for many years, and every year I read *Tom Sawyer*.

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There's a good example in there that I want to relate to you, and that is that Tom Sawyer and Huckleberry Finn were negotiating, they were going to swap junk for junk, you know. And the only thing that Huck really had of value was a dead rat. Of course, Tom says, "What's it good for?" And Huck says, "Oh, well you tie a string around its tail and then you can go down the street swinging it around your head." He had value to this. I don't really see it. But anyway, Tom looks at him and he says, "Well I don't know that I want to trade, that's kind of a small little rat, that's not a very good rat." And Mark Twain through Huckleberry Finn, states one of the best examples that I've seen of something that I think applies to this, and that is, Huck responds, "It's easy to run down somebody else's rat." I think that's exactly true here. It's very easy for members here to run down my retirement, my child's—who's sitting over here—college education, and my income. I don't think you would feel that way about it, if it were yours. Thank you for giving me the time.

Mayor Mills said thank you. Next, please.

Mr. Brad Cohen [owner of Arni's restaurants] said as many of you know—or maybe you don't know—I am not a smoker, I am thoroughly against smoking, and I have strong health care, I take care of my smokers that work for me. And I have some concerns, and I want to ask maybe some questions and maybe you guys can answer them, and I'll try to keep it within my two minutes. There's been a lot of arguments about health care costs. We're not talking about taking care of the health care costs, because I still have to insure the smoker. You're just asking them to not smoke here, we're going to smoke here. They still smoke. The outdoor areas, what happens when a non-smoker decides they want to sit in the outdoor area? Aren't we going back to square one here? The non-smoker wants to sit in our smoking bars. That's why you enacted this bill, or you're trying to enact this thing. So what happens when the nonsmoker decides, "You know what, they're smoking upstairs, it's a really pretty night, they're on the roof, I would like to go up there, too." Let's send a notice of violation or however you're going to do this. The question is, can an excise officer pull off our liquor license? Who is going to police this? Who is going to enforce this? The Mayor's budget, I heard, I heard public relations, I heard maybe some members of the Police Department to help with our violations on this. How in the world are you going to police this? Indianapolis and Columbus just started, or will be starting in the very near future, with their smoking ban. Level playing field, the entire cities are doing it. However, they are exempting the bars. The bars are the issue, the level playing field is the issue. People will be going across the river, just like Mr. Brown said. Let's be good politicians, folks. Being a good politician is about compromise. You can either be good politicians or you can be rotten politicians. Your choice.

Mayor Mills said thank you. Next?

Ms. Pam Aaltonen [West Lafayette] said I would like to speak in favor of the motion. I would like to suggest to the City Council that we should be leaders in the area of a smoking ban for our City. I hear the issues that have been discussed by the owners who are concerned about a mix, in terms of the cities, but I do think that we could be a leader in this area. Something I haven't heard addressed tonight is the issue of the employees of the establishments where smoking is taking place, in terms of the harmful effects of second-hand smoke on the employee. We as patrons have an option, and I think there are a number of us in West Lafayette who option out of going to facilities in which there is

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smoking. There will be a net gain, I believe, in terms of people who will elect to go to an establishment that becomes a smoke-free establishment. So, again, I would like to emphasize that we should be leaders in the area. Other cities have passed bans, other countries have passed bans, and where are we in West Lafayette? Thank you.

Mayor Mills said thank you.

Mr. Frank Rosenthal [2856 Ashland Street] said I've spoken before. I work in the area of environmental health and the health effects of air pollution. I think the evidence is very clear on the hazards of environmental tobacco smoke. We've gone through it several times, I don't want to rehash it or bore you. But I want to just speak as a community person, and say that I don't pretend to walk in the shoes of one small businessperson. If I was there, I might be saying some of the same things. I understand that people work on small margins, and anything unexpected or uncertain is of concern. I understand that. But I also think that we have to move forward, that we have responsibility, in terms of public health. I feel badly that that's going to impact anyone or anyone's family. I don't think we can prove—I don't want to tell people 100% it's not, you know, we can't, because we won't be honest. But we also have responsibilities. I really respect the City Council for taking up this—as a responsibility, you know, walking the hard mile, whatever you want to call it—taking the unpopular, being unpopular. But we have a responsibility to our community, to people we've never even met, who will be affected possibly by environmental tobacco smoke, and to people who work in these places. We're past the point where we really, as a society, want to tolerate people working under unsafe conditions. So I support you to push on. Thank you for doing this.

Mayor Mills said thank you. Next, please?

Ms. Jenny Dinelli [Purdue University graduate student] said during my undergrad, I was a student athlete, and pitched for the school softball team I was attending. Along with being on the team, I felt the constant pressure of abusing drugs, and especially alcohol. At one point, I was the only student on the team who avoided this risky behavior. My senior year, one day after a practice, I was approached by three freshmen. I was pleasantly surprised by what they were about to tell me. Each one approached me with a huge hug and a smile. They wanted to thank me for being a leader, not for my efforts on the field, not for my efforts in the classroom, but for going against the intense pressures and for allowing them to have a leader, not only on the field, but in their hearts as well. Now, here's our chance to be a leader. I know it's a little scary and can be intimidating at times, but in the end, it's truly worth it. So here's our choice: We can choose to stand out and be a leader tonight, or we can take a backseat to the other communities within this state, within this country, who will say these four words, "I want to lead." I hope we make the healthy decision. One final note: The date on this ordinance that will be implemented needs to be consistent for both phases. Both should occur at the start of the City's fiscal year, July 1. Thank you.

Mayor Mills said thank you. Next, please.

Mr. Mike French [103 East Navajo] said I'd like to start out by saying, myself, I am a smoker. I don't smoke around my son who has asthma, either in our house or in the car.

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We usually choose to sit in the non-smoking section when we frequent restaurants. I'm not a frequent bar goer, so basically this ordinance doesn't affect me personally. However, it has brought up a great deal of discussion in my family, and I feel that I need to present some of their concerns. My daughter, first of all, pointed out two things to me. Number one, as a waitress for many years, she thought at a minimum, 90% probably closer to 100% of the wait people and staff do already smoke, so the idea of trying to protect them from something that they're doing, you're just inconveniencing them. Number two, her best livelihood was made working at Denny's, working the smoking section. Smokers just flat-out tip better. So she liked working that section, that's where she went. My wife is just extremely displeased. My son, on the other hand, became very animate. Doug has asthma, and he'd like to convey to you that he is not bothered by the second-hand smoke. He sits in the non-smoking sections. He does have friends that smoke, and at times he will sit in the smoking section. But he feels that it is his choice where he wishes to go. He feels that it is a choice of the owner of the establishment, the patrons, who he wants to service, who they want to service. For government to step in and to make those choices for us, to dictate what we will and will not do is the wrong thing to do. The truth of the matter is, for myself as a smoker and to all of you business owners, I apologize. If I choose, I'll take my dollars elsewhere. Whether you go bankrupt is not going to change where I go. What you do will change it. Thank you.

Mayor Mills said thank you.

Ms. Angie Brown [co-owner of Jake's Roadhouse] said I hate public speaking. I apologize for how poor I do at this. I just want to point out that it has been brought to your attention, we know our business. All of the restaurant owners here know that this will impact them in a very negative way. There's just no two ways about it, it will hurt our business. All I'm asking tonight is, I think there are better ways to go around with this. The City could buy a whole bunch of smoke eaters and you could make it mandatory that we buy them from you. I'd be willing to do that. Or you could make a no-smoking section. There are just other ways to deal with this than this ordinance. I don't know how anyone could truly pass this, knowing that it will hurt someone else's business. The only ones going to benefit from this are the big corporations that have megabucks that they can work with, but you guys are going to put small business out of business by passing this ordinance.

Mayor Mills said thank you.

