

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES

APRIL 3, 2006

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on April 3, 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: Hunt, Keen, O'Callaghan, Plomin, Satterly, Truitt

Absent: Griffin.

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

MINUTES:

Councilor O'Callaghan moved for acceptance of the minutes of the March 2, 2006, Pre-Council Meeting, and the minutes of the March 6, 2006, Common Council Meeting, as corrected [Chase Slaughter is listed as Jay Slaughter on page 51]. Councilor Satterly seconded the motion, and the voice vote was AYE.

COMMITTEE STANDING REPORTS:

STREET AND SANITATION: Councilor Satterly presented this report.

During the month of March, on Sanitary recycling, there was \$7,268.00 realized from the sale of recyclables. There were 263.7 tons of waste landfilled, 196 tons of material recycled, 265 hours were spent street sweeping, pot hole patching 53 hours, 40.5 hours on snow removal—hopefully that's the last of the snow—and there were 4,800 lineal feet of sewer cleaned, and over 14,000 lineal feet of sewer televised. That completes the report.

WASTEWATER TREATMENT UTILITY: Councilor Satterly presented this report.

During the month of February, there was 1.16 inches of precipitation, total flow in the sewers 268 million gallons, 100% was treated. That concludes that report.

PUBLIC SAFETY: No report.

PURDUE RELATIONS: Councilor Plomin presented this report.

We have the results in from the Purdue Student Government. Jonathan Foltz and Mary Koehn won the Purdue Student Government President and Vice President election. It was just announced at 6 o'clock today. We don't have a representative from PSG to speak to the Council tonight. With that, and in light of the time situation we're likely to run into, I conclude my report.

PARKS AND RECREATION: Councilor Hunt presented this report.

Even though we had a relatively warm winter, the Riverside Skating Center had a record revenue and skater enjoyment. It was very nice to watch. The Tapawingo playground renovation is completed. It's really nice to see also, the climbing wall and the colorful, safe

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

equipment. The Lommel Park playground renovation should be completed this month. There's a one and a half-mile footpath at the Celery Bog that will be completed also this month. And there's work on a wildlife viewing deck along the path and the bog that should be enjoyable. Last Saturday, the Boilermaker Volunteer Network worked on cleanup of the Wabash Heritage Trail. I think they worked in many neighborhoods, to help. More volunteer work is planned for later this month. There's a garlic mustard pull on April 23. Garlic mustard is starting to come up, if you want to go out in your yard and see these pretty little lacy, heart-shaped kind of leaves and just pull them right up. They're nasty invasive weeds. Thank you to the Boiler Volunteer Network and the others who helped clean up the City on Saturday. Finally, applications for summer employment at the Parks Department are now being accepted. The next Park Board meeting is April 17 at 4:30 p.m. in City Hall. That's all.

Mayor Mills said I would just like to add my thanks to the Boiler Volunteer Network for the Boiler Blast, and Ashley Brazelton who coordinated all of that. We had a great number of citizens, Pat Schuster—I see Pat sitting there—was one of the ones who helped. In the New Chauncey Neighborhood, we had many, many student volunteers and residents who worked on Saturday morning to clean up the neighborhood. That's been—I'm guessing—10 or 12 years now we've done that. It's been a great project. We appreciate it so much. It really does a wonderful job in the neighborhoods around campus. I just want to express my thanks to the Boiler Volunteer Network and Ashley, and all of the Purdue students who came out on Saturday morning. It was a little bit colder than last year, but we had a great turnout and the community really looks beautiful because of it. So thanks to all of them.

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

The Redevelopment Commission met on March 27, and they discussed an appropriation for the Levee/Village TIF District, and that included utility improvements, road improvements, and park improvements. For the park, that included rehabilitation at the plaza at the base of the John Myers Pedestrian Bridge. The utility improvements included in the Chauncey area to go along with planned development that we've approved down there. It's always great to do utility improvements the same time as the street's being torn up. The road improvement had to do with Tapawingo South. You may have heard that they're working on that process of dynamic compaction, which we've used in Tapawingo Park as well and several other places, but it's not going to work in Tapawingo South, so a heads-up that that may cost more money than we thought that it would originally. The next meeting will be on April 17 at noon. The Community Development Block Grants, CDBG, had the second of two public hearings on March 8. The 2006-07 one-year action plan was presented, and that allocates \$450,000 of Community Development Block Grant money for next year. We all received a copy of those allocations. I look forward to getting those good things done with that money, as long as we have it.

PERSONNEL: No report.

BUDGET AND FINANCE: No report.

REPORT OF APC REPRESENTATIVE: No report.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

PUBLIC RELATIONS:

Mayor Mills said before we hear the report of the special committees, we are going to have Public Relations, because we have a couple visitors this evening who have another meeting to attend, as soon as possible. We have tonight Kathy Mercer and Brielle Cotterman-Walls. They are from the Miss Hoosier Heartland Scholarship program, and they'd like to just tell us a little bit about the scholarship program. Will you come to the microphone, please.

Ms. Brielle Cotterman-Walls said Madam Mayor, Councilors, ladies and gentlemen, first of all, we would like to thank you for your time and the opportunity to speak about this fantastic scholarship opportunity for young women in the West Lafayette area. The Miss America Program exists in order to provide personal and professional opportunities for young women, to promote their voices within culture, politics, and in their community. The Miss America Organization is the largest scholarship-granting organization in the world for women, having awarded over \$46 million in scholarships last year alone. Today on an annual basis, the Miss America state and local titleholders, along with our organization's network of volunteers, participate in more than 12,000 community service projects, providing in excess of 500,000 service hours to worthy causes. We are blessed to have a new opportunity for women in the West Lafayette area. We have a local preliminary to the Miss America Pageant, which is entitled the Miss Hoosier Heartland Scholarship Organization. Last year, the Miss Hoosier Heartland program awarded over \$10,000 in scholarships. They are available this year to women in the Howard, Tipton, Clinton, Carroll, Cass, Miami, Tippecanoe, Fountain, and Montgomery Counties. Ages 13 through 17 for our Outstanding Teen program, and ages 17 through 24 for our Miss program. We are hoping to bring awareness of this program throughout the community. This year, in order to raise more funds for our scholarships, we are hosting a mother-daughter tea, which will be held at the Kokomo Country Club, Sunday, April 30, from 2:30 to 4:30. All of our scholarships are based on in-kind donations, and all of our administrators are volunteers. We're very excited to be encompassing Tippecanoe County, and we hope to have a lot of outstanding young women participating in our program. I am a former titleholder, and throughout my time within the Miss America Organization, I raised enough scholarship money to finance my entire Master's degree. So it is a life-changing program, and it can do fantastic things for the young ladies of West Lafayette. Thank you for your time.

Mayor Mills said thank you very much.

Employee Service Anniversaries

Mayor Mills said we have four service anniversaries in April. David Stoike who is a Police dispatcher celebrates five years with the department; Jeffrey Dunscomb, 15 years with the Police Department; Cindy Marion, 15 years with the Police Department; and Michael Max, 20 years with the Police Department. So we pass along our congratulations to the four employees and thank them very much for their great service to the City and our residents.

Sister City Event

Councilor Keen said I had one announcement. I'm sorry I didn't talk to you about it ahead of time. I just wanted to say a word of thanks to our Sister City, Ota City, Japan. Just this week, we had a number of citizens from Japan who stayed here in local residences here in West Lafayette, and I was privileged to be one of those families. It is such a wonderful program, to be able to have these young people come to our homes and get a taste of our culture, and we get

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

a taste of their culture. I would just really like to thank each and every one of them that did participate, and Sally McIntyre, especially, for coordinating the event here locally. I wanted to just express that work.

Mayor Mills said that's good, thank you. I think we had 13 or 14—?

Councilor Keen said 14 families.

Mayor Mills said 14 families and 14 students. This year it was a little uneven. There were 13 young women and one poor guy. When they arrived on the bus, he looked just like a little overwhelmed by all the women that he was surrounded with. But it is a great program. Thank you for mentioning it.

REPORTS OF SPECIAL COMMITTEES:

Report on Village Parking Study: City Engineer Buck

City Engineer Buck said thank you. I'm here this evening to discuss the final report from our 2005 Village Parking Study. This was something that we started clear back in last June. Woolpert LLP was hired at that time by the City to help us implement this study and take a look at the parking characteristics in the Village and the Village area. I haven't had a lot of time to practice this presentation this evening, so if we're a little off between changing the slides and things, please forgive us. The study area—I don't have a map as part of the presentation, but the north boundary was Fowler Avenue, the western boundary was Grant Street, the southern boundary was Williams Street, and the eastern boundary was all of Salisbury Street. That's a little bit larger—a study was done in 1993, also by Woolpert, and this is a considerably larger study area than was done then. It expands out beyond the commercial areas of the Village, the CBW areas of the Village and looks at the residential, on both in the north and the south end of what we call the Village area. The purpose of the scope of the study was to address several key questions that we really wanted to take a look at. These may sound like basic questions, but we had to start at the basic level, or we thought we needed to. Is parking a problem in the Village? Is there enough parking in the Village area? Are the zoning ordinances that experiencing in the Village area, CBW and R3W, are they appropriate in terms of parking requirements? One of the other key goals of the study was to take a look at the impacts of the Purdue Master Transportation Plan, what we call the 2025 Master Transportation Plan for the Purdue University Area. It's got a really long title; we need to come up with a good acronym. A lot of people just refer to it as the Ring Road. Is it time for any change? Would it be appropriate for anything to change, in terms parking requirements in the Village area? One of the items in the scope of the study was to take a look at the parking demand generated by zoning ordinance and by the businesses and other residential-type uses in the study area, through means of field observations and several surveys that we did. Take a look at the actual capacity of the buildings and the businesses, as well as the apartment buildings in the study area. What kind of supply, both in terms of parking facilities—whether it be a garage or surface lot, on-street parking—what do we have in the area? Review the impacts and Transportation Plan, with the changing and implementation of some of the one-way street changes that are a part of that plan, and places that may lose parking, places that may be able to gain parking for on-street. We wanted to update several elements of the 1993 study. Certainly the inventory, it's a larger area and a lot of changes have taken place since 1993. What land uses have changed since the 1993 study? There has been a lot of planned development and other development go on in

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

the study area. Have there been any changes in the zoning ordinances since the '93 study? One other element and part of the scope of this study was we incorporated and formed what we call a Parking Advisory Committee. This group met several times throughout the study. I don't remember how many times we met, half a dozen I would say, probably at least. It was comprised of several merchants and landlords, different types of property owners in the study area, representatives from the Library, Purdue University staff and students. We had PSG there as well. STATCOM did do a lot of our statistical analysis on our surveys and played an integral part of the data collection and analysis of this. The Tippecanoe County Area Plan staff was also involved, as well as, of course, City staff and the consultant, Woolpert. One of the first things that we did was we took several field observations, both in terms of what's being used and what facilities are full or partially full, in terms of capacity and activity. But we also took a look at different times throughout this last fall semester, which looked at a typical weekday lunch. We actually looked at the Friday before Fall Break, which was somewhat unintentional at the time, but it turned out to provide some unique and interesting results. And we also probably looked at one of the biggest peaks, if not the biggest, throughout the entire year, Homecoming Weekend, to look at the greatest demand, if you will, for parking and worst-case scenario type of a capacity. Some of the other things that we did, we did several surveys. We sent out a residential survey, residents survey, to 1,000 randomly selected West Lafayette residents. This was done through the mail service, and we received 336 responses, about 34%, which was really a lot more than we anticipated receive back, which was a good turnout. We also did a merchant survey, which was hand-delivered to 88 of the businesses and rental properties in the study area. We received 43 of those responses back. We also did a Purdue survey, which was identical basically to the residential survey. We were able, through a lot of help from Purdue staff, send out an email survey to 3,000 students, faculty, and staff. Again, those were randomly sampled. We received about a 25% response rate from those. So we were very pleased with the response rates that we did get on all of those surveys. We were expecting in the 10% to 15% range, and it far exceeded what we expected to see coming back. As a part of Woolpert's work, they looked at 75 different university cities and municipalities, sent a questionnaire out to those fairly large universities, and sometimes in a large city like Atlanta and Georgia Tech and sometimes not, like Ball State and Muncie. So we had a whole variety of different campus towns that we sent this survey to, and looked at how they handle the areas in between where campus touches the town and how they handle parking in that interconnecting area, if you will. We received about 26 responses from that. The entire report is getting to be pretty big. There's a lot of appendix information, and the surveys are in there, the questionnaires, the actual forms that were used, as well as STATCOM's statistical analysis of what the responses were for each of the questions, and then some of the actual comments are also included in there. This led us to several, I guess, key bullet-point type items, some really very obvious and some that we didn't expect or would not have been able to anticipate. From the residents survey, we can say that weekdays are more popular than weekends, for terms of residents going to the Village area. They truly are most likely to visit Purdue when Purdue is off-session, and the responses from the survey substantiate that. Most popular destinations really wasn't a surprise—restaurants and bars, retail and service establishments. That's pretty much what comprises the commercial-type businesses in the Village area. Most residents do heavily rely on driving to get to the Village. They typically responded that they need between two and five minutes to park. They prefer to park at the Chauncey Hill Mall or find an on-street parking space. What they rarely do is park in garages. We were really surprised at the reluctance, the absolute reluctance, to park in the parking garages, even during times where it's okay and

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

allowable for the public to park in parking garages. And they typically only visit one establishment when they do go to the Village. From the merchant survey, we were able to find that 45% of the respondents of the merchant survey do not have any customer parking. And 60% of them have five spaces or less for customer parking. So a really large percentage—we were kind of surprised by that—say they don't have any commercial parking or have five or fewer. As far as employee parking goes, about half of the respondents said they don't have any employee parking, and 64% said they have five or fewer spaces. Five was somewhat of a critical number, and I'll touch on that in a little bit, as far as employees go, with the average maximum number of employees in a business in any given time. The residential parking—this survey was also sent out as well as to business owners, it was sent out to landlords and leasing property management companies—60% of the landlords do issue parking passes. However, 49% of them still say they have parking violators on a daily basis in their signed and permitted private residential parking lots. That was pretty interesting. The Purdue survey was, again, was an identical survey in form to the residents survey, weekdays were more popular than weekends for the respondents in that survey, which did include faculty and staff beyond the students. The same popular destinations pretty much comprised the commercial businesses in the Village area. A little different than the residential survey, there was a lot—driving was still the number one way and means for people to get to the Village—however, walking was a much closer second, and biking and transit was also higher than the residents survey. Typically, they need less than five minutes to park. There was a little bit more knowledge of the study area, if you will, of this group, and they did respond that they required a little bit less time to find parking. The same two most popular spots, Chauncey Hall Mall and on-street parking were preferred to park at. There was still a heavy reluctance in using the parking garages. That was evidenced on Homecoming Weekend. The Chauncey Hill Mall lot was completely full, the new surface parking lot off of Pierce Street behind the Rawles Hall and across the street from Harry's was completely full, and the Wood Street Garage was almost vacant—it had like, I don't know, Ted, were there 12 people parked in it?

Ted [Andrews, Woolpert, Inc.] said at the very most.