Ms. Jennifer Van Dame [Jefferson High School student] said I'm 17 years old. I'm not a resident of West Lafayette, but I've got to say that, probably nine times out of ten, I do frequent West Lafayette businesses on my free time. I was just over shopping last night, and I am a frequent patron. I'd like to say that, with this in mind, it seems as though we're trying to put a price on human life. Many business owners are claiming that this ordinance would put them out of business, but it is completely illogical to think that people will stop drinking and eating. People don't go to bars to smoke, they go to drink and they go to eat. The same is with restaurants. They can smoke in the privacy of their own homes. In conclusion, I pose you this question: If I were your daughter, would you want me to be working in a smoke-filled restaurant? What price would you put on my life?

Mayor Mills said thank you. Next, please.

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Mr. Randy Young [8949 Tyler Road, Battle Ground] said I feel, if you pass this ordinance, you're going to come face-to-face with the law of unintended consequences. That's pretty much all I have to say. Thank you.

Mr. Mark Davis [400 North River Road] said I want to bring up two points, I'm not going to take one side or the other. These are sort of neutral points. Most of you probably know my position already anyway. First is the ambiguity in the ordinance itself. There are several phrases like, "reasonable distance," and from what I've read of it, it lacks any solid enforcement whatsoever, so I think that that issue alone should be addressed before you take a final vote on this action. The second part is something that really bothered me, is it's mandatory for all new businesses by July '06, and not until existing businesses until December '07, yet we have an inspection period one year from the institute of the date, July '07, so I don't think there's going to be too many new restaurants in that time. How can we assess the impact of this ordinance when we only have a small amount of new businesses that we're going to be assessing the impact for? It makes sense, depending on when you want to start it, it would make more sense if we assess the entire impact of it, once every business is impacted by it, so we can better see what the impact actually is. That's all my points.

Mayor Mills said thank you.

Mr. Edgar Ramirez [Lafayette] said like my friend Jennifer [Van Dame] here, I come usually to West Lafayette, a frequent visitor of the pubs and restaurants and such. My question here is, I believe that our government is here to serve and protect us from health and from danger of all kinds, right? I'm a person that's affected by smoke. I don't care what kind of filtration system you may have in a restaurant, smoke affects me really strong. I'm a strong believer in this ban, because it will protect my health, and I know my family also is affected by smoke, so I have a question here: Since when does our government put in business in front of people's health and safety. That's the only concern I have. It seems like all that we care about here is the kind of businesses can be affected, but you also have to think about—I know personally, when I grow up and I want to bring my children here, I want it to be dining in a wonderful experience, smoke-free area. I certainly don't want them to be put at risk. As she said, I don't want a price on my head. That's my only concern.

Mayor Mills said thank you. Next, please. Anyone else?

Ms. Tristan Emery [West Lafayette; Tobacco Free Partnership of Tippecanoe County] said on behalf of the Tobacco Free Partnership of Tippecanoe County, I would once again like to commend the Council for their work on this smoke-free workplace ordinance. And express our partnership support of a comprehensive ordinance in all workplaces. First, we at the Partnership are concerned about the date the Council has suggested for the ordinance's implementation, for the existing restaurants and bars that allow smoking. We suggest that the date of this ordinance be consistent with the July 2006 date that is put on for restaurants and bars that come into effect after January 1, 2006. July 1 as the implementation for both phases of the ordinance would allow a full fiscal year of implementation of the workplace ordinance. Having both implementations on July 1 will

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allow the comparisons of apples to apples, because there's a mandatory evaluation included in this ordinance. At the Partnership, we have already committed grant funding to help with pre- and post-ordinance economic research data. And by having both implementations on July 1 coinciding with each other, this will allow our grant funding to allow this research to be much smoother and more accurate. Also, you all should have received a letter from Mr. John Macy in Bloomington, which discussed the enforcement and implementation of their ordinance. And if you all did not see that, Patti [Councilor O'Callaghan] actually has copies of that tonight.

Councilor O'Callaghan said I left it at their places.

Ms. Emery said okay, perfect. And so if you look at that letter, it really shows you the ease of their implementation of their ordinance and how they enforced that ordinance. The next thing I would like to mention is that smoke-free ordinances—

Mayor Mills said time.

Ms. Emery said is that two minutes? Okay, thank you.

Councilor Keen said can I ask a question of Tristan [Ms. Emery]?

Mayor Mills said certainly.

Councilor Keen said Tristan, can I ask you a question?

Ms. Emery said yes.

Councilor Keen said you made reference to your grant money in there.

Ms. Emery said yes.

Councilor Keen said are you saying that you will receive grant money if this passes?

Ms. Emery said no, our Partnership is alive because of our grant funding. We provide grant funding for different community organizations to reduce, cessation, educational programs, and we have committed some of that grant money to help with the economic data, as far as educating the public, doing this educational research. We wouldn't not be completed by our organization. The Council would find another organization to handle the actual data. We're pledging our money to help fund that research.

Councilor Keen said how much?

Ms. Emery said I don't know at this point. I don't even know how much some of that pre- and post-ordinance evaluation costs. However, Patti [Councilor O'Callaghan] and I have discussed emails back and forth, and we are pledging support for that.

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Councilor Truitt said we have asked questions in the past, though, in regard to monetary vehicles in regard to this ordinance, and I remember very clearly that no mention was made of anything like this.

Ms. Emery said I'm very sorry. I apologize—

Councilor Truitt said I'm not saying it was directed towards you, I'm talking more to this group here.

Councilor Hunt said may I make a comment?

Councilor Truitt said please.

Councilor Hunt said after our Pre-Council Thursday, I talked to George McCabe who is in the statistical department at Purdue, and there's a STATCOM group that's a group of students that do community stuff, and he was extremely interested in that group doing some studies, and as far as tax revenue data from the tobacco—all that stuff—he said Krannert would have a really good way to look at that, and he was very interested in the STAT group and the Krannert group working together to do a study, *a priori*, where you state what you're looking at beginning, rather than— So if that helps. That was Friday.

Councilor O'Callaghan said and the Wellness Center is looking into possibilities for grants. I'm on the mailing list for the Tobacco Free Partnership, and Tristan [Emery] said there were grants available, and so I just said would some money be available for pre- and post-studies, and that was just in the last month. Those grants become available.

Councilor Truitt said are there any grants that you know of or flow of economic remuneration based on the results of this ordinance?

Ms. Emery said no, none whatsoever. Our grant money exists for educational programs, for cessation, and Patti [Councilor O'Callaghan] got an email about our grant funding being available, and that's why she contacted us. We've offered it. If it's not taken, we will be using it for educational programs in high schools and middle schools and cessation programs. So, no.

Councilor Truitt said so this grant money, considering our City is 85% smoke-free right now, we could use those funds to help the other 15%?

Ms. Emery said yes, definitely.

Councilor Truitt said no matter what happens on this ordinance?

Ms. Emery said no. I mean, no matter what. We already have that grant money from the State, and so you would have to fill out a grant application for us, we would approve it, and not a problem—

Councilor Truitt said regardless of how this goes?

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Ms. Emery said regardless of how this goes tonight, yes.

Councilor Truitt said do you know of any other grants or any flow of economic remuneration to Purdue University attached to anything related to this ordinance?

Ms. Emery said no, I know of none.

Councilor Plomin said is this a common practice for groups that advocate this kind of ordinance, to fund the research that produces the results of the ordinance?

Ms. Emery said our funding would not produce the results of this organization. Several other communities have used their money from the State for the Tobacco Free Partnerships for signage for the businesses, for different public relations campaigns. Patti [Councilor O'Callaghan] had only discussed funding the economic data. However, our funding could be provided for anything, to help with the implementation, the enforcement—anything that would be helpful to educate the public. Our money is for education, and that's the only thing that has been discussed between Patti [Councilor O'Callaghan] and I.

Councilor Plomin said so other communities get grants like you're giving to us? Or would, hypothetically, if we pass this, we receive then, that money goes on to fund the studies?

Ms. Emery said no—

Councilor Plomin said you said the money would fund our study.

Ms. Emery said if that's what you all write the grant for. We're just saying that we have grant funding available to assist you in whatever way you might need, not to pass the ordinance or anything.

Councilor Plomin said how are you funded?

Ms. Emery said we're funded through the Indiana Tobacco Prevention and Cessation Agency, which is funded through the master settlement agreement, that was when the states sued the tobacco industry.

Councilor Plomin said do you have any other sources of funding?

Ms. Emery said no, just from the Indiana Tobacco Prevention and Cessation.

Mayor Mills said thank you.

Councilor Hunt said the STATCOM is, there's no fee.

Mayor Mills said no, STATCOM, the City has used the STATCOM group on a couple different projects, and they do it as a community service and it's, you know, experience for them and doing statistical analysis. Next speaker, please.

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Mr. Bob Mansfield [Amberleigh Village] said I'm a tobacco farmer, grew up in North Carolina. Smoking is bad for you, I'm telling you that right now. It's not because what we grew, it's because what the tobacco companies put in the cigarettes. Smoking in these restaurants is bad for your kids and everything else. I'm telling you that right now. It's not our fault what they put in it to addict you people, in these cigarettes. My grandpa smoked cigarettes for 50 years and never had any cancer or anything. I chewed tobacco my grandma made. It's what these tobacco companies put in these cigarettes, it's not what we grew. Smoking in these restaurants is bad for the kids, us, and everything else. The smoke eaters are not going to do anything. There needs to be no smoking anywhere. I'm sorry about the businesses, but you cannot let this go. You have to ban smoking in everything. Thank you.

Mayor Mills said thank you very much. Anyone else, please.

Mr. Craig Wesley [Indiana Tobacco Prevention and Cessation Agency] said I am a former resident of West Lafayette. I attended Purdue University. I work for Indiana Tobacco Prevention and Cessation Agency, and I want to give clarification to the Councilors, since the discussion was brought up about what our program entails. What we do with the Indiana Tobacco Prevention and Cessation Agency, we fund local community partners to do tobacco control in the local community, and it's up to the individual local coalitions to decide what type of tobacco control work they would like to do within their community. If they decide that they would like to do put a part of their funding towards assisting Councils for enforcement or implementation, that is allowable under our rules for encouraging, conducting tobacco control at the local level. Also there are other agencies that are funded through the CDC, such as Smoke Free Indiana, that also fund local communities here in Indiana to do tobacco control. Our agency, the State agency, is not the only organization in town that funds local tobacco control programming and education at the local level. I just wanted to make that clarification to the Councilors. Thank you.

Mayor Mills said thank you very much. Other speakers tonight?

Ms. Aida Muñoz [Lafayette] said I'm just here, the second time, to thank you for listening to us and I am in favor of this ordinance. I'm part of the Latino community, and everywhere I go, most of the places here, employment places, there are many Latinos working, there are many, many young children working at restaurants and bars, and there's many people that are breathing the second-hand smoke. There is even different programs to educate people about how bad is second-hand smoke. But if you pass this, it's going to help us, it's going to— Maybe Lafayette, hopefully, in the future is going to be smoke-free. There is many young people that is going to be benefiting from this. Thank you very much.

Mayor Mills said thank you. Anyone else?

Ms. Mary Cook [co-owner of Harry's Chocolate Shop] said three of us here have not yet spoken. That should give us six uninterrupted minutes.

The others introduced themselves:

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Ms. Sheila Cochran [co-owner of Neon Cactus]

Mr. Derrick Raymer [owner of Wabash Yacht Club and Where Else Bar]

Ms. Cook said that took us up to eight [minutes, including Mr. Ehresman].

Ms. Cochran said eight minutes.

Ms. Cook said I stand corrected.

Mr. Greg Ehresman [co-owner of Triple XXX Restaurant and Route 66 Family Restaurant] said we are a group of concerned business owners, requesting that you amend this proposed ordinance to exempt all restaurants and bars without limits. As this ordinance was created to protect the health and welfare of the citizens of our City by prohibiting smoking in public places and places of employment, it should be all-inclusive for the City of West Lafayette or exempt our businesses, the bars and restaurants. If it does not pose a health risk to allow smoking in tobacco bars, private clubs, hotels, or the other exempt locations, we believe that restaurants and bars should be classified in the same non-risk category. As Ms. [Councilor] O'Callaghan stated in November 2005 Council meeting, "I believe it is a workers' rights issue. The employees who need to work in these places need to be covered." Ms. [Councilor] O'Callaghan would appear to be of the opinion that the rights of the non-smoker to choose are of greater precedence than all others to choose. Ms. [Councilor] O'Callaghan has stated numerous times that her ordinance is the right ordinance for the City of West Lafayette, and that this is the right time. It is our opinion that the proposed ban for West Lafayette is no more than a copy of the ordinance enacted in Bloomington, Indiana. There are less than ten line item differences between these two ordinances, the most obvious is the use of words, "aquarium, museums, and bowling alleys" in Section 64.03 (8) in the West Lafayette ordinance. These locations appear in Section 6.12.030 of the Bloomington ordinance. We believe very little consideration has been given to the business community of West Lafayette. Ms. [Councilor] O'Callaghan's well-intentioned zeal to create a non-smoking utopia advocates the rights of the non-smoker, while ignoring the rights of businesses, employers, employees, and the citizens of West Lafayette. Since November 2005, we have presented numerous concerns for potential loss of revenues, which will impact others in the community by loss of income, jobs, taxes, and pension contributions. As this is Ms. [Councilor] O'Callaghan's ordinance, if passed without striking Section 64.03 (7), restaurants and bars, we will be compelled to hold her accountable for the aforementioned consequences. Others on this Council have heard our concerns and arguments. We are appealing to you to vote for this compromise and to allow all the citizens of West Lafayette the freedom to choose.

Ms. Cook said thank you.

Mayor Mills said thank you. Anyone else tonight? No other speakers? Last chance.

Mr. Brad Cohen said can a question be asked of this organization, this Cessation Program?

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Mayor Mills said to what end, I guess?

Mr. Cohen said will this Cessation—Smoking Indiana Cessation Program—would it fund a study for economic issues before they pass it? Because wouldn't it be normal for an organization to fund a study like this before you pass it, than trying to fund it after you pass it?

Mayor Mills said Tristan [Emery], do you want to come up?

Ms. Tristan Emery said just a brief email between [Councilor] Patti O'Callaghan and myself did discuss pre- and post-implementation funding of research. Like I said before, there was no specific organization doing that research. However, there is a year implementation time for both the restaurants and bars that come into effect, now this year and then two years for the bars and restaurants already in existence. And so, that funding was to be used for pre- and post- implementation.

Mayor Mills said does that answer your question?

Mr. Cohen said yes.

Ms. Emery said okay.

Mayor Mills said thank you. All right, comments or— One more speaker?

Mr. Jim Cochran [co-owner of Neon Cactus] said please. I think that Mr. Cohen was making a point that possibly if we did a study prior to making this huge vote, which will impact all the business owners in West Lafayette, that possibly, if we had this study, you might turn out and see some information like we did a tally the last two weekends at the Neon Cactus. We tallied and found out that there's a huge number of people who believe that smoking is their right, that they want to be able to come into a nightclub and to smoke and drink and dance and have a good time. We found that, on the average, there's 725 people who come to our establishment each weekend who prefer to smoke. Now, that's a huge number of people. If we have to turn those people away and they go across the river or find other places to party and to drink and to smoke, then we have economic losses. And if we had studies prior to this vote, you would realize what those damages are going to be, and possibly might change your vote. I only ask that you consider doing something like this instead of making a vote, and not have the true facts in front of you.

Mayor Mills said thank you. Any more?

Mr. Brian Callaghan [Lafayette] said I'm 16 years old, and I'm a resident of Lafayette. I just want to say I also like to frequent West Lafayette businesses. I spend a lot of my free time there, and if you do pass this thing, I know I'm not the only one who would feel more compelled to come to West Lafayette businesses as opposed to Lafayette businesses, because a smoke-free ordinance is in effect. So let's get this thing passed.

Mayor Mills said thank you. One final opportunity for any other comment? If not, we will go to the Council for discussion. Council members? Comments? Questions?