City Engineer Buck said so it's not necessarily a distance thing, but it's a "Am I allowed to park there?" and "Will I be able to get out? How convenient is it to park in the parking garages?" The Purdue survey did show that they tend to visit a few more establishments when they do visit the Village, between one and three. As far as findings go, we categorized them into several areas. First and most general, since the 1993 study, most of the development—the most common and certainly in many regards the only form of development and redevelopment that's been going on in the Village has been by means of the planned development process. This is a fairly long and difficult expensive process, and it does create a large financial strain on the development itself. It is difficult for existing and certainly new businesses to go through the development and redevelopment process when doing a planned development, meeting the parking requirements, or by means of a planned development, essentially obtaining a variance on the ordinance parking requirements. It does take a large financial commitment on behalf of the business or developer to go through that process. Even still, the Village has seen a large number of these planned developments and continues to be what we feel to be a very vibrant area. In terms of the residential development and uses in the study area, the residential market, by way of the recent planned developments, has trended more towards a one- and two-bedroom unit-type apartment. They tend to have individual bathrooms for each bedroom.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

There have been some and there are still three- and four-bedroom units getting constructed, but the market has certainly trended towards a little bit smaller unit with a few more amenities. The study area did witness a steady construction in the residential market, really since the mid-'90s. One parking space per bedroom or occupant has become really a rule of thumb as a part of the planned development process. When we looked at the actual capacity of both the private residential parking lots and added the on-street parking, it really—in the residential blocks—came close to meeting a one-to-one ratio. We have that in some figures in the report, so it does appear to be a reasonable requirement, to require one parking space per occupant of the Village. And that doesn't necessarily mean one per bedroom, but the trend is for everybody who lives in that area has their own car. And for those that don't, it does provide a little bit of extra parking for visitors, guests, things of that nature. The commercial component, currently the commercial parking requirements by ordinance for the CBW or some of the R3W is one parking space per 100 square feet for an eating and drinking establishment, one parking space per 200 square feet for retail and service type establishments, and for some office uses, it can go as high as one to 400. Based on the results of our capacity analysis and the amount of parking that is in the Village, this may not be an accurate measure of the actual demands, based on a capacity and a demand analysis of the parking needs in the Village. It has made development more difficult and, as I said, more expensive, because it is acting as a cap for both new development and redevelopment of existing properties. It does cause parking to be a greater emphasized land use than what development by right can naturally just support within itself. Without doing a planned development, development really isn't going on. We did see that many, many of the other college municipalities, at least the ones that responded, do have much less restrictive parking requirement. I would say that only one or two had something comparable or similar, as far as the one per 100 square foot level for restaurant. Most were well above the one to 200, one to 400. I would say the average is probably one to 1,000. Penn State, the first 30,000 square feet, there is no parking requirement, and that was the far end of the spectrum, but we're certainly on the more restrictive end, when it comes to other college municipalities. As I said, we found that many businesses have little or no parking, and businesses that do have parking typically have less than what's technically required by ordinance. They've done that either by means of a variance or a planned development. I didn't put it up there, but they may also be grandfathered, from times when their use was in place, before the current zoning ordinance took effect. Businesses are having to rely on customers to come by foot, bike, and transit, as well as they do by car. Vacancy in the Village, commercial vacancy in the Village, tends to be on the low side. Turnover in the Village tends to be on the moderate side. But we can say that commercial interests in the Village does seem to be high. As far as employee parking, the survey results, as well as certainly the merchant survey results, I guess, do tell us that there is a shortage indicated. The field observations help substantiate that. The survey showed that the average maximum number of employees at any peak time, whether it be the noon hour for a restaurant, or the early afternoon hour for one of the retail establishments, is between four and five, about 4.5 employees at that max peak for any particular business. That's the average, anyway. Many businesses, again, have no parking for employees. Some do have by way of an off-site parking agreement, some off-site parking typically for employees, but the current zoning requirement requires that off-site parking to be within 300 feet of the property itself. Because of the implementation of transit in the Village area, that may now be a little too stringent of a distance requirement for employee parking in an off-site arrangement. We touched on the parking garage use or lack thereof. The Grant Street, Wood Street, and Library Garages do have times that they are open to the public. However,

they remain to be very underutilized, even during those public times. The survey does show us that the patrons tend to avoid the parking garages and prefer to park on a surface parking facility. That may be because they're unaware of the option that exists for them to use the garage at those certain times, or commit to the rules and regulations that apply to that use of the garage, or they may hope to park a little bit closer spot to their destination. One of the other findings that we touched on in our advisory committee was the continued growth of both Purdue and West Lafayette. As I've said many times, there have been a lot of planned developments since the '93 study was done, and in the last five years certainly. Both have been of commercial and residential variety, all shapes and sizes, large developments and small developments. They've really been all across the board. Campus has continued to increase in student population as well as size with additional buildings, and the future, with the Transportation Plan for the Purdue University Area was also something that indicates continued growth and continued change for the Village. Since Purdue implemented the bus pass with your tuition, there's been a tremendous increase in CityBus ridership, and that has trended toward the Ring Road concept, but also a relaxing, if you will, of the need for parking. The population density continues to be one of the highest, if not the highest, in Indiana, and certainly one of the highest in the country, and we did help substantiate that with our campus questionnaires that were sent out to the other college towns. As far as recommendations, the advisory committee was very adamant that any changes that would be potentially implemented should be gradual and measurable in nature. This isn't something that we should make a large sweeping change and expect it to be exactly perfect. Any changes should be gradual and something that we can take a look at in a year or two years, as development continues, and ascertain what changes are occurring and are they appropriate or are they something that's less desirable. Another recommendation in a general sense was to form potentially a design review board that would look at—it wouldn't be necessarily a governing body of any type—it would just provide recommendations, somewhat of an architectural nature and appropriateness nature for the Village area. For residential, we feel that one parking space per occupant is an appropriate measure for the residential community for R3W zoning. Parking requirements should be based on the number of people and not particularly the size of unit. Right now, the University-proximate parking requirement for residential is based on the actual size of unit. It doesn't matter if it's a four-bedroom or a three-bedroom, if it's 875 square feet, it's got to have over three parking spaces for it. We don't feel that's really indicative or appropriate for what we're seeing, based on the number of apartment units, the number of occupants, and the number of parking spaces that we currently have. The commercial, it appears at this time that it would be appropriate to look at relaxing the CBW parking requirement. The appropriate requirements for employee parking should also be included in that CBW parking calculation, whether it be on-site or off-site or a greater distance to allow for off-site parking. It has been very restrictive for the CBW parking for existing and new development. The parking garages need to be—I guess have the awareness that they can be used by the public increased and improved, either through additional signage and the entrances and exits of the parking garages, through any means possible through Purdue, whether it be the Visitor Center or websites and things of that nature, to improve usage of the parking garages. When you count all the parking garage spaces, there really isn't a shortfall of parking at all in the Village area, it's just a reluctance to park where parking is available. The Master Transportation Plan needs to be carefully looked at. Part of this study is going to be a road map for the consultants that are designing at least the first phases and certainly the phases through the Village area of the Purdue Master Transportation Plan. The existing on-street parking numbers really need to be maintained, either in one shape

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

or form or another, in one location or another. The plan should incorporate features for public transit, things like pull-off bays and shelters, etc. to help make it easy for transit to efficiently use the existing streets and one, not block traffic, but two, take up parking. Any new parking garages that the University would construct should be open to the public at certain times, similar to the way the existing ones are. The next steps from this point, we're going to finalize this report, hopefully this week, and have it posted on our website, and we're going to put a link as well for public comment to be emailed in, at least for the next couple of months. We'd really like to make this available to everyone. It's a fairly large document, so we're going to put it on the website. We'll also post it at the City Clerk's Office as well as our office, and at the Library, so the public has a chance to review this document and some of the more detailed elements of the surveys. The City staff will present this to the administrative officers at a future meeting of the Tippecanoe County Area Plan Commission AOs, and they will discuss what changes, if any, are appropriate and what they may recommend to the Ordinance Committee of the Area Plan staff. From that point, then, the Ordinance Committee would have an opportunity to discuss the changes, their appropriateness, make recommendations, make changes, and, if necessary, recommend any changes to the full Area Plan Commission, at which point there would be a public hearing on it at a full APC meeting, and they would make a recommendation to this group, to the West Lafayette City Council for, again, another public hearing and potential amendment to the Unified Zoning Ordinance. So that's our Village Parking Study Final Report, and I'd be happy to answer any questions.

Mayor Mills said any questions for Mr. [City Engineer] Buck?

Councilor O'Callaghan said thank you. Dave [City Engineer Buck], I was really surprised that many other college municipalities have less restrictive parking requirements. I wonder if they have more garages, and if people use them? Is that the key?

City Engineer Buck said well, I really can't answer that off the top of my head. I don't know from memory if we specifically got much information back on parking garages. The appendix does have a table reflecting the results of the municipal survey. We asked several Big Ten university college towns, Big Twelve, Pac Ten, and I'm looking for— We discussed parking requirements, but I don't know if we specifically asked about garages. Ted, do you recall?

Ted [Andrews, Woolpert, Inc.] said we did mention, we did ask about off-street parking and some of them replied regarding lots and also garages, but we did not specifically ask the amount, although some of them did site the garages. Some of them were owned or operated under the jurisdiction of the university.

City Engineer Buck said in the space provided, some did discuss university garages, but the city did not typically respond that they had parking garage facilities themselves that were open or for pay.

Councilor O'Callaghan said that's what I see in Ann Arbor, for instance, they just have lots of city parking garages—

City Engineer Buck said they do.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Councilor O'Callaghan said so certainly then the businesses don't need to provide parking, because there are lots of parking garages for people to use.

City Engineer Buck said the Wolverines didn't respond.

Councilor O'Callaghan said and just about the Purdue garages, I thought I remembered Purdue not wanting to advertise that they were open at night. I don't know if that was a past perception or if that's still the case.

Mayor Mills said I think that was a past fact, but I'm not positive of that either. That's something for discussion with their administration.

City Engineer Buck said I think there is a reluctance on their part. They do say on the A Permit signs, very small print, the times and days of the week that that applies. I think that as a result of our study, that we should encourage Purdue to maybe relax that slightly, and provide a little bit more signage or some other means that that is available, because it is so close to the Village area and does provide a large number of public, at the appropriate time, parking spaces.

Councilor O'Callaghan said like the County Garage and the City [of Lafayette] Garage have a banner that says, "Free Nights and Weekends." But I guess I thought that part of their reluctance was that if people went in in the morning and parked, and then didn't have to pay to get out, that they would take up all the parking during the day.

City Engineer Buck said yes, and towing in the straight permit lots like Wood Street would require some Monday morning towing and stuff like that, and that's something I'm sure they would like to avoid.

Mayor Mills said other questions or comments?

Councilor Plomin said I have a question, Dave [City Engineer Buck].

Mayor Mills said Councilor Plomin.

Councilor Plomin said the finding to have one parking space per resident, did you mean one parking space per adult resident or per driving age resident would be appropriate?

City Engineer Buck said the other municipalities reference one permitted occupant in their zoning ordinances.

Councilor Plomin said okay.

City Engineer Buck said so it would be, if it was a one-bedroom unit or a two-bedroom unit and there were two permitted occupants, then they would have to provide two parking spaces for that particular dwelling unit. So it would be up to the developer or landlord, based on how many people they wanted to provide parking for, based on the number of units.

Councilor Plomin said okay.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Mayor Mills said anything else? Thank you very much, Mr. [City Engineer] Buck.

City Engineer Buck said thank you.

Mayor Mills said I would just like to take a moment to thank the parking advisory committee. This was a group of merchants, landlords, Purdue faculty and students, West Lafayette Library administration, Area Plan Commission staff and, of course, quite a few members of our Engineering Department. They all put a great deal of time and effort into really looking at parking in the Village, and I want to say thank you for all the hard work.

FINANCIAL REPORT: Clerk-Treasurer Rhodes

Clerk-Treasurer Rhodes said the State Board of Accounts financial reports and your monthly cash transaction report have been provided. I wanted to draw your attention to the March monthly cash transaction report, personnel expenses. I want you to note that there was an extra biweekly pay in this quarter, compared to this time last year, so even if there had been no salary increases, you would have seen something like almost a 17% higher personnel cost. An update on our audit: the on-site field work has been completed by the State Board of Accounts, and now there's an additional period of several weeks, during which both myself and the auditors have portions to complete, to put together what will become our Comprehensive Annual Financial Report. West Lafayette continues to be the only governmental unit in this area to meet this national audit standard. Also, I provided for you tonight an update on the abstract released by the County Auditor. The abstract is for property, 2005 pay 2006. I'm providing you with a table that compares the abstract for 2004 pay 2005 with the 2005 pay 2006. The Council was previously provided with abstract values for property, 2004 pay 2005, during their consideration of the vote on increasing the local income tax to provide property tax relief for homeowners due to the deduct of inventory assessed valuation in 2007. As you recall, the formula for distributing the income tax will be based on impact, with 85% directed to homeowners in Lafayette. As you can see, the value of taxable property in Lafayette that is the part to which their tax rate is applied, grew 10.5% this year. Tippecanoe County overall had a 2.8% increase. West Lafayette had a decrease of 0.6%. West Lafayette TIF Districts that are not part of the assessed valuation included in the tax rate grew 7.3% over last year, according to the abstract. That's my report.

Mayor Mills said thank you.

Mayor's Thank You to STATCOM

Mayor Mills said I want to go back to the parking study for just a minute. I was very remiss in not mentioning the help of STATCOM. We had a great group of graduate students at Purdue from STATCOM who helped us do all the public surveys. I just watched them walk out of the room, so I apologize for forgetting to mention them. They do a great service to the community. They do all the work for free. They're very professional. They've done quite a few great jobs for the City now, and we very much appreciate their expertise. My apologies to STATCOM for forgetting to mention them.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Order of Business

Mayor Mills said we're going to take a couple pieces of business out of order. We have a couple short items of business that are later in the agenda. We're going to bump those up to the beginning, so that the people do not have to sit through the whole smoking discussion. It's a short agenda tonight, so we will be to the smoking ordinance very quickly, but I want to go ahead and take the other items of business first.

Ordinance No. 6-06 An Ordinance To Amend Ordinance No. 18-05, The 2006 Wastewater Treatment Utility Salary Schedule As Submitted By The Board Of Public Works And Safety For Approval By The Common Council Of The City Of West Lafayette, Indiana (Presented by the Board of Public Works and Safety) Councilor Hunt read Ordinance No. 6-06 by title and moved that it be passed on final reading, and that the vote be by roll call. The motion was seconded by Councilor Satterly.

Mayor Mills said all right. We had discussion on this last month. We are amending the Wastewater Treatment Utility Salary Schedule to re-insert a Utility Director salary. In the past few years, Mr. [Public Works Director] Downey has done double duty as the Public Works Director and the Director of the Wastewater Treatment Utility. We now find ourselves with so many projects ongoing and a stormwater ordinance that is just beginning, so we are going to try to find ourselves a great Utility Director to give Mr. [Public Works Director] Downey a little bit of help. The stormwater ordinance is going to call for a great deal of paperwork and overview, surveys, a great deal of work, and it's going to be split fairly evenly between Engineering, Wastewater, and the Street Department. So we do need a Wastewater Director to help us do that job well, and that's why we are reinserting that position back into the salary ordinance. Are there any questions or comments from the Council? Nothing? All right, will you call the roll, please.

There was no further discussion.

Ordinance No. 6-06 passed on final reading, 6-0.

Ordinance No. 7-06 (Amended) An Ordinance To Recommend Granting An Edge Credit To QuadraSpec, Inc. (Prepared by the City Attorney) Councilor Hunt read Ordinance No. 7-06 by title and moved that it be passed on final reading, and that the vote be by roll call. The motion was seconded by Councilor Satterly.

Mayor Mills said again, this is the second reading for this EDGE Credit ordinance. Are there any questions or comments? Mr. Barden is here from QuadraSpec, if there are any questions.

Councilor O'Callaghan said it was a great presentation last month, and we're excited about the number of jobs and the quality of jobs and excited about this project.

Mayor Mills said anything else? All right, will you call the roll, please.

There was no further discussion.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Ordinance No. 7-06 (Amended) passed on final reading, 6-0.

Mayor Mills said we're going to skip ahead now to Resolution No. 8-06, which also deals with QuadraSpec.

Resolution No. 8-06 A Resolution Confirming The Designation Of An Economic Revitalization Area for Property Tax Abatement for QuadraSpec, Inc. (Submitted by the City Attorney), PUBLIC HEARING Councilor Hunt read Resolution No. 8-06 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 Mr. [Department of Development Director] Andrew, do you want to just give us a few comments about the tax abatement, and then we'll open the public hearing. We do need to have a public hearing tonight.

Department of Development Director Andrew said this is the confirmatory. You had a declaratory resolution the last time. As Councilor O'Callaghan pointed out, this is a very good project. We're in the neighborhood of 40 new jobs to be created, retaining 13 current jobs, and there's an investment in salary of \$2,560,000 over the next several years. We're looking for about a five-year tax abatement on this. If there are any questions, I'd be happy to answer those.

Mayor Mills said questions or comments? Questions for Mr. Andrew or Mr. Barden?

Department of Development Director Andrew said thank you.

Mayor Mills said at this time, we'll go ahead then and open the public hearing. We'll take any public comment on the tax abatement for QuadraSpec. Anyone like to comment? Hearing none, we'll close the public hearing. Any other discussion on the confirmatory resolution? All right, will you call the roll, please.

There was no further discussion.

Resolution No. 8-06 passed on first and only reading, 6-0.

Ordinance No. 11-06 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (R3W and PDMX to PDRS) (Linwood PD) (Submitted by Area Plan Commission) Councilor Hunt read Ordinance No. 11-06 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?

Mr. Paul Coutts [C & S Engineering] said good evening. We had a little discussion at the Pre-Council meeting, so I'm not necessarily going to bore you with a lot of long, lengthy presentation. I think if you look at the real estate game, and they always tell you, that location, location, location is very important. So let me kind of take my own little spin on that. Number

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

one, the location of the project is at the northwestern corner of South River Road and Wood Street, which, in our opinion, is the proper place for student housing to be. It's in a good location, and we think that with the few blocks that it's from Purdue, it would serve the University and the students very well. The second part about location, we do not believe that it's an appropriate location for commercial. So, consequently, that's why we're here, to rezone it without the commercial aspect. And so this time we're back. It was previously approved a number of years ago with commercial element in it. This time, it's just residential. So that's why we're here, back for a change there. The other aspect of it is the location has to do with the topography of the hill. We feel like we have a building which fits right in with the topography of it. We have three different levels of parking, and we think that the building does look very nice, a very good job by the architect. I'd be happy to answer any of your other questions. I would respectfully ask for your approving vote. Thank you.

Mayor Mills said thank you. Any questions for Mr. Coutts? Mr. Wahl is here.

Councilor Satterly said do you have one parking space per—

Mr. Coutts said occupant.

Councilor Satterly said per occupant?

Mr. Coutts said yes, we do.

Councilor Satterly said all right.

Councilor Hunt said Mr. Coutts, you commented in your write-up, and also one drives by and sees the steepness of that incline on the hill.

Mr. Coutts said yes.

Councilor Hunt said would you comment about how you've adapted to that, and maybe make a little comment about the drainage and the stormwater drainage, etc.?

Mr. Coutts said sure, I'd be happy to. I'm not sure what the overall distance is back, I mean, it's going to be somewhere around 36 foot of differential between them. Consequently, to take that out, we have the lower level, which matches up with the elevation of South River Road, and then we have a surface parking lot there, with a handful of parking places. I think it was seven, if I remember the number correctly, but we have some parking right on the South River Road level itself. Then as you go up another level, the second level, you still have residential apartments on that, but then when you go to the third level, that's where the parking will be underneath the building. And so, in the front part you have along River Road, you'll have four levels of building, so to speak, and then the parking level underneath, you want to call it a garage or shelter. But the building will essentially be on the third level, and then the last level will be out on the alley, the fourth level. The first two residential, lower parking, then the third level is inside contained, and the fourth level is with the alley. And then the stormwater—we talked about that a little bit at the Pre-Council meeting—the site itself will be self-contained and will have an infiltration system, because of the type of soils there, we have a lot of gravel, pit run

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

gravel, you would call it, and the ground itself can take the extra stormwater into the system. We use that typically down in that area of the Village. And then the other problem that we want to address is there is water that comes off the alleyway that we need to collect and capture it up on the top and into this system, so that it doesn't continue to run down to River Road, which is does now.

Councilor Hunt said thank you.

Mayor Mills said anything else? Councilor Plomin.

Councilor Plomin said I have a question for Mr. [City Engineer] Buck. A few years ago when the Fleischhauer property was developed at the corner of State and River Road, there was a question brought by me before I was on the Council about changing the light at the top of Wood Street to a right turn on red. And we discussed it at the Pre-Council, but I thought I should ask again if there's anything we can do to ease the backup that's no doubt going to be caused by increased population driving toward campus on Wood Street.

City Engineer Buck said and that's headed west you mean, kind of going up the hill—

Councilor Plomin said yes.

City Engineer Buck said wanting to turn right onto really Chauncey right there, as it changes from Wood to Chauncey and head into campus. That's something that we certainly can let INDOT know. INDOT will be looking at this project as a part of the driveways that come out onto South River Road at [US]231, and as a part of that, we can ask the petitioner or we can make sure through the Engineering Department that INDOT is aware of the increased traffic and trip generation from this site, and what it might have as an impact on that Wood Street-Chauncey Avenue intersection and signal. They would be able to possibly allow a right turn on red off of Wood onto Chauncey.

Councilor Plomin said thank you, sir.

City Engineer Buck said you're welcome.

Mayor Mills said thank you. Anything else? All right, will you call the roll, please.

There was no further discussion.

Ordinance No. 11-06 passed on first and only reading, 6-0.

Ordinance No. 8-06 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 Hunt read Ordinance No. 8-06 by title and moved that it be passed on final reading, and that the vote be by roll call. The motion was seconded by Councilor Satterly.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Mayor Mills said before we start tonight, I just want to make a couple comments. We've had more than five months of discussion and study on this topic. I know it's an emotional one, I know both sides feel very strongly. Regardless of your stand on this issue, I'd like to remind everyone tonight that the people who sit up here, this Council, has spent a great deal of time and effort, and whether you agree with them or not, please remember that they are doing what they think is right, what they've been elected to do, and I would ask everyone on both sides tonight to please be polite and civil in your comments, and keep them non-personal. We are going to hold everyone to two minutes, as we have before. We will keep very close track of the time, because as you can see, there are a great number of people who probably would like to have the opportunity to speak tonight. Again, I'll ask you not to try to repeat exactly what the person in front of you has said, and we'll be able to have an opportunity to hear from everyone that way. So we'll start. I don't know if the Council wants to start, or you would just like to take public comment first?

Councilor O'Callaghan said I might just make a few comments. We did review the changes in the ordinance, and a great deal of the issues last month, so I don't think that I need to go over those again. An additional issue did come up at Pre-Council. We have discussed ventilation before, and the limitation of this as a solution to the problem of second-hand smoke. On Thursday, we had a demonstration of a commercial device which uses a different technology. Since then, the Councilors have received lots of information about ventilation, ozone, air purification, and ionization. Dr. Rosenthal did provide each of us a summary of that scientific evidence regarding this issue. So I don't know if people need any more discussion about it tonight, but we did have plenty of information given to us about that. I also sent the Councilors information about legal issues and I didn't have time to copy them for everybody before tonight, but now you each have this red folder is a copy of those pdf documents that I sent over the weekend. I do have just a few other points about endorsements and possible help with implementation, if this should pass. But I think we might want to have public comment first, before those.

Mayor Mills said thank you. I will add just one other thing. I'm not suggesting we keep a long line behind the podium, but if a couple people would get up kind of at the same time, we won't have a long gap between one person sitting down and the next person coming to the podium. Last time, people were a little bit slow in deciding it was their turn to speak, so if you kind of keep the movement going, we can hear from everybody. Please, we'll take the first public comment. Come to the podium, give us your name and address.

Mr. Tom Herr [216 Connolly Street] said I'm not here as a citizen or taxpayer, I'm here as an attorney at law representing Harry's Chocolate Shop. I've been practicing law for over 20 years, have been involved in a number of cases involving Constitutional questions. I've argued cases in the trial courts, Court of Appeals, Indiana Supreme Court on Constitutional issues, and I was asked by Harry's to advise them on the Constitutionality of this proposed ordinance. It's my opinion that it has some serious Constitutional defects, primarily involving 14th Amendment, equal protection, and Article I, Section 23 of the Indiana Constitution, which pertains to equal privileges and immunities. The problem that I see with this ordinance is in the classifications. There are exemptions for some businesses and not others. There are exemptions for some employees and not others. The basic thrust of our Constitutional limits, which apply to you as a political subdivision under equal protection analysis is that, if you treat people differently, those

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

classifications must be rationally related to a governmental purpose. You've declared that the purpose of this ordinance is to promote health, and then you take a tobacco bar, which is the smokiest place in town perhaps, and you exempt that. I think that's inconsistent with the stated purpose. You also have set up a situation where some employees will have the right to work at a place where they can smoke. Other employees will not have the right to work in a place where they can smoke. There's no rational basis for that.

Mayor Mills said you're at two minutes, Mr. Herr.

Mr. Herr said you've decided that the health of some employees is important, but the health of other employees is not. It doesn't seem to me to make these Constitutional requirements. And other thing to point out is we have a Code 42 USC, Section 1983. If a legal challenge to this ordinance succeeds, you may be required to not only pay your own attorney fees, but also the attorney fees of people bringing this. I'd ask you to consider the Indiana Attorney General has issued an opinion, advising that a particular ordinance was acceptable under equal protection analysis—

Mayor Mills said you're going on three minutes.

Mr. Herr said am I stopping here?

Mayor Mills said yes. Thank you.

Mr. Eric Timmerman [1937 Abnaki Way] said each one of you has received a copy of this book right here, and I want to read for you the front page of that. It's Indiana Code, Title 7.1, Alcohol and Tobacco, Article 3, Permits, Chapter 9, Liquor Retailer's Permits—this applies directly to the bar exemptions in the ordinance—Section 6, Certain local ordinances prescribed: "A city or town shall not enact an ordinance which in any way directly or indirectly restricts, regulates, enlarges, or limits the operation or business of the holder of a liquor retailer's permit, as provided in this title." Now, there's more that goes in there, but that's the issue here. "Directly or indirectly regulates, restricts, enlarges, or limits the operation or business of the holder of a liquor retailer's permit." In your current wording, your smoking ordinance does this. You restrict the business of certain bars, and, as the attorney said, you allow the other ones to continue. Private clubs have a liquor license. Hookah has a liquor license. The bars have a liquor license. All three have liquor licenses. Two of these benefit from the smoking ordinance, one of them doesn't. In regard to the opinion that the second page is actually the letter that the Attorney General, the opinion, if you go to the conclusion, "We further believe the legislation would survive Constitutional scrutiny under privileges and immunities analysis, if the preferential treatment granted by the ordinance is reasonably related to the innate characteristics that distinguish the preferentially-treated classes and the preferential treatment granted is uniformly"—key word, uniformly—"available to all individuals similarly situated." Again, we fall back on the liquor license. Two of them have liquor licenses and are exempt from the ban; one of them doesn't. If you tell me that it doesn't affect bars and restaurants, the back of this has 72 pages of specific examples state to state, countries, of bars and restaurants that have been affected by smoking bans.

Mayor Mills said two minutes.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Mr. Timmerman said I would ask you to consider this law, number one, that, if this ordinance does pass, it's in direct violation of Indiana Code. Direct violation. State law is higher than local law. Thank you.

Mayor Mills said thank you. Next person, please.

Ms. Julie Johnstone [401 South Chauncey] said I'm a Purdue student. First of all, I just wanted to thank Mr. [Councilor] Plomin for his comments last Friday. We appreciate the fact that you are listening to us, and that you are trying your best to represent your constituents. I am here representing many students, and I see many students here tonight. I hope they will be so kind as to come speak their opinions to you as well. I do have a few comments from an article that was in *The Hoosier Times*, and it is in regards to a smoking ordinance that is in effect in Bloomington. Just details a few benefits, besides the clean air that the smoking ban has provided to the community. One of the owners of Nick's Restaurant said, "We hear people say, 'We've always liked Nick's, but we just didn't come in because of the smoking.'" And another owner said, "The smoking ban has helped our food business tremendously. People are now coming in to eat our food, because there's no more smoking." Their food sales at Nick's have gone up 6% in the past year, and their alcohol sales have also gone up 21%. This also provides benefits to the employees. Paul, one of the owners, said they have healthier employees and that morale has peaked. He said it's really amazing. So I just encourage all of you, again, to support this smoking ordinance.

Mayor Mills said thank you.

Mr. Abelardo Molina [107 MacArthur Drive] said I'm also a Purdue student. I just want to start off by saying all right, isn't it true that in the United States of America, I have the right to live a life free from harm? Now, last time I checked, Indiana was part of the United States. Now out on the west coast, I can walk into a restaurant and enjoy a meal and not have to worry about the harmful effects of second-hand smoke and coming out of the restaurant smelling like Pepé le Pew. If the United States Constitution, the law of the land, says that we're all supposed to have equal rights, why am I being denied the right to live a life free from harm in West Lafayette, when that isn't the case out on the west coast? It is no mystery that second-hand smoke is harmful, deny it all you want, but study after study shows that second-hand smoke kills, and there are no safe levels of it. If asbestos were falling from the ceiling, I'm sure you'd take action, right? Why not for second-hand smoke? This is an issue of people's health and safety. Why are we being denied our right to live a life free from harm?

Mayor Mills said thank you.

Ms. Kelly Gregory [227 South Salisbury] said I'm a Purdue student in the School of Pharmacy. I am also a member of the American Pharmacists Association Academy of Student Pharmacists, an organization dedicated to advancing patient care. On behalf of my chapter of over 300 other student pharmacists, and more importantly, on behalf of our future patients, I would like to show my overwhelming support of this ordinance. I realize it is a conscious choice of patrons to enter establishments where smoking is permitted, but as a health care professional and an individual concerned for the well-being of others, regardless of the choices they make, I believe it is

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

necessary and appropriate for the government to act in the best interests of public health. Just as I suspect smokers will not stop supporting local businesses if this ordinance passes, it is unrealistic to expect that all non-smokers will never frequent establishments that permit smoking. Perhaps more significant is the issue of employees who work in these establishments. Our concern is for those with existing health issues that are exacerbated due to the exposure of second-hand smoke. As stated by Councilor O'Callaghan at the Pre-Council meeting, it takes only 30 minutes of second-hand smoke exposure to have potentially lethal effects on the heart. I'm scared to consider the severity of these effects when someone is exposed for 40 hours a week. Our concern is also for individuals attempting to quit smoking. Seven out of every 10 people attempting to quit are helped by smoke-free laws that provide environments free from the temptation to smoke. Shouldn't we promote legislation that will help these individuals help themselves? As a pharmacy student, I will not pretend to fully understand the economic impact this ordinance could have on local businesses. However, I do understand the cost my patients have paid, due to the second-hand exposure to smoke—a cost in failed attempts to quit smoking, a cost in quality of life, and, unfortunately, a cost in years of life. When I hear the plea of those against this smoking ban, for the Council to support their Constitutional rights of life, liberty, and the pursuit of happiness—

Mayor Mills said two minutes.

Ms. Gregory said I cannot help but consider how the 53,000 non-smokers who die each year due to second-hand smoke were denied these same rights. Whether you are for or against the smoking ban, we, as future health care professionals, will continue to advocate for your health and well being in the practice of pharmacy and in the strong support of this ordinance. I thank you all very much.

Mayor Mills said thank you.

Mr. Chris Rhea [4134 Denison Drive] said I'm also a Purdue student. I'm the president of the Health and Kinesiology Graduate Student Organization at Purdue. I am speaking in favor of the smoke-free ordinance. My fellow graduate students and I visit smoke-free businesses and purposely avoid establishments that allow smoking. This ordinance would allow us to spread our valuable graduate student dollars at more establishments in West Lafayette. There is currently a wealth of scientific literature that says making restaurants and bars smoke-free does not hurt their businesses and sometimes helps it. Here's a summary of a few of those studies. At Harvard University, University of Kentucky, and University of Florida, they found no negative economic impact following their states smoking ban in the restaurants and bars. The City of New York found increases in business following their citywide ban on smoking in restaurants and bars. The same can be said for the state of California, the state of Colorado, the state of Delaware, and the city of El Paso, Texas. Although economic impact is a big question, the bigger question is the impact on the health of our public. There is no question that cigarettes and second-hand smoke cause cancer. As a former undergraduate student that used to work in a smoky bar, I can speak to the negative effects that breathing smoke in, night after night, had on me. Now, as a doctoral student in the Department of Health and Kinesiology, I am arguing for the smoke-free ordinance, so others that choose to work in the restaurant and bar industry do not have to pay the same health effects that I did. I urge the Council to protect the public health and pass the smoke-free ordinance.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Mayor Mills said thank you.

Ms. Amanda Carlson [1821 Summit Drive] said we are not granted rights out of generosity. As the founding fathers knew, rights result directly from man's nature, and the character of man is such that he must act in order to secure his life. This concept of "right" is exemplified by an American's stated unalienable right to life, liberty, and the pursuit of happiness. You may note that actual gratification is not guaranteed. The act of pursuing values and, by implication, the consequences of those actions are. The merchants of West Lafayette have a right to their business and the operations of such, by virtue of the fact that they own it. Desiring a smoke-free environment on someone else's property does not mean you have the right to it. And inviting the general public onto one's property does not imply the public has any right to the property or its functions. It is not a "public place," no matter that you call it such. So let us clarify this legislation. It is not the needs or desires of businesses that you are compromising, but their rights, for the desires of others. In judging this bill, you are not balancing equally valid interests, you are balancing the rights of some citizens with the wishes of others. Another point, the wrongness or rightness of enacting this legislation has nothing to do with the decisions of other governmental bodies. The purpose of legislation and enforcement is to protect individual rights, previously defined as derived from the nature of man. The decisions of neither Madison, nor Bloomington, nor Montana, nor 85% of the population can change the nature of man and his rights. The opinion of no person or group can change the fact that this legislation makes children out of citizens.

Mayor Mills said thank you. Anyone else?