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Councilor Plomin said before we really get into this, I'd like to address the comments of Mr. Cochran made about having the real facts. It seems like, from all the research I've read, the facts, the studies are either funded by tobacco cessation programs that want these kinds of ordinances to pass, or restaurant associations that are linked with the tobacco industry. Facetiously, you could say that neither one of them are right, and the truth probably lies somewhere in the middle, where these ordinances hurt some bars, help some bars, hurt some restaurants, and help some restaurants. The overall net effect is neutral or positive, from what all these studies show. What I've found generally is chain restaurants and larger, not necessarily non-locally owned, but a place like Arni's with many locations, wouldn't be affected so much by an ordinance like this, it'll be the local guy who's affected, who is completely invested in that one property in that one city at that one bar. So to see this go into effect, and I don't hear Chipotle up here, talking about, "Don't ban smoking." I hear Jake's, Harry's, Where Else, I hear Neon Cactus—places that I like to go to, telling me it's really going to hurt their business, and I don't want to see these places go away. I think I got off the topic a little bit, but I think it's not going to be good for the community, for the longstanding businesses that have been here in the community if we pass this today.

Mayor Mills said other comments?

Councilor O'Callaghan said I'd like to just do a little bit of history. I think we've all heard the arguments back and forth, almost *ad nauseam*, but this ordinance is a long-time coming, and I'm pleased that hopefully it will pass tonight. I believe it will benefit the public health, the employees and customers of West Lafayette, and economic development. I had been approached by residents earlier. My research for this issue began in earnest in March 2004, after hearing Dr. Stephen Jay of the Public Health Department at IUPUI. Then there was a joint meeting of Lafayette and West Lafayette City Councils in September of 2004. I was hopeful that we could get a joint ordinance. Over the next few months, however, I came to realize that Lafayette was not ready to pass an ordinance, and the way to get it done was for West Lafayette to do an ordinance that was best for our community, to conduct research before and after an ordinance, on air quality, employee health, and business data. Then, armed with this research, we could show Lafayette the way. A meeting with the Campus Community Bar Coalition in December 2004 gave me some input into what I should be looking for in an ordinance, and a request to get a draft in writing. After researching many ordinances and studies, not just Bloomington but many across the country, and with the help of a neighbor and attorney—I don't see him here tonight, but I would like to thank Aaron Cooke for his help in producing this draft to be distributed and to seek input before it was filed. All the Council members, the presidents of the County Commissioners and Lafayette City Council were given copies on September 28, 2005, and the very first group that I discussed this with publicly was the Campus Community Bar Coalition on September 29, 2005. We then scheduled a public information forum on second-hand smoke for October 10, 2005, and invited every West Lafayette business owner on the Development Department's list of businesses. Also, we had a public forum on campus, specifically for students on October 20, 2005. After all this input and the changes that resulted in it, I filed the ordinance on October 27 for the November Council meeting. The ordinance passed 6-1 at that meeting. Second reading of the ordinance was subsequently

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postponed twice. West Lafayette bar and restaurant representatives who attended the January Council meeting were disingenuous when they said that they did not know about the ordinance, or that we were ramrodding this through. Of the nine establishments represented, at least five were at the November Council meeting—actually, I wasn't counting you, Greg [Mr. Ehresman], so that makes it even more—they addressed the Council and two were specifically talked to by either Councilor Hunt or myself. One was a new owner, but Councilor Hunt had spoken to the previous owner, and the other was a friend of Councilor Truitt's, who was on the list of the 350 business owners that received the notice of the public forum. I had given that list to Councilor Truitt, and I thought that Randy [Councilor Truitt] was going to talk to him. So, every one of them did indeed know about the ordinance, even without the extensive media coverage, which we all know that has been extensive. So now we come tonight, and I am very pleased that we have a strong ordinance that is 100% ban on smoking in all places of employment and indoor public places. I am disappointed that some bars and restaurants will have until 2008 to comply, and I sincerely hope that those businesses will use that time to adjust to the ordinance, rather than use it to find ways to get out of it or delay further. I would hope some businesses would use that time to voluntarily go smoke-free and listen to the many constituents who have told us that they want a smoke-free community and would go to these businesses more if they were smoke-free. And, Derrick [Raymer], I particularly challenge you to make one of your establishments smoke-free, so the many students that we heard from would have a choice in the Village area. You could try it and then go back in this big, long time that we gave you, if it didn't work out. But you have the opportunity to be a leader and show the way in the Village. I do want to thank all the constituents who have communicated with me on this issue—on both sides. It's been quite an experience, and I certainly will be glad when it is done.

Mayor Mills said other Council comments?

Councilor Keen said I have a couple more comments that I'd like to make, actually several. If our true concern is to protect the public health and welfare, then why does the ordinance exempt private clubs?

Councilor O'Callaghan said this ordinance does exempt private clubs, because they're private. They have the right to do what they want to do.

Councilor Keen said and why does this ordinance exempt residences?

Councilor O'Callaghan said because, that is their private residence.

Councilor Keen said so you're saying that the people who visit private clubs and people who own houses have freedoms to do what they want, but business owners don't is what you're saying then.

Councilor O'Callaghan said business owners which bring the public in do have controls by government, when the public health is involved, yes.

Councilor Keen said just a side note here, under the definition of a private club, why does it specify that, in order to be defined as a private club, that it cannot be operated for

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pecuniary gain? What does it matter? Why does that make any difference, as far as public health is concerned?

Councilor O'Callaghan said that is just the definition of the private club, that it's private and it's not for business and it's not to make money, it's a private club.

Councilor Keen said why does the ordinance allow smoking in 25% of the hotel rooms? Are we saying that we don't care about 25% of the hotel guests and their health?

Councilor O'Callaghan said you know, we're saying that this is a great start for a completely smoke-free environment.

Councilor Keen said so you'd rather see it 100% then, is that what you're saying?

Councilor O'Callaghan said sure.

Councilor Keen said under Section 64.01, in your amended version here, it says, "smoking is the act of puffing, having in one's possession," it goes on, "any smoking equipment of any kind..." If I'm reading that correctly, then how will this work with businesses who have purchased from the State of Indiana a tobacco license? How does that mesh with this? Are we saying that their license is no longer any good?

Councilor O'Callaghan said no, it's just that it can't be lighted. It's lit—

Councilor Keen said it goes on and says, "smoking equipment of any kind."

Councilor O'Callaghan said, "lit smoking equipment of any kind."

Councilor Keen said okay. So you're saying that they will still have the opportunity to possess and sell any kind of tobacco that they—

Councilor O'Callaghan said sure, their vending machines, yes.

Councilor Keen said how is this going to be— How is this going to work out with the excise police? I've heard many mentions about businesses having to send their customers outside. How are they going to be able to regulate alcohol consumption if the patrons are outside smoking, as opposed to being inside where they can be watched?

Councilor O'Callaghan said I have no idea how it would impact the excise police. It's not the intent of this ordinance, it's not the jurisdiction of this ordinance.

Councilor Keen said kind of a redundant question, but why doesn't the ordinance just abolish tobacco bars and retail tobacco stores?

Councilor O'Callaghan said again, it goes back to that WHEREAS that you pointed out in the beginning, Gerry [Councilor Keen]. We really are trying to balance "the needs and desires of businesses, as well as the needs and desires of smokers and non-smokers." Those are businesses that depend on tobacco for their business, and we exempted them.

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Councilor Keen said I guess I'm done with the questions, but I do have a statement I'd like to read.

Mayor Mills said okay, please.