Mr. Richard Nelson [102 Hideaway Lane] said I should identify myself, according to the press or information that has appeared in the press, as a fascist. But I'm the kind of fascist who believes in protecting the health of people, whereas the real fascists that I learned about when I was growing up in the 1930s and 1940s were in Germany and they were experimenting on people by exposing them to all manner of materials, including many carcinogens. As I said, my wife and I reside just outside the City limits, but we do a great deal of our shopping and eating out in West Lafayette. We are both adversely affected when smoke wafts our way when we eat out, and we are less and less inclined to patronize restaurants that allow smoking. We, however, can take care of ourselves by eating elsewhere. But our deepest concern is for the employees whose health is risked daily by being exposed to carcinogens that could shorten their lives by months, years, or even decades. It is beyond our understanding that the Republican members of the Council, with one possible encouraging exception—and I think maybe a second—would pander to the noise from a small number of restaurant and bar owners, and allow the health of employees to be put at risk for a few pieces of silver. They don't seem to realize that the vast majority of possible patrons are non-smokers, and that their businesses are far more likely to gain than lose money as a result of a smoking ban. But even if the reverse were true, the health of employees (and patrons) should trump the imagined financial gain.

Mayor Mills said two minutes, Mr. Nelson.

Mr. Nelson said thank you.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Ms. Nahla Ahmed [2550 Yeager Road] said I'm currently a junior at West Lafayette High School and am a member of REACH. REACH is a club through which high school students try to discourage younger students from using drugs and smoking. Our goal is to emphasize the dangers of giving in to peer pressure, whether it comes to using drugs or tobacco products. These elementary students, as we have observed, learn from their surroundings. Being in an environment that allows smoking does not teach them that it's wrong. When children see people smoking, they do not realize how severe the consequences of such actions are. Through the puppet shows and activities our club organizes, we are trying to convince these children that not smoking is the right thing to do, even if the society they are surrounded by does not always reflect that. We believe that passing this ordinance would not only help tremendously in setting this mindset for students, but it would also protect many people from second-hand smoke. Smoking is prominent, only because it's a social affair, and if society gets rid of that stereotype, it will help cut down smoking as a whole, especially for future generations. This is a cause the whole community should contribute to, and banning smoking in City workplaces and indoor public areas is a fair way to protect the health of customers and employees, as well as help emphasize the dangers of smoking to young students. Because of these reasons, REACH strongly supports the smoking ordinance. Thank you.

Mayor Mills said thank you.

Mr. Don Scheiber [626 Oregon Street, Lafayette] said the U.S. Environmental Protection Agency says that the nation's environmental policies are not a failure, despite the fact that the EPA's own study shows that most Americans have a lifetime cancer risk from air pollution up to 25 times higher than what the agency deems acceptable. Lafayette, as rates in a Places Rated Almanac, has the sixteenth highest cancer mortality rate per 100,000 in the country. That's general air pollution. It's very difficult to affect national and State laws on this. However, this is an opportunity for us to achieve some local control in enclosed places. We don't need to add more toxic chemicals to those we cannot control. Especially important also for the workers, who I am concerned about, who have no say in this, if they are in those environments. We don't look at those workers' health enough, and we pay the price for this as a community, when they wind up getting lung cancer down the road. I just would wish that we would look at this as an opportunity to do what our nation and our State will not do. Thank you.

Mayor Mills said thank you. Anyone else speaking to the ordinance?

Mr. Brad Cohen [1845 Sheridan Road] said for some reason, I'm more nervous today than I've been in the past. I think one thing that I want to— I don't think there is any argument about second-hand smoke, but I think the reasonable issues seem to be forgotten. We are talking about the importance of West Lafayette and the entire County, creating a level playing field and, most importantly, our civil rights allow us the freedom of choice. So all of our inalienable rights and all the things that the minorities, everybody's talking about these, but it's all about all of our rights. This is a legal entity. There are exemptions; there shouldn't be. Zero exemptions. Ban it everywhere. It is unfair to allow one place who earns their money, as the argument has been given, they earn their money because of smoking. I think it's a reasonable argument to say that most of our bars and restaurants that do serve alcohol earn their money from smokers coming to their bars. Okay? I'm interested in the psychological aspect, for when I drive down— We're going to push all the smokers out into the street. Alcohol laws are meant to be inside buildings,

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

so that the psychological aspect that if they see alcohol, they'll be less apt to drink alcohol. And all of our alcohol laws tend to look at it that way. If we push smokers out into the streets, we one, not only going to have a cesspool of cigarette butts, but we're also going to have my children, as I take them to school, going, "Hey, why can't I smoke, everybody else does, because we see them on the streets at all times." What disturbs me the most about this is that we have not brought the County and the City of Lafayette to the table. I'm surprised that the Democrats are forcing this through. I used to think that the Democrats were a party of choice. Protection of the minority, civil rights—

Mayor Mills said two minutes, Mr. Cohen.

Mr. Cohen said okay. No choice. Absolutely no compromise on behalf of this City ordinance on the second reading equals bad politics. Bad politics by bad politicians. There has been very little listening to the other side of the party, or the other side of the argument. There's been no compromise for the other side, and, unfortunately, a tremendous amount of disrespect.

Mayor Mills said thank you.

Ms. Sheila Cochran [co-owner of the Neon Cactus] said I'm representing the Neon Cactus. As you know, I have been very vocal about the proposed smoking ban. If you go back to the first time I spoke, you will see in the minutes that my concerns have stayed the same. I want to be able to operate my business with rules that apply to everyone. Making exemptions to the chosen few is wrong. I felt it best to have both cities, Lafayette and West Lafayette, go together with the smoking ban. I realize this will not happen at this time, but it is within the power of this City Council to have a fair playing field in the City of West Lafayette. I have continually questioned on many occasions the exemptions being allowed. I believe we all agree that smoking is not a healthy habit and provides a less desirable environment. If this is true and this ban is truly about health, there should be no exemptions. As this Council has stated to those of us who have opposed this ban, if it will just save one person's life from becoming ill or causing death, then this ordinance is well worth it and should be passed. I believe that this ordinance should apply to all businesses equally. Those businesses that have smoking devices in them will have to figure out other ways to make up the 25% possible loss they will have, just as we will have to figure out how we will recapture our losses. If you understand businesses, as I'm sure you do, then you realize that smoking bars, cafés, for example, do not make most of their income from smoking. They make the majority of their income from food, beer, wine, and other beverages. Whether it is 25% or 35%, tobacco sales in their businesses, they still derive the majority of their income from other sources. Please note that our local smoking bar had been known as a café until this ordinance arose. Now it's being called a smoking bar. I ask you, for the betterment of the entire City, for all the employees, for all the customers, to make this a ban for all, not just for the bars and restaurants. Organizations that are not for profit—example, private clubs—have no less a health risk than public bars and restaurants owned by private citizens.

Mayor Mills said two minutes, Ms. Cochran.

Ms. Cochran said the other exemptions, such as smoking bars and hotel rooms, pose just as real a health danger as the rest of us do to the community. Are not those individuals' lives and

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

health just as important, referring to those people who will have to work in those exempt places. This Council should be fair and just to all members of this community. Please make this smoking ordinance for all. Do not exempt the chosen few. If you have any exemptions, you must exempt all businesses that stand to lose or make this an exemption-free ordinance. Thank you.

Mayor Mills said thank you.

Ms. Mary Cook [co-owner of Harry's Chocolate Shop, The Pub, and The Other Pub] said for misconception, the ordinance to ban smoking indoors has been presented as a workers' health issue. The majority of facts for passage of this ordinance banning smoking in all restaurants and bars have come primarily from a 1993 EPA study on passive smoke. The epidemiology used for that study was challenged in 1998 in U.S. District Court. Judge Osteen wrote, "The EPA publicly committed to a conclusion before research had begun" and, "adjusted established procedure and scientific norms to validate the Agency's conclusion." The stats used of 4,000 chemicals with every breath is no longer defensible. In 2005, California EPA found 404 poisons and carcinogens, not 4,000. The average American diet contains about 10,000 poisons and carcinogens in a day, much greater than that of your statistics. In the past few years, *The New England Journal of Medicine*, *The British Medical Journal*, OSHA, and the Congressional Research Service have all reported on studies on second-hand smoke, and all four have concluded relative risk from second-hand smoke exposure are slight. Many have stated, during this debate, the majority in favor of anti-smoking bans are passionate about the "ick" factor. If the risk of exposure to second-hand smoke—

Mayor Mills said two minutes, Ms. Cook.

Ms. Cook said if the risk of exposure to second-hand smoke were truly as life threatening as the anti-tobacco lobbyists have stated, why aren't we all dead? Why would Dr. Zimmerman risk his own life, as well as his wife and other family members, and dine at The Pub, the smokiest place in town? Is the desire to eat a two-pound prime rib dinner for \$19.50 worth subjecting one's family to certain death? Why would the outgoing Purdue student body president and vice-president request to carry on the tradition at Harry's, to serve as guest bartenders for one evening? Is honoring at Harry's tradition worth subjecting themselves to certain death? The proponents of a total smoking ban in restaurants and bars have stated since November that there is no financial gain from passing this ordinance. Over the course of the—

Mayor Mills said time, Ms. Cook.

Ms. Cook said I know. I can't read, because my blood sugar's 500 because of the stress I've been under—

Mayor Mills said we're limited everyone else to two minutes—

Ms. Cook said okay.

Mayor Mills said so it's not fair that you've gone on for three or four.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Ms. Cook said does anybody want to get up and finish this? Anybody want to give up their two minutes?

Mr. Greg Ehresman [co-owner of Triple XXX Restaurant and Route 66 Diner] said [continuing to read Ms. Cook's written statement] the proponents of a total smoking ban in restaurants and bars have stated since November that there is no financial gain from passing this ordinance. Over the course of six months, I have learned that grants from pharmaceutical drug company feed the anti-tobacco lobbyists, the anti-tobacco fund lobbies many of the coalitions and organizations that have provided Ms. [Councilor] O'Callaghan's studies and information for this ordinance. These coalitions and organizations are the same ones that support the Office of Student Wellness at Purdue University, and there are several departments at Purdue that stand to gain financially by passing the ordinance as it was presented to this Council tonight. These grants can be used in the local community to fund enforcement and implementation. Are they willing to share with businesses after it's passed? In 2004, the Ridgewood Economic Associates published a report on economic impact of the New York State ban of smoking in bars, and the conclusion is, "The State's public ban has resulted in dramatic losses." In 2003, economic activity off \$70 million. Wages, off \$50 million. And 2,650 jobs lost. This study was done by an IBMer that wrote the first database combining elements of macroeconomics, industry, and regional forecasting to gauge economic impact. I'm asking this Council to exempt all restaurants and bars from the smoking ban in West Lafayette. Of over 100 possible places in the City of West Lafayette to dine, socialize, and work, you have 17 or so smoking venues. If you're opposed to second-hand smoke, you have over 80% of available venues to support. I respect your freedom to choose a non-smoking venue. Please respect my desire to operate my independent business. Thank you.

Mayor Mills said thank you, Mr. Ehresman.

Mr. Scott Mills [488 Littleton] said Greg [Ehresman] and others, have we— I doubt if there's anybody in this room that hopes your businesses suffer, and most of us speculate that it will not, and I'm certainly included in that. I find it interesting that the primary criticisms so far this evening are based on technicalities, legalities, and lack of fairness. I have a suggestion for you few in the audience that are opposed. But before I get there, let me just say that many businesses in this City and in Indiana and throughout the nation are voluntarily going smoke-free, because it is the right thing to do for the patrons and staff of their businesses. What the City Council is doing this evening is not terribly novel, not blazing a new trail, but we have certainly put us on the map for being progressive, being responsive, holding public health high, and I think that people who are looking to come to West Lafayette will look very closely on your actions this evening. What I would like to do, for the few businesses in West Lafayette and Lafayette who have not voluntarily gone smoke-free, I'd like for you to consider changing your strategy and, for once, accept the inevitable that at one point in time, at some point in time, businesses will be smoke-free. For a moment, act like you care about your staff and your patrons, and finally I would like you to take a leadership role—

Mayor Mills said please don't be negative.

Mr. Mills said pardon?

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Mayor Mills said don't be negative.

Mr. Mills said sorry, Madam Mayor. I'll catch that tonight. And for once take a leadership role in being a responsible business, okay, and taking business to where it should be—looking out for your staff, looking out for your patrons. Support the ban. Support good health for everyone. Do—

Mayor Mills said two minutes.

Mr. Mills said do the right thing. Thank you.

Ms. Elizabeth Hitze said I am a member of the STEP group. Alcohol, car accidents, suicides, AIDS, homicide, and illegal drugs. What is the significance about this list? Their combined deaths don't even match up to the amount of deaths that cigarettes cause in the average year. We, as a group of concerned youth and members of STEP, are here today, and have been at every meeting in which this ordinance has been discussed, to lend a better understanding of the threat of cigarettes in our communities, restaurants and bars. We are here for the voices that are not heard. We are here to share the truth, so that this town will have a better tomorrow.

Mayor Mills said thank you.

Ms. Kristen Downey said JFK once said that "Never before has a man had such a capacity to control his own destiny, to end thirst and hunger, to conquer poverty and disease, to banish illiteracy and massive human misery." We have true power to make this the best generation of mankind in the history of the world, or make it the last. We ask that you consider the truth of this statement. You have the power to save lives in West Lafayette. You have the power to make West Lafayette a healthier place to live. With this in mind, we cannot help but wonder why this power is not being utilized, just in the name of business and wanting to protect the rights of minorities. We ask that you not attempt to put a price on human life.

Mayor Mills said thank you.

Ms. Amy Olsen said I'm confident that everyone in this room is aware of the harmful effects of second-hand smoke. Just recently in national news, Dana Reeve, the widow of Christopher Reeve and a non-smoker, died from lung cancer at age 44. She was a non-smoker so she hadn't smoked. One of the strongest arguments in the smoke-free ordinance debate is that patrons have the right to choose whether or not to visit an establishment that allows smoking. And I'm speaking as the child of two smokers that, when I was a little kid and when I did not know the harmful effects, I had no say. So, for about 12 years, I was exposed to the horribly smoky restaurants. Now, my choices are to either eat a meal served with carcinogens or to wait in the car. Luckily, I know better now, so I can complain and I can really push my mother to save that cigarette for home, when I can be in my home, away from it. But smaller children who don't know the bad effects, they could be like, "Oh, my mom smokes. I want to be just like her. Maybe I'll smoke, too." And that's not good. The forced exposure, where the kids really don't have anywhere to go at a restaurant, they have to sit at the table where their mother can see them, they can't just run off, because that's just not a good situation. They have to sit there and they have to be exposed, and even those once-a-week nights out, that can really add up, to

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

where they have that constant exposure with no where to go like a room or outside. That's not good. And children are not the only people being exposed to other people's bad habits. The employees, too, some of them, well, some are lucky. Not all employees can be picky about where they work. They have families to support, they have tuitions to pay, general bills that need to be taken care of. If some place offers them a job and it's a salary that will cover that, they sometimes don't, can't say no. They have to take it.

Mayor Mills said two minutes.

Ms. Olsen said one story about this. I'm almost done. I'm sorry. A young woman in Detroit, she was 19. She died from a fatal asthma attack, triggered by the second-hand smoke while working at a bar. If you have asthma, you wouldn't work at a bar unless you absolutely had to. This could someday be a Purdue student, but I don't think it should have to be. Thank you.

Mayor Mills said thank you.

Ms. Kim Lytle said as members of STEP, we would like to recognize the Council for its reconsideration of the smoke-free ordinance. We thank you for your efforts, and strongly encourage you to pass this ordinance and provide all of us with a much more healthy community. We urge you to pass the ordinance for those who do not smoke, for those who have no choice but to work in a smoking environment, for those who have lost loved ones, and for those who cannot help themselves. We're sure that the passing of this ordinance will make the businesses and residents of the City more family friendly.

Mayor Mills said thank you.

Ms. Julie Boles said I'm a member of STEP and I support the smoke-free ordinance.

Mayor Mills said thank you.

Ms. Brandy Sutton said I'm a member of STEP and I also support the ordinance.

Mayor Mills said thank you.

Mr. Evan Apotheker [223 Sheetz Street] said I'm a West Lafayette resident and also Purdue student and a member of Student Government. I've been involved with this for a long time, and I won't speak a lot on health, except to say that I am a veterinary student and we do actually learn about the effects of second-hand smoke on dogs and actually birds. If you have a bird that's sick, if the owner is a smoker, one of the common recommendations is to move the bird or to quit smoking. So, I can't speak for humans, but at least animals are injured by second-hand smoke. We've also passed numerous pieces of legislation within the Student Government, the most recent actually requested that the date be moved up, which we were pretty sure wasn't going to happen, but we were in favor of the original July 1, 2006 date. We still continue to support the most expedient implementation of this ordinance. We want smoking to be out of West Lafayette, and we want it as soon as possible. We obviously do enjoy all our bars and restaurants. We want them to continue to be open. We feel that this will not significantly impact their business. I'd also like to draw your attention to the voice of the youth here tonight.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Obviously, the Student Government has come out in favor. Many high school students have come out in favor. There was one student against, but the overwhelming voice of the youth is that we do not want smoking. This isn't the future we want.

Mayor Mills said thank you.

Mr. Neil Zimmerman [237 Connolly Street] said if I could, Mayor, before I start my two minutes, I just would like to address Mary Cook's personal comment to me. I do enjoy eating at The Pub a lot. I don't go there for the two-pound rib eye, though. I go there, usually, for the chicken tenders, and I don't feel that I put my life or my family's life at risk because I'll either enter through the door closest to the private room in the back corner, totally away from smoking, or I kind of hold my breath as I walk through the bar. But I do enjoy the restaurant very much. I'd like to say to everyone, first and foremost, that this smoking ban ordinance is not about eroding our freedoms that others have died defending. This is about ensuring the rights of workers to a healthy work environment. I'd also like to say to the restaurant and bar owners this, again, is not about having to choose between the health of your employees and the economic health of your business. Both will benefit. With some creative marketing and creative advertising, it could even benefit. Remember that only 25% of the population smoke, so even a significant loss of smoking customers can be more than made up by a very small number of new non-smokers. After all, I disagree that people come because of smoking. Don't you think that customers come to your places of business for the venue and for what you offer, not for smoking. I think you're going to find that people are going to improve their ability to come to your businesses. To the Council, I want to remind you that, as this is a public health issue, this should not be looked at as a partisan politics issue. This is most certainly a bipartisan health issue. And, finally, with regard to the Constitutional challenge, I find myself in agreement with Sheila Cochran, which I'm kind of surprised of, when I was sitting there listening to her, but with regard to the exemptions, I would recommend that you consider perhaps dropping the private club exemption, because that does expose their employees to tobacco smoke exposure. However, it makes sense to leave the exemption for hotel rooms. There are no employees that will be exposed to excess amounts of ETS, environmental tobacco smoke, from an occupant of a hotel room smoking as a temporary extension of their private home. Once they leave that home and the smoke dissipates, there will not be extensive exposure. Likewise, the exemption makes sense for tobacco bars. In this case, there's only one, because effectively taking that exemption out puts them out of business, and I don't think a Council has the right to put a business out of business. So those are my comments. In summary, the only effective way to reduce environmental tobacco exposure, and the correct action now is to eliminate it at the source with a smoking ban. Thank you.

Mayor Mills said thank you.

Mr. Robert Molter [343 Laurel Drive] said excuse my appearance, I just got off work. I guess this is what? our third month that we've been hashing this thing out. Six? Okay. I want to congratulate everybody here, because in my mail the other day, I got a flyer that gave us our trash pickup and it was color-coded and showed everything what we're supposed to do and when things are going to be picked up. Those are the kind of things, I think, is a job for the Council and the administration to do. Not to come up with your own agendas and pass it on to everybody else. So, you know, I'd like to have the whole United States of America be a more

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

healthy place, but people can figure that out on their own. Cigarettes are at a 55-year low right now in sales. Okay? So it's going to get figured out. Purdue University, when they made a no smoking ban, they didn't have to come to the administration and say, "Hey, what can we do over here?" They can figure it out on their own, just like the private sector can do it, too. They don't need to be dictated by City Hall. And so I just think we need to learn what our focus is and what we're supposed to do, as our jobs. Not bring our personal agendas and push it off on everybody else, and we'll get it figured out. Thank you for all the other stuff that you do. Thank you.

Mayor Mills said thank you.

Mr. Michael Kenning [455 North Grant Street] said I'm the president of the Pipe and Cigar Club of Purdue. I'd like to first say that the students that have spoken previously do not represent a large sector of the student population. I guess, we obviously are cigar smokers and pipe smokers, and we know the hazards of smoking. We're smart enough to understand that, and we accept the responsibility of that. We see this as a gateway to more restrictions on business. It's going to be a little far-fetched here, but obviously a double cheeseburger is bad for your health. The argument is used that children are being exposed to smoke, and they have no say in this. Again, this is far-fetched, but where do we draw the line? Will there someday be restrictions on McDonald's because a mother that does not understand the health hazards of double cheeseburgers and feeds her children fast food every day, will there be restrictions put on them? We're just scared of even more restrictions coming upon businesses. I guess that's all I have to say. Thank you.

Mayor Mills said thank you.

Mr. Lee Cline [1033 Holloway Road] said one thing I'm wondering about. I'm not sure about laws, but I feel that a compromise needs to be reached, because I'm also a member of the Purdue Pipe and Cigar Club, and I also recognize the health risks. But I also think people should be able to be responsible enough to make decisions, whether they want to smoke or not, and where they should smoke, if they choose to. I'm not exactly clear on the laws, but I feel that if, like I don't know about the laws regarding license permits and stuff for bars, if you could have two, one cheaper, like normal, which would be like for non-smoking, and then a more expensive one for restaurants and bars that say, "You know, we'll go ahead and we'll pay that extra money, so we can keep the smoking." If they see that other businesses that have the normal, the non-smoking one are doing just as well or better than before, that why don't they just say, "Hey, let's not renew this one. Let's go back to the normal." I don't know exactly the laws on this, but that was one thing that came to my mind was so that the bars and restaurants that choose the more expensive smoking permit, that they'd be recognizing the consequences, but willing to make those by paying the extra price.

Mayor Mills said thank you.

Ms. Angie Brown [co-owner of Jake's Roadhouse, 135 South Chauncey] said this is getting so confusing. People are so boggled in their thinking on this whole thing. For starters, I'm sorry I don't have my little list of everything I'm going to talk about, because I'm not getting extra credit tomorrow when I go to school, but the think I think you need to realize is these people on this

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

side are saying, "Gosh, if you quit smoking, it's not going to affect your bar, it's not going to cost you any money." These people on this side are the bar owners. We know where we make our money, we know what it comes from, so don't sit over here and tell me this is not going to affect my business, because it is going to affect my business. And the thing is, this isn't going to make one single person quit smoking because they can't smoke in my establishment. They're going to go someplace else and smoke. So anybody that thinks this is going to be a big rivalry here, we're going to win because "Gosh, look how many people in West Lafayette we're going to stop from smoking." Come on, get a life here. This is reality. People are not going to stop smoking because they can't smoke in our restaurants. They're going to go to Lafayette, where they can smoke. There's not one restaurant owner sitting on this side that wants anybody to die from second-hand smoke. You guys make us sound like we're all villains or something. This is reality. No, we're not. Don't shake your head—not you, Patti [Councilor O'Callaghan], I'm talking to them. The high schoolers over there, that are not even 21 and allowed in the bars anyway.

[A member of the audience said something unintelligible to Ms. Brown.]

Ms. Brown said this is my two minutes, okay. I let you guys have yours, this is mine.

Mayor Mills said it's quickly eroding, so make your points.

Ms. Brown said I realize that. I'm talking, but I just want you to know I want to run my business and be successful in West Lafayette, Indiana, so that we can be successful like Lafayette is. Don't run all the business out. Now I'm done. Now you can talk.

Mayor Mills said thank you.

Mr. Bill Brown [co-owner of Jake's Roadhouse] said I'm the lesser half of what you just heard. One of the problems that I have with the situation is you are setting up a system where you are fining somebody for the acts of another. Now, to me this does not seem right. I think that a good analogy to this would be instead of passing a law against bank robbery, let's pass a law against allowing bank robbery. So that when a bank robber comes in and robs a bank, you don't have to bother chasing the person who actually did the act. You just can come in and fine the bank \$250, and that'll solve the whole problem, which is basically what your law is doing. You are putting the fines on the business owner, and not so much on the person who is doing the act. You can have lots of examples of this, of how silly this is. Now, I'm not arguing with you about the problems of smoking. What I'm saying is, the way you're going about solving it is wrong, and you should not punish the business owner for the acts of someone else. Thank you.

Mayor Mills said thank you.

Mr. Wesley Holdman [Purdue student] said I am a member of Purdue Student Government. I represent over 4,000 students in the College of Technology, and I'm also a five-year resident of the Greater Lafayette area. On behalf of those 4,000 students, I would like to one additional minute for my comments this evening. I could ask for 4,000, but I hope not to.

Mayor Mills said you have to be quick, Wes.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Mr. Holdman said I will read very quickly. We are here this evening to discuss a proposed ordinance, which would benefit the citizens of the Greater Lafayette area, and specifically its workforce. The opponents of this ordinance have obscured the simple truth whenever possible, by clouding the debate with trivial arguments, irrelevant opinions, and insinuations going so far as to accuse students like myself of being irresponsible and reckless as a result of this ordinance. I sincerely hope this Council is not intimidated by inane threats of legal action. Precedence in this matter has already been well established in cases nearly identical to this. Courts have repeatedly found the right to smoke does not rise to a level of a fundamental and protected right under the Constitution. The Fourteenth Amendment of the United States Constitution provides equal protection under the law, and in no capacity do individuals using tobacco qualify as a protected class. The government's responsibility to promulgate law protecting public safety and health supercedes any privilege contradicting that duty. Such a spurious lawsuit would only prove equally detrimental to both sides. Current exemptions outlined in this ordinance are Constitutional and bear no correlation to restaurants and bars. Therefore, they do not support claims that these establishments deserve additional exemptions. In no way do they derive significant revenue from the sale of tobacco products, nor do they provide individual rooms to patrons, completely isolated from public areas. As with the ordinance itself, the exemption of private clubs is a necessity after a United States Supreme Court decision in 2000, respecting the privileges of such organizations. Several individuals in this room have even alleged this smoking ordinance would only lead to increased students drunk driving. I am here to tell you that my peers and I are more responsible than they would believe us capable. Our generation is looked down upon for many reasons—we fail to vote, listen to loud music, and we don't share the values of our parents. But this is assumed by us by today's culture of low expectations. We have demonstrated the desire to do what is best, what is right, when you confide in us the faith to do so, and we have given reason to change our generation's stigma. We make mistakes like anyone else and we learn from these mistakes, as well as those of others, all the while becoming more aware of our limitations. As many of you know, last semester the Purdue student body witnessed a string of attacks on campus. Since then, members of Student Government have responded and have worked tirelessly to ensure such events do not happen again, by improving the safety of their campus. The current perception of our generation is not the vision of our generation's future. In two days, I will no longer be a representative of Purdue Student Government, and I want to look back in 20 years and say, "I did my part to improve this campus." This ordinance is a positive step which this Council—

Mayor Mills said three minutes, Mr. Holdman.

Mr. Holdman said can take to improve this community, and on behalf of Purdue Student Government and Student Senate, I encourage you to do so.

Mayor Mills said thank you.

Mr. Jeff Crites [239 Pierce Street] said thank you for this time this evening. I try to help everyone locally. I stand on the side of everyone's opinions and their beliefs, and I think that's important, especially their freedoms. There's two things. I served in the military, I served in the honor guard. And so before we go any further this evening, I would like to ask if I couldn't take

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

the opportunity to fix the American flag, instead of it being backwards, I would like it to be forward, and while I'm doing that, perhaps I can cede the rest of my time to a good friend of mine.

Mr. Eric Timmerman [1937 Abnaki Way] said thank you, Mr. Crites, for your time. I'd like to read you a quote by James Madison in regard to the purpose of government. "Government is instituted to protect property of every sort.... This being the end of government, that alone is the just government, which impartially secures to every man, whatever his own." I'd like you to think about that quote in regards to your positions in government. "To secure every man whatever" is their own, as in choice. In response to Mr. Mills, he hit the nail on the head. Choice. The key issue here is choice. The choice of business, the choice of individuals, not the choice of government to impose upon the individuals. Thanks again, Jeff.

Mayor Mills said thank you.

Ms. Kathy Walker [Tippecanoe Tobacco Control Partnership] said I'm not a resident of West Lafayette, but of a surrounding county, and I will say I have been a Purdue student, and these students don't come here and say what they have to say because they get credit. I've been really very disappointed in some of the adult comments that have been personal attacks, where the students have been very factual and full of a lot of content. I will also say that I'm a non-smoker, and there are places that I will not come in Lafayette and West Lafayette because they're smoking. Many of them are bars. I know many people that are just like myself, that don't frequent bars that would like to, because of the entertainment value, but don't because of the health risk involved. There's many of us. I can't tell you how many people I've talked to and shared that same sentiment. So there may be an economic advantage that you're not looking at. Thank you.

Mayor Mills said thank you.

Mr. Matthew Hunter [owner of Hunter's Pub] said one thing that I've noticed about all these comments, it seems that—I've been a restaurateur, I've been in the restaurant business for 25 years, a restaurateur, it seems a lot of you seem to know a lot more than me. I think I'm fairly successful. The average restaurant only lasts one year—and that's the national average. I've been going, I have three restaurants going on eight years. So a lot of your comments, stating how my business should be run and stuff— I mean, if you're so good at it, buy a restaurant. Let's see you do it. It's a hard business. It's a very hard business, and trying to figure out who your customer is and how to keep your customers is tough. One thing I find that bothers me a little bit about this is that we lost the vote 4-3, and such a narrow margin. If this is such a slam-dunk, I would think 6-1 or 7-0 should be where we're at. On the request by [Councilor] Randy Truitt, we're attempting this air circulation system. Hopefully I've got two guys back there who will talk right after me, and we implemented this on Thursday of last week. We ran it Friday, Saturday, it's continually running. Friday night was a very heavy traffic night in my little pub over there, and we found that I had two of my—one waitress and one waiter come to me, both on Sunday, and say—they worked Friday—and they both said they left and couldn't smell any smoke on their clothes. Now, I don't know if these systems are good for the environment, cut down—obviously if you take and inhale and breathe smoke into someone's face, you're not stopping anything. We understand this, but this has to be cutting something down immensely if

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

it's not going to smell on everything else out of your clothes as you're going. Hopefully, these guys can explain a little bit better than me. But as a restaurant, we're trying to make progress in making this a better place. That's all. Thank you.

Mayor Mills said thank you.

Mr. Kenneth Rowe [Tippecanoe County] said I was one of the individuals who put in the equipment, as the Board knows. We spoke before them last Thursday. What we offered to do was give an option to this. We know it doesn't remove 100% of smoke, but as he said—and there's a few patrons here I know tonight, I don't know if they're going to come up and speak—it did reduce it greatly. And those who saw the demonstration last week they saw smoke chamber where it reduced all the visible smoke. Is it possible we have a little bit left? The answer would be probably yes, there is some left. But it does have a significant effect within this. It is an option that falls somewhere between this side of the room and that side of the room. That's all I have to say. Thank you.

Mayor Mills said thank you. Anyone else to speak to the ordinance? This is your opportunity.

Mr. Steve McKenzie [2495 Matchlock Court] said I would just like to bring to your attention that the State of California began a study in 2001 about environmental tobacco smoke. In June of 2005, after a four-year, extensive, in-depth study, they made the recommendation that environmental tobacco smoke be designated as a toxic air contaminant. That was recommended by the Scientific Review Board of California to the Air Resources Board. They also based this on significant evidence that suggests causality between many health effects of second-hand smoke and many health problems. We've heard a lot about the effects on children, but here are just a few other statistics that the State of California came up with. These are based on Centers for Disease Control and Prevention statistics that, among pregnant women, they estimate that environmental second-hand smoke is implicated in 24,500 low birth weight births a year; 71,900 pre-term deliveries per year; 430 cases of Sudden Infant Death Syndrome per year; and 202,300 asthmatic episodes in children. We've heard a lot about statistics on adults, but now we're talking about if a pregnant individual comes into one of these establishments, there's the possibility that they will deliver early, that they will deliver a low-weight baby, significant possibility, and even the possibility of Sudden Infant Death Syndrome. I would suggest to you that, if we're going to do nothing else, let's do this for the reason that we want to protect those who can't say anything for themselves, and those are the unborn children. Thank you.

Mayor Mills said thank you. Anyone else? Anyone else want to comment tonight? Final chance.