Councilor Keen said I don't believe that this ordinance is about just smoking. I believe that this ordinance is about liberty. Under the provisions of the Constitution of the United States, we are all afforded the right to life, liberty, and the pursuit of happiness. This ordinance seeks to remove the legal right of some people to pursue their quest for liberty and happiness in business ownership, and the right to do what they want to do with that business. I don't understand how anybody's objection to smoking can supersede the right of the business owner to pursue their Constitutional right to pursue liberty in their business. You know, all I can see is that—I have to ask, is this ordinance attempting to rewrite Constitutional rights here? This ordinance, as it is written, has far too many issues that are undefined. It's very ambiguous. It leaves too many parts subject to a wide degree of interpretation, including the interpretation of people's liberties. When are we going to start trusting our own adult citizens to make their own decisions? We are not the parents here with an entire city of children to watch over. It is not within the scope of our responsibility to monitor the legal choices of the people. Everyone, businesses included, should be allowed their Constitutional rights to pursue their own liberties. Having said that, don't get me wrong, okay? I want a smoke-free environment as much as anybody. If you were here at the last meeting, my family has been greatly impacted by smoke. My own parents both died as a result of smoking. I don't take this lightly at all. But I don't believe that this ordinance is the proper way to accomplish what is trying to be accomplished. If people truly want to have smoke-free restaurants and bars, then they need to go to the owners of those restaurants and request them to go smoke-free. If the business owners can see that there is an economic value to going smoke-free—they have brains, they can figure it out—they'll go smoke-free, and the government will not have to intervene at all. I just think that this ordinance is not the right way to go about doing this. Thank you.

Mayor Mills said other comments from the Council?

Councilor Hunt said I have one, please. As a nurse, this ordinance has caused me great difficulty, great concern, both for the businesses and the public health laws that I have followed my adult career in nursing. And actually public health laws do affect businesses, and they do affect personal rights, as far as riding in your own personal car with a seatbelt—it's required, it saves billions of dollars in this country. My dilemma is what to do with this amended ordinance, and this amended ordinance that goes into effect after December 31, 2007. On January 1, 2008, there will be a newly elected Council in this chamber, not this Council, but maybe some members of this Council, but a newly elected Council. I feel very uncomfortable that this Council is passing a law that will go into effect when we go out of term. In addition, I feel that sends an ambiguous message to the businesses of whether we're serious about this ordinance. That's one point. The other point is worker safety. And I feel very strong with worker safety, and I've told many of you about the nursing and the public health and the hospital law on re-sheathing needles that have been used. And let me give you just a minute to explain this. In the hospitals where

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I've worked for years and years and years, we used to take needles that were in a cover, and after we'd use them, we'd re-sheath them. We found that you frequently stick yourself with those needles, and you get viruses, you might get AIDS, you might get hepatitis, all sorts of nasty things. Now, the Occupational Safety and Health Administration has made a law where you cannot re-sheath needles. Now, that's your own personal freedom, it used to be if you wanted to re-sheath a needle, you stuck yourself, it didn't affect anybody. However, it does. Right now, if the Occupational Safety and Health people see you re-sheath a needle, you get fined \$10,000, okay? That's your own personal freedom. However it's also much, much expensive public health law. So I think there's many times that the public health laws supersede businesses. So worker safety, and if you put this off 'til the 31 of December in 2007, we're ignoring worker safety. I appreciate Mrs. Muñoz from the Latino Coalition. The last thing I'd like to say is the community support for the original ordinance is very strong. Since our last Council meeting on the 9th of January, I have gotten 76 messages, mostly emails. 76. Of those, 64—that's 84%—were in favor of the strong ban, not a watered down ban, and 16% were against the ban. In addition, I talked to Farmhouse—a co-op—and I talked to another women's co-op that's in my district, and they were both very much strongly in favor. Evan [Apotheker], I hate to correct you, the vote was 35-1-1, rather than 100%. And that's extremely strong. And the question that was voted on—and I didn't ask them to vote, because I was afraid there would be pressure—but they wanted to vote, and they said they would prefer the bars were anti-smoking, partly for the health, partly for how bad you smell when you get back, and I think that's an issue. So with much difficulty, with much difficulty, I don't think I can support this new amended one that goes into effect the end of December in '07.

Mayor Mills said anyone else comment from the Council?

Councilor Truitt said I have a few comments. No matter which way you end up voting on this ordinance, there's going to be happy and sad on either side. I could share multiple stories, I received the same emails, but I've received an incredible number of drop-in visitors, phone calls, stops at basketball games and other types of public events. You know, we're here to listen to the people, but we're all big people. We're big boys and girls, and we can vote by our feet. We go to establishments, we go to places—I've told Matt Hunter multiple times that I would probably come to Hunter's Pub on the west side more often if it wasn't so smoky. But he hasn't changed that yet. It's my choice. But when I am there, it's full as can be, and he's happy as can be. But that is his choice as an individual. But it's also, thank goodness, my choice on whether I go there or not. My wife will not go there. She does not like being around smoke, with lupus and all the other things that are going on with her. I also have lung cancer-related situations in my family, too. So it's not something that I take lightly either. But we live in an 85% smoke-free environment today. Of the 18 establishments that are smoking, eight of them are campus bars in this little area, and quite frankly, a majority of the other ones are still in that geographical area—Triple XXX is one of those. I've told everybody over and over again, I am in support of an ordinance that is the right ordinance, and I've told everybody from Day 1 that the right ordinance for me is one when our community is united. We've worked so hard as a community to be a community. We try to break down—at least I do—we try to break down this stereotype of West Lafayette and Lafayette, because it bugs me as a fourth generation West Lafayette individual to have a stereotype like that. So we try to

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break that down. Mayor Margerum worked very hard at the branding campaign, and here we go, we're going to go off on our own. And I don't personally—I'm all about leadership, but this ordinance is not, in my opinion, the way to go about doing that. I would be in favor of supporting—and I've talked to some of the restaurant and bar owners—an amendment of some sort that is tied into a Lafayette and Tippecanoe County passing of this. I think that is a level playing field, and they can correct me if I'm wrong, but that's all their asking for here, is a level playing field. You can read report after report after report and, depending on who funded it, as Councilor Plomin said, I just put them down, because it was getting too confusing. So I'm going to go with my heart on this one, and, you know, we need to listen to the people. Councilor O'Callaghan said a couple things—businesses that depend on tobacco—well, if I have a bar owner that says they're depending on tobacco in order to survive, that's kind of the same thing. So I just want us to think through this thing and, again, I'm in favor of the right ordinance, but the ordinance as written right now, unless it's an exemption that levels the playing field, as hard as it is, I just can't personally support it.

Mayor Mills said thank you. Anyone else?

Councilor Griffin said this is indeed a strong ordinance. There have been a lot of things that have been considered that I believe would make this weaker in terms of protecting the worker. My work every day is involved in protecting workers, as an occupational medicine physician. We had some spirited discussion on Thursday night, as we wrestled with when this should be implemented, if, of course, it's implemented at all. I recognize that there are a lot of people who are disappointed in the fact that, as it stands, the implementation date for places where smoking currently occurs is not four months from now, but 16 months from now. That's part of compromise. It's not as good a compromise as I fully recognize that many of our current business owners would like. There are many federal regulations that are perceived to impact business seriously that have lead times such as this, where the lead-time is not three months. Initially I felt very strongly that the lead-time on this needed to be that we would pass it in December, and we'd implement it in July of 2006. In listening to input from a lot of business owners, that is why I felt that it was reasonable to delay it by then. But I still think that it's a very strong ordinance. I think that we need to have it.

Mayor Mills said other comments?

Councilor O'Callaghan said I would just like to reiterate what Councilor Griffin just said, that this is a strong ordinance, and that we do need this now. This is the way to get Lafayette to come on board. I, more than anybody, am disappointed about it going out to essentially 2008, but this is a strong ordinance, and this is an ordinance that will protect the majority of businesses, it will protect the majority of employees in all indoor public places. I would just strongly urge passage of this now.

Mayor Mills said any other?

Councilor Hunt said I know we talked about this in Pre-Council, and I'm sorry, Judy [Clerk-Treasurer Rhodes], I don't memorize Robert's Rules, but I would move, as a compromise, something we looked at earlier, and that's implementation of this in July '06 and

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exemption of the bars and restaurants that were in smoking on January 1 of this year, be allowed 12 extra months to phase in this. I would propose that as an amendment.

Mayor Mills said so your amendment would be to have the ordinance effective date July of 2006, with the—

Councilor Satterly said is that a reconsideration?

Clerk-Treasurer Rhodes said no—

Councilor Hunt said like I say, the Robert's Rules—

Mayor Mills said with the exception of all bars and restaurants?