Ms. Missy Lewis [Indiana Academy of Family Physicians/Tar Wars] said I'm not a resident of West Lafayette. I am an alumna of Purdue. I did both my undergrad and my graduate work here, and my graduate degree I spent most of the time studying this very subject. So it's very close to my heart. I just wanted to address a couple things. First of all, according to the Centers for Disease Control and Prevention, you will find that smoke-free air ordinances help cessation efforts. Pretty much any study that I've ever seen in the time that I spent studying it will show you that yes, in fact, it does help people quit smoking, especially if they currently work in a

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

smoky environment. In addition to what we're really here for is to protect the employees, that's what we've said from the beginning and that's the truth. I just want to point out that, according to I believe it's the National Institute of Occupational Safety and Health, 43% of the country, 6.6 million food prep and service employees are not covered by smoke-free air ordinances or smoke-free air policies. And 52% of all blue-collar workers are not protected. So I think that by looking at those numbers, we can see that there's a disparately affected population, and that would be the populations that are lower income employees. I think by not enforcing an ordinance like this, then we're kind of increasing that disparately affected population. I also just wanted to point out, we heard something about eliminating visible smoke. Well, just because you can't see it doesn't mean it's not hurting you. You can't really see carbon monoxide in the air either, but we all know what that does. That's all I have. Thank you.

Mayor Mills said thank you.

Ms. Aida Muñoz [Latino Coalition] said I'm here on behalf of the Latino community and many people that have not too many choices of finding another job, they're just— There's many people that have choices, but there's a lot more people that have no other choice but working wherever they can find a job to keep raising their family. I believe that this is worth it for the families of our community, not only the Latino community, but the community at large. Thank you.

Mayor Mills said thank you. Anyone else before we move to Council discussion?

Ms. Tristan Emery [Coordinator, Tobacco Free Partnership of Tippecanoe County; 2553 Willowbrook Circle] said tonight there have been several comments about the validity of the 1993 EPA report. The 1993 EPA report classified second-hand smoke to have Class A human carcinogens. Opposition groups have said and claimed that a federal judge threw out the report. The truth is that Judge William Osteen, who had formerly worked for the tobacco industry, did turn down and invalidate parts of this report, in a lawsuit brought by the tobacco industries. However, a federal appeals court vacated the decision in 2002, leaving the EPA report in full standing. Furthermore, the U.S. Surgeon General is expected to release a new Surgeon General's report on the health hazards of second-hand smoke this spring, which will further document the significant burden of disease and death caused by second-hand smoke. Just to reiterate what Missy Lewis said earlier, workers exposed to smoke-free ordinances in other municipalities reported a greater reduction in daily consumptions of cigarettes than workers not exposed to smoke-free ordinances. And so, for one final time, I would like to encourage the Council to support smoke-free workplace ordinances in Tippecanoe County. Thank you.

Mayor Mills said thank you.

Mr. Frank Rosenthal [2856 Ashland Street] said I've communicated with many of you over the weekend about some of the issues involved in control technology, and so I don't really think I need to go over that again, but I just want to summarize one thing about this. The American Society of Heating, Refrigeration, and Air Conditioning Engineers, ASHRAE, it's the premiere professional society for people involved in designing ventilation systems and air quality control systems. It has taken a position that's been brought up here at meetings before, but just to

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

reiterate that ventilation cannot be relied upon to control health risks from environmental tobacco smoke in spaces where people are smoking. You know, I thought about this, and this is an amazing statement to me, because it is and it isn't. I mean, it's what we expect from professionals, but on the other hand, these are people who in many cases make their livelihoods out of designing ventilation systems. They have taken this position because of their understanding because of their understanding of the technical aspects of the difficulty of ventilating an area fully enough to get at every spot and to get the levels down to some very small level, when it's very uncertain what that level has to be. The other thing is, I looked on the Internet, and it's interesting. There are many individual companies—there are a large number of them—who are involved in ventilation systems who also have taken similar positions. It would be great if there was a system. This is what industrial hygienists and environmental health people always want to see, an engineering solution. That's a solution that doesn't depend on changing things and burdening people, some device that can take care of the problem.

Mayor Mills said two minutes.

Mr. Rosenthal said it would be great if we had such a thing. We don't have it. So that's why people are interested in things like this ordinance. So, again, I commend you for taking this action and it's about time. Thanks.

Mayor Mills said thank you. Anyone else?

Mr. Derrick Raymer [2834 Barlow Street; owner of Wabash Yacht Club and Where Else Bar] said I've been up here several times, and I've tried to get some points across and tried to get some questions answered, and I still haven't done it. Number one, we've heard a lot of comments tonight, people talking about the Greater Lafayette community and the County. The problem with this ordinance is it doesn't address the Greater Lafayette community or the County. All we're really asking for as bar owners is a level playing field, and we don't have that at all. There are way too many options for people to leave the West Lafayette community and go somewhere else to frequent bars and restaurants and to take business away from our local businesses and our local community. That's one thing that we've been trying to fight all along, and I don't feel like our concerns have been met at all. Also, I represent a smaller group of people here that's opposed to this ban. The bars that the smoking ban is definitely, highly against. You allow a bar about four doors down from mine that sells beer and wine and food, just like the Wabash Yacht Club does, to allow smoking, just because they allow more smoking than I do. So apparently if I encourage more of my customers to smoke, then I would be in a better position as I stand here tonight. Since I haven't done that, I guess I've been doing it wrong all along. I don't think there's anyone here that can say better than me, especially me, for my particular businesses more than any bar and restaurant owner, not too many of you I see in this room spend a lot of time in bars, in particular, particularly the college bars, to see what goes on and what the customers do. Many of the customers that come to the bars, they come there to smoke. That's part of their bar experience. So saying that if I don't have 25% of my sales as tobacco, the smoking ban will not hurt my business is completely incorrect. Because a lot of people use a bar—part of their bar experience is to smoke and drink, and a lot of drinkers smoke only when they're drinking. If they don't have that opportunity, they'll either A, go somewhere else to do it, or B, they may stay home and do it. I think that people don't realize

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

that, and they don't weigh the possibility of that. This side of the room automatically discounts that every time we bring it up. But I've been going in this business almost 10 years—

Mayor Mills said two minutes, Mr. Raymer.

Mr. Raymer said and I can tell you for a fact that a great number of my customers, part of their bar experience is to drink and smoke at the same time. That's why they're there. I fear, and I can pretty much predict as we've shown all over the country and in Bloomington and lots of other places, there are many bars that do get hurt from a smoking ban, simply because their customers want to go somewhere where they can drink and smoke. And here in West Lafayette, it's way too easy to go somewhere else, just right across the river. Thank you.

Mayor Mills said thank you.

Ms. Julie Novak [603 Kossuth Street, Lafayette] said I'm head of the School of Nursing at Purdue University. I hadn't planned to speak, but because of just the previous comments. There have been two studies done on the Purdue campus. The majority of the students, particularly the younger students, smoke fewer than five cigarettes per day. They aren't addicted smokers. When we talk with them on a face-to-face basis and over the phone and in email counseling when they call in for advice related to a whole host of reasons, they tell us that when they go to the bars, cigarettes are offered to them, and that's when they smoke. They're not addicted smokers, and it's not a reason that they go to the bars. They go to the bars to be with their friends. It's about being with their peers, it's about having a good time. Cigarettes are not what draw them there. There's a study of 900 Purdue students, there's a second study with the Smokers Help Line of a whole range of students from undergrads through graduate students. And they say essentially the same thing. They're social smokers when they go to a bar and it's very available to them and people are handing it to them. This is the last thing that we want their Purdue experience to be. We don't want five cigarettes to become 10 to become 20, and for them to become addicted smokers and then have long-term chronic affects related to health. So I think it's important to note what those smoking patterns really are. Thank you.

Mayor Mills said thank you.

Mr. Norman Long [Prophet's Rock Road] said I'm a 35-year resident of West Lafayette. I'm not here to defend or condemn the situation, but I want to tell you there is an alternative. EcoQuest International has had many years of experience. Here's a book written about it, another book written about it, another book written about it, and I came with a lot of documentation to share with you, if you'd like to see the information. I simply say, let's not talk about theory, go over to Hunter's Pub, a place we were asked to set up a demonstration site. We weren't paid to be there, they didn't pay us anything. I'm not involved with this side, I'm not involved with this side. We're impartial. But go and take yourself and see if it works or not. The test of the work is what your nose tells you.

Mayor Mills said thank you.

Ms. Pat Schuster [105 Sylvia Street] said I'm a smoker, and I spoke a couple times ago, so I'm not going to speak tonight. I just want you to know, I went to Hunter's Pub. The thing was set

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

up on Monday while I was there. It was much, much cleaner, and the smoke went directly up and away from my companion. It makes a big difference if you stop to think about it, how to best clean nine-tenths of the air, just nine-tenths. What if you left a tenth? You going to kill everybody then, too? You can either get rid of some smoke, or you can get rid of some smokers. Us smokers, it's easy. We'll go to the east side of town, and some businesses may or may not close. I think some of them will. If you want to get rid of the smoke, clean the air and quit being difficult about it. Thank you.

Mayor Mills said thank you. Anyone else? Last chance.

Ms. Kristen Lee [2115 Willowbrook] said I just would like to sort of direct my comments towards this side of the room. I am a patron. I've gone to Jake's, Triple XXX, Neon Cactus, everything at the Hill. That's the place to be. I'm not a smoker, never gone to Hookah. Chauncey Hill is the place to be after a tough exam. I have friends that socially smoke. They would be there anyway. They would be out there socially drinking and having a good time. It's the right thing to do and you won't lose business. If anything, I might be willing to actually buy food at Jake's or whatever at lunchtime, between classes or something. I think that's something that you should consider, in terms of, you know, other hours where people just don't go there. I can't go back to class or go to a meeting or whatever smelling like smoke, but I might give you more business otherwise, and just—I'd like you all to know I'm 26 years old, so I'm not in high school, I am actually in the pharmacy program, and I'm actually a graduate of IU in Bloomington. Had Nick's English Hut at the time been smoke-free, I certainly would have patronized that place a lot more frequently as well. Thank you.

Mayor Mills said thank you. All right. We're ready for Council discussion and comment.

Councilor O'Callaghan said I guess I would like to answer some of the questions that were brought up. Oftentimes, I haven't gone back and done that, because it was addressed by the other speakers, and they were the professionals, and so I haven't done that, but sometimes I've been taken to task for that. I first of all want to say that this is not a personal agenda, and I'm not trying to denigrate the business owners. I could never, never do that, and I really respect what you do. But, again, it's a public health issue, it's a workers' rights issue, and it is what the West Lafayette citizens want. In terms of exemptions, the only exemptions that we have in here are tried and true exemptions that have been in other ordinances—private residence is obvious, it's a private residence, so we don't want to regulate that. Hotel rooms, you're temporarily living in a hotel room and it can be considered a residence. I've 13 pages of municipalities which regulate smoking in hotel rooms. Only one of those is a complete ban. Some are 85%, there were three that were 90%, but most are 50% to 80% regulated smoking. Again, workers who go into clean hotel rooms wouldn't be in the room when the occupant was smoking in there, and therefore most of the contaminants would be dissipated by the time they entered. Again, private clubs are private. They're not exempt when it's a public function. If they open it up to the public, then they would indeed have to abide by the rules for the other public arenas. Tobacco bars, not giving them an exemption would force them to close, and the Supreme Judicial Court of Massachusetts ruled that "economic harm alone will not suffice as irreparable harm, unless the loss threatens the very existence of the business." And so that is the very existence of that business, and that one is exempt. Also, we do exempt retail tobacco stores, but not all retail stores. Likewise, we exempt tobacco bars, but not all bars. New York, D.C., Colorado exempt

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

tobacco bars. There are many that do that. In terms of the legal issues, again, I sent information to the Councilors over the weekend and a packet there today, but, again, in terms of hotel rooms, the exemption for the hotel rooms is actually in order to avoid lawsuits, because hotels can be considered a residence. In terms of the equal protection, a study that did look at lawsuits and the outcomes, in terms of the equal protection part, that one was upheld all the time of the ones that this study did. Again, the rational basis does look at the ends that are achieved, as Mr. Herr said, but from the City of Tucson, a lawsuit, "the government may direct its laws against problems it perceives without covering the entire field of possible abuses. An ordinance does not violate the equal protection clause, merely because it is not all embracing. Certainly scientific evidence suggests that smoking or exposure to second-hand smoke poses serious and substantial health risks, and because the ordinance goal of promoting the public welfare by alleviating smoke-related health concerns in restaurants is self-evident. The ordinance smoking ban that does not apply to other establishments such as bars, bowling alleys, or billiard halls does not render it unconstitutional. It is no requirement of equal protection that all evils of the same *genus* be eradicated or none at all." That's for the legal protection about the challenges for legal protection. Also, the threat of the costs of the lawsuit—these kinds of lawsuits are, in general, the ones that do not have the high litigation costs, because they don't involve discovery. Discovery's not a major element in these type of lawsuits, and they have been resolved on the law and relatively quickly. One case they cite went all the way to the Supreme Court, and it was not the kind of financial burden that was maybe feared. In terms of Lafayette and the County—and Derrick [Raymer], I have said this over and over again—that certainly that would be the ideal. And I think that the best way to get Lafayette to have an ordinance is for us to do an ordinance that's right for West Lafayette. An ordinance that's right for West Lafayette would not exempt bars. The bars need to be included in a place like West Lafayette. We've talked about the students and how we can impact their health immediately by making the place where they frequent and, more importantly, work smoke-free, but we can also impact them in the long-run in terms of not helping them to become addicted smokers, as Dr. Novak pointed out. A study from Ireland just released that talked about, since their ban, the number of smokers has decreased by 8.6%, so that certainly is an important aspect of this. And I'll work with Lafayette to help them make it the best one for Lafayette as well. In terms of Democrats, Brad [Cohen], I can't think of anything more Democratic than sticking up for the working people. And Aida Muñoz has done a wonderful job each time coming here and talking about the people that don't have a choice to work someplace else and that definitely is a Democratic ideal. I'm not going to go into all the ventilation stuff, because I think I gave you plenty of that. I do want to applaud Matt [Hunter] for testing those, even if it doesn't get all the toxins out, I'm sure it's getting some of the smoke out and the odor, it makes it a more pleasant experience for your employees. But I do have lots of this ventilation information if you'd like, I'd be happy to share it with you. I think those are the main issues that were brought up that I wanted to address.

Mayor Mills said all right, thank you. Anyone else on the Council want to comment?
Discussion?

Councilor Hunt said I'd like to make a comment.

Mayor Mills said Councilor Hunt.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Councilor Hunt said okay. As a nurse, I see this as a public health issue, and I think it's extremely important to protect employees. The fact that the statistics show that in a smoke-free atmosphere, more and more people are encouraged and are successful to stop smoking. Another thing I'd like to bring out are the students I've spoken to. There was an event under a big white tent last week that Student Government planned, and I met several students. Almost 100% of them say they would rather go to the bars if they weren't smoky. I mean, they just tell me that over and over. I think I've told you before, I've gone to two housing units, and it's like 98% of people who say they would like to go to the bars and not have the smoky atmosphere. I got lots of emails today saying the same thing. Since the 4th of January this year, I've gotten 242 emails or letters, a few letters, but most of them are emails. That number of people that are emailing, and I know that's not a great statistical sample out of all the people that live around here, but still, there's a trend, and it's been 84% or 86% every month since I started holding the data, and it's 209 out of 242 people, up to 6:00 p.m. this evening, about 86% of the people say, "Please pass this ordinance." 33, or almost 14% say they would rather not pass the ordinance, mostly because of the liberty of the business owners. I just think that it seems to me strongly that the people in this community want this. It would be very nice if Lafayette and the County would continue to do that, but we can't vote for that. We vote for the City of West Lafayette. I hope we set an example, and I certainly don't want your businesses to be hurt. I just think there's a wonderful chance the businesses will do fine.

Mayor Mills said anyone else on the Council?

Councilor Truitt said I can't prepare this talk and not go through it. I'm going to read it, just because every time I prepare something I always get a little sidetracked. This is a pretty important decision here. For the last six months, we've witnessed an incredible amount of activity surround the so-called smoking ban. This process provided me with glimpses of hope, however, of a possible new level of communication and collaboration among our City Council members that, hopefully, would have led to an acceptable compromise. Unfortunately, it did not take long for that door to be shut in my mind. However, this process did uncover some things about this community and reminded me of a few new ones as well. We live in a community where individuals are passionate about the things that they believe in. I saw this passion from many speakers who stood up in front of us in the Council Chambers, who wrote long letters to the local newspaper, called me on the telephone, stopped me in the street or dropped me an email. Most of these conversations were very courteous, some of them were rather hurtful, but all in all, we had a great exchange. When this process started, I knew that I was going to be personally challenged by my belief that the role of city government dictating what a business owner or an individual can or can't do should be minimal. I knew that my strong philosophy on upholding individual and commercial rights was going to be tested in the public arena, and I can tell you, indeed it was. First, I had a major problem with West Lafayette doing this alone because we are not like any other municipality. Greater Lafayette is made up of West Lafayette and Lafayette. In so many ways we are, and should be, a cohesive unit. We are not totally separate entities like Minneapolis and St. Paul. Just witness the recent sacrifice that West Lafayette citizens are making to help out Lafayette and the County by absorbing their loss of the inventory tax. I felt strongly that we needed to approach the smoking issue in a united way rather than having West Lafayette just go it alone. It took some serious soul-searching and several very much appreciated conversations with great friends to help me through the dilemma of whether we should go it alone. Some of those individuals are in this room tonight. The

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

incredible number of emails and conversations with others reminded me that I do represent West Lafayette and I was elected to do what is best for the citizens of this community, including the business owners. Second, in regard to the health data and associated facts, I made it clear from the start way back in November that I had zero problems with the medical/scientific data. Smoking is bad for you. Being from a family that has incredibly strong ties in the medical community, the obvious health ramifications of smoking were never an issue for me. I felt that I was going to be able to separate the fact that I am pro-health from the governmental interference issue, but this has been harder than what I had thought. Third, as I already discussed with many of you, I struggle with the role of city government versus individual rights that conflict so vividly in this ordinance. Fourth, it's crucial for me to mention some other concerns that I want to get on the record. Are we ready, in both time and financially, to face possible litigation that may arise from this passing? Enforcement, in my mind, has still not been fully defined and I am concerned that this is going to become an issue. I am concerned about the number of individuals that will be outside the establishments, next to busy streets while they have their smoke. As you know from the time I went on this Council, I've always been concerned about the budget ramifications of all of our actions. I'm concerned about the business impact. I'm concerned that we're taking away personal choice from consumers and business owners in the hospitality industry. I'm concerned that we did not spend additional time talking about the regulation of air quality of this problem. I'm also concerned that we didn't look deeper into the options involving possible exemptions. Not that the email communications swayed my decisions, but I do want to take a moment to thank the 323 individuals that sent me an email, and I answered every single one of them. The 32 letters that I received which I also responded to, I can't even tell you the number of phone calls and those good old stops on the street on Main Street, which have been very painful, and the incredible support network of my wife and friends and colleagues in this community have meant a lot to me. I want to thank the citizens who I communicated with, from not only our community but from Battle Ground, West Point, Montmorenci, Rossville, Rensselaer, Remington, Otterbein, Lafayette, Indianapolis, Boston, San Francisco—I think you get the picture—and many more, who promised they would flood in to West Lafayette to visit our local establishments, eat, drink and be merry. I want to let the local businesses know that are going to be impacted by the passing of this ordinance that I do care about them, and I only hope that we all can look back on this process one day with their good fortunes at hand. The reason I ran for this position was to make a difference. As with all public servants, there's been personal sacrifices, especially of time, for the greater good of our community. During this first term, I've become frustrated with so much that goes on with this City, at least what I know, and those who know me well are aware of the details. But I believe that government is best when it controls individual rights the least. While I am opposed philosophically to the type of governmental involvement involved in the smoking ordinance set before us tonight for final vote, I do want to be a positive vote for this community, a community that my family has called home for four generations. I am called upon to cast a vote after due consideration of all the evidence, and I do not do this lightly. The conclusion that I have finally reached after these long painful sleepless six months of deliberation, education, and communication is that my general political philosophy and idealism must give way to the overwhelming public opinion of those I represent, especially when their opinion lines up with my own personal preference, and the opportunity that West Lafayette has to be a courageous leader for a better and cleaner community. I can only hope that the other two governmental entities will follow in our lead.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Mayor Mills said any other comment from the Council?

Councilor Keen said I do have a statement I want to read, but I don't know if Matt [Councilor Plomin] wanted to say anything either.

Mayor Mills said Councilor Keen, go ahead.

Councilor Keen said I had a conversation with my wife earlier today about this ordinance and that kind of thing, and the really difficult part about this ordinance is that there are so many good arguments on both sides of the issue. But like I told my wife, I have to make a decision on which side I'm going to fall on. I have to just say that, because of a number of reasons, I can't change my vote on this issue. Let me just start off by saying that I would consider supporting a smoking ban that was fairly and properly adopted. I would support it, not just because of the assumed health risks associated with second-hand smoke—and I say assumed health risks, because I learned a lot in the process of all this. I have read and seen so much literature on this thing, and it's about evenly divided of those scientific studies that say second-hand smoke is not as dangerous as it is dangerous. So who are we to believe? One scientist says it is, one scientist says it isn't. That's a big dilemma. I would also support it if it were equitably and uniformly implemented. So in examining this ordinance, I have to ask myself what are the accurate reasons for wanting to adopt this ordinance? Could it be that others are more annoyed by second-hand smoke than I am? Possibly. Could it be that there's an underlying agenda here, addressed all in the name of public health? Possibly. Or could it be that this is just a poor attempt at legislating a legal activity? Possibly. In the interests of time, I'm going to assume that this ordinance has nothing to do with annoyances or hidden agendas, and that it really is just City government attempting to do its job. So first of all, let us look at what this ordinance will effectively accomplish. It will effectively put further undue hardship and financial burden on all businesses in West Lafayette. I'm not talking about lost revenues from lost customers, because reportedly, that's not going to happen. I'm talking about the cost of implementing this proposal on all businesses. There will have to be rewriting of company policies and procedures. Rules and regulations will have to be updated. Training materials and standards will have to all necessarily be amended. Some businesses will have to absorb the cost of expensive air filtration systems and smoke eater systems that they've already installed, all without the added income that these items would have produced. Every business will have to purchase and install an unknown amount of signage, at what cost? Many will have to absorb the cost of disposal of ashtrays and other smoking paraphernalia. None of this stuff is free. All businesses will have to pay to comply with this ordinance, whether or not they are smoke-free now. This ordinance will effectively cost the taxpayers of West Lafayette. The enforcement of this ordinance is ambiguous at best. It is to be implemented by the Office of the Mayor of his designee. There is no budget proposal attached to this. However, if any City employee is charged with this tax, the taxpayers will foot the bill. So I was thinking that perhaps the sanitation department would be the enforcement group, as it has been implied that cigarette butts found in trashcans will be used as evidence to support violations of the ordinance. Then there's the cost of publicity and public education programs, printing of warnings and notices of violations. The time put in by the Clerk-Treasurer's Office, the City Court, and, of course, the City's attorney fees. It will increase taxes for everyone, so that lost revenues can be made up from the failed businesses as a result of this smoking ban. Across the nation, hundreds of businesses have failed due to the implementation of smoking bans. It could effectively reduce the annoyance level due to second-

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

hand smoke, through. Now let's look at what this ordinance will not do. It will not lower health care costs. No evidence that I have seen or heard has been presented that show that health care costs have been or will be reduced at all, anywhere, as a result of smoking bans. This ordinance will not reduce the number of people smoking. There was evidence tonight that I heard but I have not seen that has been presented that supports documents that the number of smokers has decreased as a result of smoking bans. This ordinance will not offer a cure for cancer or any other tobacco- or smoking-related diseases. This ordinance will not lower health insurance premiums paid by anyone. No documentation, again, has been presented to show that health insurance premiums have dropped as a result of smoking bans—that I have seen. This ordinance will not cause the number of preventable deaths to go down. No documentation, again, has been presented to show that preventable deaths will decrease as a result of a smoking ban. So questions remain. Does the risk of the loss of business, liberty, and freedom worth the supposed health benefits that will probably not occur as a result of the smoking ban? Where are the statistics that show that people do not have a choice but to accept a job in a smoking environment? I've heard a lot of people talk about it, I've seen nothing that is documented that shows that that is a true issue here. This ordinance will have a significant impact on 17 businesses, approximately. This ordinance has many exemptions. Why not these or even a variation of these businesses? Places that allow substantial smoking, as in smoking bars, are exempted. Yet, businesses that allow some smoking we must eradicate all smoking in those businesses. What door will this ordinance open up for all other annoyances and agendas? When do we start banning fatty foods? Obesity is fast becoming more of a problem in America than smoking is. On March 31, Councilor O'Callaghan stated that, in reference to airborne toxins, that no standards have been established. I don't believe that there are any standards that have been established, so my question to that is what is this position based on, if there's no standard? Since when has government ever made better health decisions on an individual's life than they can make on themselves? The bottom line is, in my opinion, this ordinance is poorly written, it's unenforceable, it's inequitable, it's prejudiced, and it's socialistic. It's a bad ordinance with bad implications for everyone, and I think it would be irresponsible at best to pass this ordinance as it is. Thank you.

Mayor Mills said Mr. [Councilor] Plomin, do you want to make any comment?

Councilor Plomin said yes. Councilor Keen, are there some amendments that you would like to make, to make this more amenable to everybody?

Councilor Keen said I have a number of them, but I doubt that any of them would pass.

Councilor Satterly said you're probably right.

Councilor Keen said so I was going to spare everyone the sordid details, but if you'd like to hear them, I could offer them up, if you would second them and we could discuss them.

Councilor Plomin said I would second them, yes.

Councilor Keen said okay. I would like to offer an amendment to this proposed ordinance. In Section 64.05, where it says that smoking is not regulated, I would like to add a number (8) that says, "Any business, bar, restaurant, or establishment that can safely and effectively remove

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

substantial smoking contaminants from the air, so that patrons or employees do not smell or breath second-hand smoke or contaminants from second-hand smoke.

Councilor Plomin said I second.

Councilor Keen said I offered that amendment and I appreciate the second on that, in light of a number of issues and conversations that I've had with Councilor O'Callaghan in the past. My original reasoning—what I'd really to see this ordinance do—is to regulate indoor air quality, as opposed to putting a ban on smoking. I think that's a much more logical and reasonable approach to this effort. Now, there's a number of issues with that, and one of them is that there are not any levels set for these kinds of things. There's no regulatory way in which you can control these things that I'm aware of. But then again, a lot of this ordinance is unenforceable anyway, so that's kind of a moot point, really. In light of what these gentlemen showed us the other night at Pre-Council, I think it would be worthwhile to at least offer the idea that, if someone can show that they have effectively removed substantial contaminants from the air, then they should be allowed the privilege of running their business as they would like to do so. That's my reasoning.

Mayor Mills said all right. We have an amendment on the floor to add, in Section 64.05, and I'm going to paraphrase this, you can read it again, if you will, effectively removing contaminants from the air.

Councilor Plomin said I would—

Councilor Truitt said who's going to determine whether it's safely and effectively removed?

Councilor Keen said the same people that enforce this.

Councilor Truitt said okay, so the Mayor or the Mayor's designee?

Councilor Keen said yes. I mean, that would be my assumption.

Councilor Hunt said may I make a comment, please?

Mayor Mills said Councilor Hunt.

Councilor Hunt said I guess I don't understand. We have two experts from Purdue School of Health Science that say these—and whatever that long name for those engineers—that say the ventilation systems don't work. And there are no standards. I don't know if you've been involved in writing standards, I have in nursing, and it takes forever and ever and ever, and it's something that a professional science does. It seems like you're going against the data that we've received. Supposedly it does remove the odor, which is nice, but—

Councilor Keen said just because we don't have standards set now, does that mean we can't at least leave that opportunity in there for the business, so that at what time in the future those could be established, we could still implement them?

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Councilor Hunt said well, first of all, we have documentation or evidence from two professors and one engineering association that says that ventilations don't work. I can't disagree—

Councilor Keen said I don't think that their system that I saw on Thursday is completely dependent on ventilation. I mean, ventilation is a large part of it—

Councilor Satterly said it is. It's dependent on ventilation.

Councilor Keen said it is a large part of it, but the effective part of removing the contaminants had nothing to do with the ventilation part of that. I mean, the ventilation part of it, from what I understood, was just the part that had to move the air, but the rest of it was the part that actually removed the toxins and that sort of thing from the air.

Councilor Plomin said I don't think the question is—

Councilor Truitt said are you going to—

Councilor Keen said and I'm not saying that they have to get their system. I'm saying that there could be— I just learned of this system last Thursday. So what I'm saying in my mind, if there's one, there's got to be 100.

Councilor Hunt said but Councilor Keen, the two professors and the professional engineers say ventilation systems don't work, whether it's EcoQuest or whatever Philip Morris pushes, or whatever they say. They're not effective.

Councilor Plomin said in that case—

Councilor Keen said and there's probably another two out there someplace that say that it would work, and I just don't know those people at this point in time. My point is, again I go back to what I read earlier about how there's so much evidence, scientific data, on both sides of this issue to support either side. And I think that, in light of that, I think that there has to be other people out there that would support this position as well. I'm just saying, why can't we give them an opportunity?

Councilor Hunt said given that we've heard from two professors and one engineering society, what makes you think there's somebody else out there that disagrees with those points?

Mayor Mills said if I could just interject, I think that you're getting off on a tangent here. If we don't have current national air quality standards that we can implement, I don't see how we can write something in our ordinance that doesn't exist currently.

Councilor Keen said you made my point perfectly. We have no national air standards to base any of this ordinance on, and yet we're affecting the ordinance. But now, I'm just talking about giving an opportunity, and so that's my whole point. I would like to see us give an opportunity.

Mayor Mills said Councilor Plomin.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Councilor Plomin said this seems like a common-sense amendment, because it doesn't set the standard, it allows it to be set to the Mayor's satisfaction or her designee.

Councilor Truitt said right. So if there's not a standard, then the Mayor just says, "No."

Councilor Plomin said so if there's not a standard, if the Mayor says the standard must be huge, impossibly high to reach, then at least it's there.

Mayor Mills said my point is there isn't anything there, because there exists no standard.

Councilor Plomin said as of April 2004, over 1,700 communities enacted local indoor air quality laws. In 2003, the State of Delaware set indoor air standards. It's possible for local communities, states, to set indoor air quality standards, and they do exist. The question is whether or not we're even going to allow indoor air quality standards, regardless of how high, to be put into place in this. If it's just about controlling the smokers and getting the smokers out of the bars, then we don't care about the air quality and we don't care about the health ramifications, we just care about getting the smokers out and getting the tobacco outside. Then it's immediately clear, the real purpose of this ordinance.

Mayor Mills said Councilor O'Callaghan.

Councilor O'Callaghan said thank you. I was looking in my packet. I didn't end up with a full packet, after I stayed after Pre-Council and made up those packets for you guys, but I don't think anybody has theirs with them either, so I can't pull it out, where it talks about the Chicago ordinance and how that muddied the waters and made it very difficult and it's just not the practical way to go. Maybe sometime when we do have the standards and we have the way to evaluate it, that would be something that we could do, but we can't do it at this time. We have lots of information about the ionization and ozone process that doesn't bear out any kind of claims for health benefits, so it just seems like a nonsensical thing to add when we can't establish it.

Mayor Mills said all right are you ready to have the question on this amendment?

Councilor Truitt said Madam Mayor, if that was put into the ordinance, are you voting for the ordinance or not?

Councilor Keen said I don't know.

Councilor Truitt said you know if you would.

Councilor Keen said that would increase the likelihood that I would, yes.

Councilor Truitt said if I understand your position. To me, that goes back to my first paragraph, acceptable compromise is that the Mayor's decision, what's acceptable and safe, but if you're going to make the amendment and Councilor Plomin's going to second it and you're not going to vote for the full ordinance, then—

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Councilor Keen said well, this is not the only issue I have with this ordinance—

Mayor Mills said all right. Let's go ahead and have the vote on this amendment, please. Will you call the roll on the amendment. Please.

Someone from the audience said are you open to public comment on the amendment?

Mayor Mills said no, we're not.

Someone from the audience said you're not legally? Do you have the right to not allow public comment?

Mayor Mills said yes.

Someone from the audience said is that Robert's Rules of Order?

Mayor Mills said call the roll, please.

The roll call vote on the amendment:

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

The amendment to Ordinance No. 8-06 failed, 2-4.

Mayor Mills said other comments?

Councilor Truitt said I'd like to talk a little bit about the smoking bar exemption, if I could and just, very quickly, it doesn't have to be long. The 25% figure, how was that arrived?

Councilor O'Callaghan said the New York ordinance has a 10% figure, and at the first public meeting that we had, Councilor Satterly and Councilor Griffin asked to raise that, and so I raised it to 25%.

Councilor Truitt said all right.

Councilor O'Callaghan said it's an amount that can't be generated by selling cigarettes with vending machines or things like that. It truly is part of the business.

Mayor Mills said any other comments?

Councilor Plomin said Gerry [Councilor Keen], do you have any more amendments that I can vote yes on?

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Councilor Keen said I'm not going to offer any more, Matt [Councilor Plomin]. Seriously. It's a moot point. It's a moot point.