Councilor Hunt said the bars and restaurants as it was stated before, that are in— that were—that had—

Councilor Griffin said allowed smoking.

Councilor Hunt said bars and restaurants that were in business, not by a particular person, but in business on January 1, 2006.

Mayor Mills said until—?

Councilor Griffin said which allow smoking, or—?

Councilor Hunt said yes, which allow smoking.

Councilor Griffin said which allow smoking as of January 1, 2006.

Councilor Satterly said so all she's doing is changing the date back.

Clerk-Treasurer Rhodes said she's bringing back a matter that—

Councilor O'Callaghan said to July 2007, instead of December 31, 2007.

Councilor Satterly said is that a reconsideration?

Councilor O'Callaghan said that is a motion that I made in Pre-Council, and that was defeated.

Clerk-Treasurer Rhodes said but she voted on the prevailing side.

Councilor Satterly said she voted on the losing side, and she can't make that motion—

Clerk-Treasurer Rhodes said we're basically in the same session, Pre-Council being part of the Council meeting.

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Councilor Hunt said so I can't make that amendment? Is that what you're telling me?

Clerk-Treasurer Rhodes said I'm looking.

Councilor Truitt said while the Clerk-Treasurer is looking, can I ask a question of the Council? What would be individuals' feelings, similar to what Judy's [Clerk-Treasurer Rhodes] looking up right now, but an exemption of bars and restaurants until Lafayette and Tippecanoe County?

City Attorney Bauman said I think that was also voted on.

Councilor O'Callaghan said that was also voted on.

Councilor Truitt said yes, yes, while she was looking at this, I'm just looking for just individual comments.

Councilor Satterly said it was voted on, and the vote—

Councilor Griffin said my opinion would be the same as Thursday night.

Councilor Hunt said I think we need to do what we need to do. I feel Lafayette and West Lafayette, we're trying to combine them, but they're still different cities. Similar but different, like my children.

Councilor Plomin said I originally voted against this thing, because West Lafayette was going alone, so I would support waiting for Lafayette.

Mayor Mills said we're waiting for a ruling on Robert's Rules of Order.

City Attorney Bauman said those have both been voted on—

Clerk-Treasurer Rhodes said I don't believe they can. I was just trying to find a—

Councilor Satterly said that's a reconsideration.

Clerk-Treasurer Rhodes said I was just trying to find an exception.

Mayor Mills said okay.

Councilor Satterly said the only person who can call for reconsideration is one that voted on the positive side.

Clerk-Treasurer Rhodes said but I was hunting for the exception.

Mayor Mills said so apparently neither of those can be accepted as amendments at this point, since they have previously been voted on.

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Councilor O'Callaghan said and so, again, while I'm disappointed that that I was not on the prevailing side in Pre-Council and can't consider that again, which I would certainly still like to see. This is a compromise that I can live with, and that I think would be a strong ordinance for the City.

Mayor Mills said before we call the roll—are we ready to call the roll?

Councilor Plomin said no. I have one amendment I would like to make.

Mayor Mills said Councilor Plomin, I thought many amendments were offered on Thursday?

Councilor Plomin said this is completely different than any of those amendments. When I was doing my research over the weekend, I found that many places who enforce these kinds of ordinances do so by digging through the trash of restaurants and bars, to find cigarette butts. Cigarette butts become evidence, then, of smoking. If I'm wrong, please, I apologize. But I move to add Section 64.07(d)(1), it's on page 6. "Extinguished cigarette butts shall not be considered evidence of smoking or smoking paraphernalia for the purposes of this ordinance."

Mayor Mills said could you repeat where you are adding that, please.

Councilor Plomin said 64.07(d)(1).

Councilor Griffin said right before 64.08.

Councilor Plomin said yes. Under the section that reads, "All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited."

Councilor O'Callaghan said I will second that amendment, because I am sure that is not the intent, that we will not enforce it by looking for cigarette butts and then considering that as a violation. So that's fine with me.

Mayor Mills said all right. We have an amendment and a second. Would you read the language again, please, Mr. [Councilor] Plomin.

Councilor Plomin said I move to add Section 64.07(d)(1), "Extinguished cigarette butts shall not be considered evidence of smoking or smoking paraphernalia for the purposes of this ordinance."

Councilor Griffin said question. It is seconded, right?

Mayor Mills said it is seconded.

Councilor Griffin said are we ready for some discussion?

Mayor Mills said certainly.

COUNCIL MINUTES, FEBRUARY 6, 2006, CONTINUED

Councilor Griffin said what if they're in the restaurant?

Councilor Plomin said right. If somebody's in a restaurant and starts smoking, and the restaurant asks them to put out their cigarettes, then there'll still be a cigarette butt in the restaurant. And oftentimes, places are wrongly accused of allowing the smoking and being complicit, in not just allowing the smoking, but also in having the paraphernalia on hand, making it a double violation. We don't want that kind of thing in this ordinance, I don't think.

Councilor Hunt said if I may. May I speak to that just a moment? I have a constituent that lives at Hillel Foundation, and there's a bus stop in front of Hillel Foundation, and they're always cleaning up the—Hillel Foundation, my constituent is the one that cleans it up—and he's very distressed when they have all these cigarette butts he has to clean up. When he cleans them up, he puts them in the trash for Hillel, so I think that's a good idea that you bring up, Councilor Plomin.

Councilor Plomin said I imagine that having people smoke a reasonable distance outside of the restaurant will litter our sidewalks with cigarette butts that may, then, be cleaned up by the restaurants. Or the street sweeper, depending if Dave [Public Works Director Downey] gets the one with the additional appropriation tonight.

Councilor Griffin said or people might put them out and carry them with them and dispose of them properly.

Councilor Plomin said yes, inside.

Councilor Keen said Matt [Councilor Plomin], I do have one concern with this. Oftentimes, you'll get a disgruntled patron, employee, or whatever, and the only problem I have with that would be someone coming in and just putting cigarette butts in inconspicuous places inside the restaurant, to cause harm to the business. That would be the only thing I would be—

Councilor O'Callaghan said this says that is not a violation. This would prevent that.

Councilor Plomin said that's what this will prevent.

Councilor Keen said I thought Carl [Councilor Griffin] said what about inside the restaurant.

Councilor Griffin said as it stands, it's anywhere, anywhere. In the trash, inside.

Mayor Mills said other comments before we vote on this amendment? All right, I am not going to repeat the language, because I didn't get it all down. We are voting on the amendment to include "extinguished cigarette butts shall not be considered evidence for purposes of smoking enforcement,"—

Councilor Plomin said "evidence of smoking or smoking paraphernalia."

COUNCIL MINUTES, FEBRUARY 6, 2006, CONTINUED

Mayor Mills said thank you.

The motion on the amendment to Ordinance No. 28-05 (Amended) passed, 7-0.

Mayor Mills said that amendment passes. All right, are you ready for the question?

Councilor Keen said I do have one more. I'm sorry. I would like to make a motion that we exempt bars and restaurants until Lafayette and/or Tippecanoe County go smoke-free.

Councilor Satterly said that was voted on Thursday.

Mayor Mills said we already had a ruling on that—

City Attorney Bauman said reconsideration.

Mayor Mills said reconsideration from Thursday.

City Attorney Bauman said that was already considered at the Pre-Council, just like the other one.

Councilor Keen said okay. What do we have to have— Don't we have to have like a two-thirds vote to have it reconsidered?

Councilor Satterly said you were on the losing side, right? On that motion?

Councilor Keen said yes, I was.

Councilor Satterly said so you can't make that motion to reconsider.

Clerk-Treasurer Rhodes said we're in the same session, but—

City Attorney Bauman said the same ruling would govern this issue, as the last one made by Councilor Hunt.

Mayor Mills said as did Councilor Hunt's earlier amendment.

Councilor Keen said okay.

Councilor Truitt said the ruling on that reconsideration is the spirit of the reconsideration, or the actual wording of the consideration? So, if it was changed to a point—?

Clerk-Treasurer Rhodes said substantially the same question. I will, of course, see if there is a possibility of overthrowing that—

Councilor Keen said I thought if there was a two-thirds vote?