Mayor Mills said Councilor Plomin do you want to make any other comments before we vote?

Councilor Plomin said yes. I wrote some things out. By the way, I was a member of the Pipe and Cigar Club at Purdue. I've got my cigar here with me. It's not lit, so I'm okay. I've never been betrayed by sticking to my principles and doing what's right. The smoking ban is the most irresponsible thing our government can do. Watching these liberties erode under our feet and on our watch is disgusting. I wish Councilor O'Callaghan had never proposed this ordinance, because it is an attempt to impose what Tocqueville called "a tyranny of the majority" on the minorities. I also hope the valuable Police resources will not be used and are not taken off the street to prevent me from lighting up. This City has a longstanding tradition of making things very difficult for bar and restaurant owners, especially those in the Village. I hope this administration is accommodating to any physical modifications, including outdoor dining that ensure compliance without throwing the same old roadblocks like inadequate parking in the way of this progress. West Lafayette has a tendency to do things like this, just because it can, because it has the votes. After all the obstinance and the majority's unwillingness to accept reasonable compromise, I encourage all business owners opposed to this law to use the exemptions and parameters in the ordinance to their legal limits in order to preserve and protect your investments in our great community. People elected me to come here and vote my conscience, so I've opposed this ban since it was just an idea and since we had a joint community meeting on it. I've never cared about pandering to public opinion and I don't do things with a mind to political expediency. However, I was elected with a promise to be responsive to public opinion, and when public comment reaches such a critical mass, my responsibility to be representative of my constituency outweighs my obligation to promote my own philosophical beliefs. Therefore, I will vote for this ordinance with great personal objection. Thank you, Madam Mayor.

Mayor Mills said thank you. Any other comment before we vote?

Councilor O'Callaghan said thank you, Mayor. Just a few things. One, Gerry [Councilor Keen], I couldn't pull everything out, but the statistic that I quoted about the 8.6% was in the packet that I prepared for you on Thursday.

Councilor Keen said the one I got tonight?

Councilor O'Callaghan said no, the one that I prepared on Thursday night and emailed you by the time I got home at 7:00 o'clock that it was in your mailbox. The organizations that support smoke-free workplace ordinance, I left a paper at everybody's place tonight—The American Cancer Society, American Heart Association, American Lung Association, Arnett Health System, Coalition for a Safe and Drug-Free Tippecanoe County, Colleges Against Cancer, Greater Lafayette Health Services, Hoosier Faith and Health Coalition, Indiana Academy of Family Physicians, Indiana Latino Institute, Latino Coalition of Tippecanoe County, Midwest Dental Society, Purdue Health and Kinesiology Graduate Student Organization, Purdue Pharmacy Student Council, Purdue Student Government, Purdue Student Wellness Office, also the Office of Worklife Programs, REACH from West Lafayette High School, Sigma Medical

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Group, STEP, Tecumseh Optometric Society, Tippecanoe County Medical Society, Unity Health Care, and the West Lafayette Youth Council. In terms of implementation, the Tobacco Control Partnership can provide for implementation at no cost. And I have a packet for each Councilor, if this does pass, and it sounds like maybe it will. They can provide signs for all the businesses, so that they don't have to invest in it. They can provide a packet that has—this is the example of what they provided in Indy that has brochures and talks about smoking cessation as well, and how to prepare your business, financial costs of smoking, the ordinance and the letters—there are materials that we can provide for businesses for implementation. And in terms of enforcement, no ordinance has those specifics about enforcement in it. Those are procedures, not policies. We have, unfortunately, too long a time, but we have a long time to develop those policies.

Mayor Mills said thank you. All right. I will just make several very brief comments. I just want to remind the Council of the letter that we all received from Michael Maurer, who is the president of the Indiana Economic Development Corporation, urging the Council to support this ordinance. Patti [Councilor O'Callaghan] listed many of the other groups, but the Arnett Health System, the Greater Lafayette Health Services, and Sigma Medical Group, and, of course, the Purdue Student Senate all sent us letters of support and resolution. I think there are a few basic issues for me. Cigarette smoke is a known cause of cancer in humans. We have 3,000 lung cancer deaths and 30,000 to 60,000 heart disease deaths in this country every year in non-smokers. Second-hand smoke is especially harmful to children. We heard some people talk about that, address that issue today. Just this past week, I was at Happy Hollow School for the graduation of all of our fifth graders in the DARE Program. They all make a pledge to be smoke and alcohol free, and I don't take that pledge on their part lightly. I think protecting the public health of our young people is very important. We also heard from Ms. Lewis that 43% of the food service workers in our country are not covered by smoke-free workplace policies, while 75% of white-collar workers are. I think that's a very important statistic. I just believe that the community has shown very strong support for this ordinance. I think it will protect the health of our citizens, particularly those working in food service sector, and I urge all of you to vote yes on the ordinance tonight. All right, will you call the roll, please.

There was no further discussion.

The roll call vote:

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

Ordinance No. 8-06 passed on final reading, 5-1.

Mayor Mills said thank you all for being so involved, for coming, taking so much time through this process to make your thoughts and comments known for us. We have a little bit more business to conduct tonight, so if you're not interested in staying for the last few pieces of business, if you'll move out so we can do it without too much noise, please.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Resolution No. 9-06 A Resolution Requesting The Transfer Of Funds (MVH) (Prepared by the Clerk-Treasurer) Councilor Hunt read Resolution No. 9-06 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 to move \$30,000 in Motor Vehicle Highway, Road Improvements into the same Motor Vehicle Highway, but into Land Acquisition. This is for right-of-way purchase for the Salisbury Street Safety Improvement Project. Are there any questions or comments?

Councilor Plomin said I have a question for Mr. [City Engineer] Buck.

Mayor Mills said Councilor Plomin.

Councilor Plomin said it's your meeting today, Dave [City Engineer Buck]. Where will this purchase land?

City Engineer Buck said I'm sorry?

Councilor Plomin said where will this purchase land?

City Engineer Buck said at several of the intersections on Salisbury Street. Streets come in at an angle, and it creates kind of an acute angle of property lines, and by improving the turning radiuses at the intersecting streets, we're going to be crossing over onto those little corner points. So, probably three or four of those represent small corner points.

Councilor Plomin said is this Williams?

City Engineer Buck said no—

Councilor Plomin said no, I mean—

Mayor Mills said no, this is Salisbury Street

City Engineer Buck said Salisbury Street, from Robinson up to Riley Lane.

Councilor Plomin said is this Councilor O'Callaghan's house?

City Engineer Buck said right at the corner of Robinson and Meridian on the north side of it.

Councilor Plomin said have you filed a conflict of interest, Councilor [O'Callaghan]?

Councilor Satterly said she's not going to take any of her land.

Councilor O'Callaghan said across the street from my house.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

City Engineer Buck said it's not for her—

Councilor Plomin said not for her house.

City Engineer Buck said property. No, there's nothing involved. The project starts on the north side.

Councilor Plomin said okay. The Basham property there, or formerly the Basham.

Councilor Satterly said weren't you going to take some land to make a right-turn lane at Grant Street?

City Engineer Buck said yes, that's probably—

Councilor Satterly said that's the biggest, isn't it?

City Engineer Buck said well, the school corporation has a large piece as well, where we're going to put in a wider sidewalk and improve some turning radiuses at their driveway, but, yes, the Grant Street intersection, the property on the north side of Grant Street there, there is, I'm going to say, probably a five-foot wide strip along what would be their eastern property line, to create a true right-turn lane and a true straight lane, instead of the current configuration.

Mayor Mills said thank you. Anything else for Mr. [City Engineer] Buck? All right, call the roll, please.

There was no further discussion.

Resolution No. 9-06 passed on first and only reading, 6-0.

COMMUNICATIONS:

Mayor Mills said I have just one communication tonight. Just a matter of historical note, I guess you would say. We finally have former Mayor Sonya Margerum's photo on the wall. We were a little slow in getting that up there. All the other Mayors and Clerk-Treasurers who have served, and we finally have her.

Clerk-Treasurer Rhodes said yes, we asked and asked and asked, and I'm glad she finally acted on it.

Mayor Mills said we finally got it. That's just for your information.

CITIZEN COMMENTS:

Smoking Ordinance:

Mr. Eric Timmerman said I felt compelled to do this. In regard to your statistics that you so vehemently rely on, Benjamin Disraeli, who was a British politician, once said, "There are three kinds of lies: Lies, damned lies, and statistics." I also want to quote John Locke, who is a British philosopher as well. In his Second Treatise of Government, he talked about the Principle

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Absolute Rights, which appertain to every Englishman. I think we can transcend that to everyone here now. "The great chief end, therefore, of men's uniting into commonwealths and putting themselves under government, is the preservation of their property." He also said, "Whenever the legislatures endeavor to take away and destroy the property of the people or reduce them to slavery under arbitrary power, they put themselves into a state of war with the people who are thereupon absolved from any further obedience." So, I'd like to be the first to challenge your smoking ban. [Mr. Timmerman lighted a cigar.] I love America. I love my freedom, and this Council, in its infinite wisdom, has now trampled upon such. Thank you.

City Attorney Bauman said are you this rude everywhere you go?

Mr. Timmerman said it's not rude, it's freedom.

Mayor Mills said any other citizen's comments?

Mr. Derrick Raymer said I would just like to say one thing to the Council about the people that have talked tonight about the emails you've received, especially in the last couple weeks about people supporting the ban, and that's obviously true, I don't deny that. But I think it's also a coincidence that it comes along with the very timely and, I'm sure, very expensive advertising campaign by Ms. [Councilor] O'Callaghan's side for the last week or however long it's been, with full-page ads in *The Exponent* and the *J and C*, urging people to email you all and vote for the ban. I'm sure if we would advertise ours as well, I'm sure you would get a significant number of emails, but we didn't realize that that was the way we were supposed to do it. We thought we were supposed to come to the City Council members and talk to you guys that way. So maybe if we advertised the opposite side, then you'd get a couple hundred emails and maybe you guys would consider repealing this ordinance. Thank you.

Mayor Mills said thank you.

Councilor Plomin said can I comment to that?

Councilor Hunt said I'd like to also.

Mayor Mills said okay.

Councilor Plomin said no one gets elected in politics without knowing how the game is played. You get your side together, you band together, you all go at the issue together—

Mr. Raymer said I'm not a politician, Matt [Councilor Plomin].

Councilor Plomin said I know, we all are. And so I'm aware of the ads. I was aware of it the first day, because the first person that emailed me after it said, "After reading the ad in the paper with your email address, I decided to email you and encourage you to continue not supporting this ban." First email I got. And after that, I got a mix of supports and don't supports. And the number of people who emailed in support of this was so overwhelming. Since Thursday or Friday, I've gotten over 150 emails, and I've got them all on my Blackberry; you can read them

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

all. The pros were so overwhelming, you can't deny it. If they read an ad and got my email address out of it, an opponent could have done the same thing.

Mr. Raymer said I understand, but there's two problems. Number one, a huge number of our business, especially in the bars, comes through are not residents, are not voters, and cannot make a decision, and cannot affect who is on the Council. And you cannot deny that.

Councilor Plomin said oh, yes, I agree.

Mr. Raymer said it's also, unfortunately, a somewhat and sometimes apathetic section of this community that doesn't pay any attention to what goes on until it's already happened.

Councilor Plomin said that's true, too.

Mr. Raymer said it's also a lot of the people—70% of my business comes in the four months of the football season, which is half from out-of-town people that cannot make the decision in this case. That's the thing that I've been trying to get across the whole time, the Council has never taken into consideration. We have a very small number of the population that support our businesses, very, very small. At the Wabash Yacht Club, 90% of the people who come in there, come in three times a week. If I lose half of those, I'm done. I want you guys to understand it, because I don't think the Council understands it.

Councilor Hunt said Madam Mayor, may I make one comment?

Mayor Mills said Councilor Hunt.

Councilor Hunt said Mr. Raymer, I've been keeping data since the 4th of January. And it was running 84% before that. I've gotten a lot since the ads that were from the two different groups. Several people said how attractive Mrs. Cook [Mary Cook, co-owner of Harry's Chocolate Shop, The Pub, and The Other Pub] was, by the way. And I got several responses that agreed with that ad, but I did get sort of a volume the last 5, 6 days, but it was still 84%. I mean, since the first of January.

Mr. Raymer said when I talked about the emails, we were talking about our customers, what our customers want—

Councilor Hunt said again—

Mr. Raymer said you guys have not taken that into consideration at all.

Councilor Hunt said again, I've talked to many students, lots of students, and they really tell me they would like to go to the bars if—

Mr. Raymer said and I talk to thousands of them a week that come into my bars that don't want the smoking ban, but you discount anything that I bring to table every time I do it. Any facts, any figures, any opinions. Any data we've brought this entire time has been discounted. Every single time. I just want that on the record.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Mayor Mills said thank you. Any other comments?

Mr. Greg Ehresman said I just have one.

Mayor Mills said will you come up, please, Greg, so we can get it in the minutes?

Mr. Ehresman said when this passes—I mean, right now, what is the smoking policy for the City of West Lafayette? Is there one?

Mayor Mills said for the City of West Lafayette?

Mr. Ehresman said for the City and its employees right now, currently. Is there anything on the books?

Mayor Mills said we are smoke-free in this building.

Mr. Ehresman said in this building. What about the cars and stuff when people are out driving around?

Mayor Mills said not right now.

Mr. Ehresman said they can pretty much do whatever they want?

Mayor Mills said yes.

Mr. Ehresman said when this goes into effect, will that stay the same? Will that be exempted from it or will they—

Mayor Mills said no, sir.

Mr. Ehresman said no one can smoke while they are employed or on the clock in the City?

Mayor Mills said in no property or in no vehicle.

Mr. Ehresman said okay. And all these people are well aware of this, your employees?

Mayor Mills said oh, yes. You've heard some of them come and speak, actually.

Mr. Ehresman said yes, I have. I just wanted to make sure of that and just see where we were as far as smoke-free in the building but not in any of the vehicles currently.

Mayor Mills said but we will be.

Mr. Ehresman said but we passed the ordinance, because you can't do that on your own first hand.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Mayor Mills said we will be. We will all be smoke-free.

Mr. Brad Cohen said why am I here? I have no idea. I'm sad and I'm disappointed at our City Council. You've taken away a choice of a legal action, the freedom of customers to choose where to eat and drink, the freedom of employees to choose where and what to work, the freedom of employers to choose how to manage their business within their legal rights. You have taken these choices away. This is the first. Who knows what's next? At a minimum, you all had the opportunity to compromise—for children, you could have very easily made dining rooms non-smoking, left bars alone. It's a legal right. The employees have a right. Businesses have a right. You all, both sides of the table, spoke about their choices. They chose to eat at certain restaurants, they choose to drink at certain establishments. We have choices. If you don't like my pizza, you can buy another pizza. I don't force my pizza upon you. I don't force smoking upon you. I don't force smoking upon my employees or my customers. You have choices in this world, and I hope you do not take any more of my choices as a consumer, as a business owner away.

Mayor Mills said thank you.

Councilor Hunt said may I move for adjournment? Oh, I'm sorry. I didn't see you.

Ms. Mary Cook said I agree. I'm just following— The only thing I say is, and I've reiterated it for this entire thing, if you really want— If all these wonderful students that support us and all these wonderful people in town that say we need a smoke-free bar. It's a free country. Isn't that a point of having free market society? Why didn't somebody else come up with the idea? I welcome competition, I've dealt with it for 30 years in my business. I have never discredited someone for coming into competition with me in the Village. Ever. And you can ask. You can ask any of these people that I've become very close to over the last six months, because we work together as businesspeople. So why, of all of you people about to graduate from Purdue like each one of us did, that's where we got the idea. We're not rocket scientists. We graduated and we liked it, and we wanted to be part of this community, and a total of 17, mostly 10 in the Village, including the Ehresmans. We didn't invent this. Why didn't somebody else come along and take your advice and open a smoke-free bar, rather than telling me what to do? Final comment.

Mayor Mills said thank you. All right. Any other announcements?

Announcement of Child Abuse and Neglect Awareness and Prevention Month:

Councilor O'Callaghan said just in terms of communications, just to remind people that April is Child Abuse and Neglect Awareness and Prevention Month, and on Wednesday, April 5, at noon at the Courthouse, will be a proclamation declaring it such.

ADJOURNMENT:

There being no further business at this time, Councilor Truitt moved for adjournment. Motion was seconded by Councilor Hunt and passed by voice vote, the time being 10:48 p.m.

COMMON COUNCIL MEETING MINUTES, APRIL 3, 2006, CONTINUED

Respectfully submitted,

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