City Attorney Bauman said you can appeal the ruling of the chair.

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Clerk-Treasurer Rhodes said yes, you can appeal. Yes, the Council can, by having a vote on the appeal, dispute the chair's ruling and take up the business.

Councilor Satterly said and it takes what, a two-thirds vote?

Clerk-Treasurer Rhodes said it takes a two-thirds vote to—basically, the chair has ruled that you cannot reconsider. If you appeal the chair, it takes a two-thirds vote, you may then go ahead, if you wish to reconsider.

Councilor Hunt said two-thirds is 4.6. What does that mean?

City Attorney Bauman said it means 5.

Councilor Satterly said 5.

Councilor Hunt said okay.

City Attorney Bauman said unless we start sawing.

Councilor Satterly said it depends on who's half.

Mayor Mills said are we ready for the question? I will make just a brief comment, before we vote, because I know everyone has been very patient. I know this is a difficult issue for the Council. I really applaud the efforts of all of you to be fair, to be thorough. It's not been easy. It's an emotional issue for all of you business owners and the citizens alike, for different reasons. I appreciate how many people were vocal, how many people emailed and wrote and called and came to these public meetings, because that is the way government should work. I'm disappointed personally by the decision to postpone the ordinance, because I think it is the right thing for our City to do, but I also can say that I appreciate the desire of the Council to give our business community the length of time to come to terms and implement the ordinance. I think you've done a very fair job, and I appreciate the time and effort that you've put into it.

There was no further discussion.

The roll call vote:

<u>AYE</u>	<u>NAY</u>
Griffin	Hunt
O'Callaghan	Keen
Satterly	Plomin
	Truitt

Ordinance No. 28-05 (Amended) failed on second and final reading, 3-4.

Councilor Hunt said may I make a comment, please?

Mayor Mills said certainly.

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Councilor Hunt said again, I feel very, very unhappy about this. I couldn't abstain because I feel like I needed to make a decision and not abstain, not cop out, so that's my statement.

NEW BUSINESS:

Ordinance No. 2-06 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect [Carbin Development, LLC (Woodbury PD) (R3W to PDRS)] (Submitted by Area Plan Commission) Councilor Griffin read Ordinance No. 2-06 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 Satterly.

Mayor Mills said all right, Mr. Coutts. Thank you for your patience.

Mr. Paul Coutts [C & S Engineering] said we're here to talk about Woodbury. We talked about it a little bit at the Pre-Council meeting. I'm going to call it a student housing upgrade essentially. We're down within a couple blocks of Purdue, we have the occupancy limit right now of 11. We're going to tear down the old house, put up a three-story building that will have 12 one-bedroom units in it. The trade-offs are good, in that we now end up with a situation where we have a paved parking lot, instead of a stone parking lot. We'll have curb, and we'll have a new building which will be sprinkled, so we're going to comply with the latest codes, be a safer situation. The question Ann [Councilor Hunt] asked me the other day at Pre-Council, in terms do we have any landscaping. I did a little homework between now and then, and let you know that there's going to be 14 trees, 46 shrubs, and 50 perennials. It will be interesting to see how long the perennials last, but we're going to plant them and see what happens. If you have any questions, I'll be happy to answer them.

Mayor Mills said any question for Mr. Coutts? I will just say that I think this is another great example of APC staff and City staff and developer working together to provide a housing product close to campus that we really appreciate in the City. It's an attractive addition, and a win-win situation for all of us. So thank you.

There was no further discussion.

Ordinance No. 2-06 passed on first and only reading, 7-0.

Ordinance No. 3-06 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect [Fairway Apartments, LLC & Knolls Apartments, LLC (Fairway Knolls Apartments Planned Development) (R3W to PDRS)] (Submitted by Area Plan Commission) Councilor Griffin read Ordinance No. 3-06 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 Satterly.

Mayor Mills said is this you again, Mr. Coutts?

Mr. Paul Coutts [C & S Engineering] said that's me again. This one here is just a little bit different, in that it's not too far away, right over here, and I told you at Pre-Council, it's

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where the old State Police Post used to be, for those of us that have been around for a while. This one's a little unique, because it is currently zoned R3W, meaning that multi-family can be built there right now, the way the zoning district is. And so there's a little extra space out front, and so my clients wanted to go ahead and put another building in there. Then, as we work with Area Plan and the City, the question came about what's the best way to do it? There was a strong feeling from both Area Plan and the City staff that they'd like for us to include the whole project, including the older buildings in the older part. Right now, there's six buildings with a clubhouse there, 12 units, resulting in 114 bedrooms that are there now. So the proposed building will have 20 new units, 52 bedrooms, and we're actually going to have a parking area with 64 spaces. So we are going to put in a little extra parking, just so we can help one of the buildings that does not have much parking up around the front. The advantage to it is summarized essentially in the APC staff report. It says that, "The entire complex will be complete with negotiated upgrades and amenities for the whole site." So essentially, the new part with the new building, we're going to build 100% to the normal landscaping requirements and to the parking requirements, and then we are going to be adding additional trees in the old part, to bring it up to more of the City's standards and requirements. It has been a good situation, in terms of negotiations and there will be, obviously, upgrades for the whole site put together. If you have any questions, I'd be happy to answer them and would respectfully request a positive vote. Thank you.

Mayor Mills said any questions or comments for Mr. Coutts? I will say again, this is another example of a developer, Mr. Schroeder, who was willing to include the entire site in this redevelopment, and work with the staff to end up with a product that we'll all be very pleased with. Thank you.

There was no further discussion.

Ordinance No. 3-06 passed on first and only reading, 7-0.

Ordinance No. 4-06 (Amended) An Additional Appropriation (Prepared by the Clerk-Treasurer) Councilor Griffin read Ordinance No. 4-06 (Amended) 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 Satterly.

Mayor Mills said I need to ask a question, since I was not here on Thursday. Was this amended in the Pre-Council?

Clerk-Treasurer Rhodes said yes.

Mayor Mills said thank you. All right, we have an additional appropriation. Engineering Salaries – Full time; Motor Vehicle Highway, MVH Fund, for Road Improvements, \$720,600; the Local Option Highway User Tax, or the LOHUT Fund, for Road Improvements, \$450,000; the Rainy Day Fund, and this is something that the Council voted on and is aware of, \$100,000 be put in the Pensions; the Police Station Non-Reverting Fund, which goes for Repairs – Buildings and Structures. The Pension, Rainy Day Fund situation, you are aware of. And Mr. Buck [City Engineer] is here, if you have

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questions about any of these other appropriations that weren't addressed at the Pre-Council. Any questions? Any comments?

Councilor Satterly said we had questions answered at Pre-Council.

There was no further discussion.

Ordinance No. 4-06 (Amended) passed on first reading, 7-0.

Ordinance No. 5-06 An Ordinance To Authorize A Transfer To The Rainy Day Fund (Prepared by the Clerk-Treasurer) Councilor Griffin read Resolution No. 5-06 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 Satterly.

Mayor Mills said this is the associated ordinance, to authorize the transfer to the Rainy Day Fund. It seems a little bit backwards in order here, but such as it is. We discussed this earlier, about using our unanticipated additional COIT revenues for pension obligations in 2006, and you all voted in January to do this. So this is the ordinance that makes that all legal. Are there questions? Comments?

Councilor Plomin said I thought we already had money in the Rainy Day Fund from the extra COIT distribution?

Clerk-Treasurer Rhodes said we appropriated \$320,000 in the Rainy Day Fund that had originated with extra COIT and EDIT distributions several years ago. However, at the final budget adoption, given the additional COIT that we received in 2005, the Council, by consensus, decided to transfer that amount from the General Fund to the Rainy Day Fund and appropriate that to pensions.

Councilor Plomin said okay.

There was no further discussion.

Ordinance No. 5-06 passed on first reading, 7-0.

Councilor Griffin said I move that to suspend the rules to consider Ordinance No. 5-06 on final reading at this time. The motion was seconded by Councilor Satterly.

The voice vote to suspend the rules was unanimously AYE.

Councilor Griffin said I move to place Ordinance No. 5-06 on the table for second reading and the vote be by roll call. The motion was seconded by Councilor Satterly.

Mayor Mills said any further discussion?

Councilor O'Callaghan said excuse me, I understand that the reason to do two readings was because January 1 and March 1 are the only times the Council can transfer money

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this way, but this does relate to the additional appropriation, and we're having a public hearing on the—

Clerk-Treasurer Rhodes said we may transfer the money, but until you pass the second reading of the additional appropriation, we cannot spend it.

Councilor O'Callaghan said spend it. Okay. So this will allow the transfer, and then after the public hearing on the additional appropriation, then we can actually spend it. Thank you.

Clerk-Treasurer Rhodes said right.

There was no further discussion.

Ordinance No. 5-06 passed on second and final reading, 7-0.

Resolution No. 3-06 A Resolution Appropriating Housing Rehabilitation Revolving Loan Funds On Hand Resulting From Repayments Of Loans Previously Made By The West Lafayette Housing Authority (Submitted by Department of Development) Councilor Griffin read Resolution No. 3-06 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 Satterly.

Mayor Mills said this is our typical resolution to make these repaid loan funds once again available for loans in the future. Is there any question or discussion?

Councilor Plomin said this money goes to support the New Chauncey Housing Program?

Mayor Mills said this money goes for any kind of rehabilitation loans that the CDBG furnishes, correct, Mr. [Department of Development Director] Andrew?

Department of Development Director Andrew said yes.

Councilor Plomin said okay.

Mayor Mills said any other discussion?

There was no further discussion.

The roll call vote:

<u>AYE</u>	<u>NAY</u>
Griffin	Plomin
Hunt	
Keen	
O'Callaghan	
Satterly	
Truitt	

COUNCIL MINUTES, FEBRUARY 6, 2006, CONTINUED

Resolution No. 3-06 passed on first and only reading, 6-1.

Resolution No. 4-06 A Resolution Requesting The Transfer Of Funds (Prepared by the Clerk-Treasurer) Councilor Griffin read Resolution No. 4-06 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 Satterly.

Mayor Mills said this is a resolution requesting a transfer of funds, in the General Fund, in the Police Department, from Telephone, \$2,000 to Office Equipment, and Motor Vehicle Highway, from Resurfacing, \$60,000; Other Equipment, \$30,000; Permits and Fees, \$500, to Instruction, \$500; and Motor Equipment, \$90,000. Are there questions on either of these? Mr. [Public Works Director] Downey is still with us.

There was no discussion.

Resolution No. 4-06 passed on first and only reading, 7-0.

COMMUNICATIONS:

Mayor Mills said are there any communications?

Councilor Griffin said I would actually like to precede that.

Mayor Mills said okay.

Councilor Hunt said I've asked him to do this, if that matters.

Councilor Griffin said I'm asking, at the requesting of a co-Councilor, that Ordinance No. 28-05 (Amended) be reconsidered tonight, because I understand that there are Councilors who may wish to reconsider their vote.

Clerk-Treasurer Rhodes said the motion has to be made by the prevailing side.

Councilor Hunt said well, I'll make it then.

Councilor Griffin said okay.

Councilor Satterly said may I speak to that?

Councilor O'Callaghan said does it have to be seconded by somebody on the prevailing side?

City Attorney Bauman said no, just moved by someone on the prevailing side.

Councilor O'Callaghan said I'll second that.

Councilor Satterly said can I speak to that?

COUNCIL MINUTES, FEBRUARY 6, 2006, CONTINUED

Mayor Mills said yes, let's have discussion.

Councilor Satterly said I don't think it would be a good idea to do that, since most of the persons that were here for that ordinance have been left.

Councilor Hunt said may I ask that it be reconsidered next time, or I can do it any time?

Clerk-Treasurer Rhodes said no, you can only do it in the same session.

City Attorney Bauman said but you can move to reconsider it, and if that passes, you could—

Councilor Satterly said or you could reintroduce it.

City Attorney Bauman said postpone the vote to next month. Seems to be a regular habit with this ordinance, to postpone the vote.

Mayor Mills said gosh, I guess so.

Councilor Griffin said could be a record.

City Attorney Bauman said could be a record, yes.

Councilor O'Callaghan said it's been moved and seconded that we reconsider.

Mayor Mills said we have a move and second that is—

Councilor Truitt said it's discussion time?

Mayor Mills said I guess it's discussion time. Further discussion before we vote?

Councilor Truitt said I 100% agree with Councilor Satterly. I think that would not—to use Mr. Cohen's, I mean, that's not good politics, from that standpoint.

Councilor Hunt said okay, then we'll— Fine.

Councilor Griffin said hey, I don't want to talk about this ordinance any more. But I also feel it's really, really important to do. What are the other ways—? The other ways that it could, in the future, reappear on the—be refiled or what, Mr. [City Attorney] Bauman? Clarify the other ways that this— Can this ordinance be refiled in exactly this form? That's question number one.

City Attorney Bauman said I'm not aware of any prohibition of that.

Clerk-Treasurer Rhodes said that is uncertain.

City Attorney Bauman said I'm not aware of any legal prohibition under the Indiana Statute for doing that, so you could do that.

COUNCIL MINUTES, FEBRUARY 6, 2006, CONTINUED

Mayor Mills said other discussion?

Councilor Hunt said I understand the difficulties with doing it without, and I feel bad, but the original motion was strongly in support of it, at least I thought, and somebody else made the original amendment, and I can't live with the results of my vote.

Councilor Keen said I just think it would be totally inappropriate to do it this way.

Councilor Hunt said well, I think we could—I'll wait then.

Mayor Mills said all right, let's vote on the amendment and second, if you're ready, to—

Councilor O'Callaghan said the motion to reconsider.

Mayor Mills said that's what I meant, the motion to reconsider.

Councilor Griffin said I want to make clear, either before or after, that if we vote to reconsider, I am going to state that it needs to be reconsidered at the next Council meeting. So I want to establish, is that also proper? That can be done? Once we pass this, we can also make the motion that it would happen at the next—once, or if—

Councilor Satterly said can you reconsider it at a subsequent meeting?

Councilor O'Callaghan said yes.

City Attorney Bauman said no, the reconsideration would be now, and then it would be postponed to the next meeting.

Councilor Satterly said what, the reconsideration?

City Attorney Bauman said no, the vote on it. You can only vote to reconsider at this meeting. Otherwise, it would have to be reintroduced.

Councilor Plomin said what are we voting to reconsider? Passage?

Mayor Mills said no, we are voting to reconsider this ordinance—

Councilor O'Callaghan said Ordinance No. 28-05 (Amended). Passage of this ordinance.

Mayor Mills said that's right.

Councilor Plomin said correct me if I'm wrong. You can propose to reconsider a motion, and the motion was to pass the ordinance, not to postpone the ordinance. So we must consider the motion to pass the ordinance.

City Attorney Bauman said correct. And then a motion could be made to postpone the vote until next month.

COUNCIL MINUTES, FEBRUARY 6, 2006, CONTINUED

Councilor Plomin said okay.

Councilor Keen said but does this reconsideration need a two-thirds vote, since it is a reconsideration?

City Attorney Bauman said no, what we had a two-thirds vote on was appealing the ruling of the chair.

Mayor Mills said so we have a motion and second to reconsider the ordinance.

Councilor Hunt said I apologize for the distress I've caused myself and others.

There was no further discussion.

The roll call vote:

<u>AYE</u>	<u>NAY</u>
Hunt	Griffin
O'Callaghan	Keen
	Plomin
	Satterly
	Truitt

The motion to reconsider Ordinance No. 28-05 (Amended) failed, 2-5.

CITIZEN COMMENTS/COMMUNICATIONS:

Mayor Mills said do we have any citizen comments or communications?

There were no comments or communications.

ADJOURNMENT:

There being no further business at this time, Councilor Truitt moved for adjournment. Motion was seconded by Councilor Plomin and passed by voice vote, the time being 10:42 p.m.

Respectfully submitted,

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