CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES

SEPTEMBER 28, 2006

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on September 28, 2006, at the hour of 5:37 p.m.

Mayor Mills called the meeting to order and presided.

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

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

UNFINISHED BUSINESS: None.
Clerk-Treasurer Rhodes said I did need to make a comment to the Council. We would have had the second reading of the additional appropriation on the Rainy Day Fund, but we were short one day in the advertising, so therefore I postponed doing that until after we can. We just missed by one day. We need a little bit longer to advertise, so we'll consider that at the next monthly Council meeting.

Mayor Mills said in November?

Clerk-Treasurer Rhodes said yes.

NEW BUSINESS:
Ordinance No. 29-06 An Ordinance To Establish The Major Moves Fund (Prepared by the Clerk-Treasurer)

Mayor Mills said as you know, we will get in October our first amount of Major Moves money from the State, and so we are establishing a fund for those monies. These monies will be used for street and road projects. Any questions? Comments?

Clerk-Treasurer Rhodes said I just want to make a comment that we're not required by the statute to establish a separate fund. However, it was especially the desire of the Public Works Director, and I concur, for tracking the use of these funds, that we establish a fund. However, it is still governed by the same uses as the Motor Vehicle Highway distribution would be.

Mayor Mills said good, thank you.

Councilor Hunt said I have a question about this. I thought we were told we were told we were going to get $194,000, and keep seeing $311,000.

Mayor Mills said well, we're getting money for two years.

Councilor Hunt said and so that $311,000 is two years?

Mayor Mills said where do you see that $311,000?

Councilor Hunt said at the bottom of Form 4A.

Mayor Mills said it's on the budget?

Councilor Hunt said yes. Did I make up that $194,000?

Clerk-Treasurer Rhodes said there have been two estimates of the distribution we would make, and the most recent one was from the State Auditor's Office was in the amount of $198,325.50. That is the estimate as of March 29, 2006.

Mayor Mills said would you say that again, please?

Clerk-Treasurer Rhodes said $198,325.50. That is the estimate as of March 29, 2006, and there may have been another estimate, because it is based on the formula which depends on road mileage changes, vehicle registration count changes which can affect the distribution.

Mayor Mills said and I think what you're seeing is the money we've budgeted for next year.

Councilor Hunt said okay.

Mayor Mills said we're not budgeting the entire amount. Okay, does that make sense?

Councilor Hunt said okay. Thank you.

There was no further discussion.

Ordinance No. 30-06 An Ordinance Providing For Temporary Loans From A Fund Having Sufficient Balance To A Depleted Fund (Prepared by the Clerk-Treasurer)

Mayor Mills said this is to, again, move money from Parks Nonreverting Operating and the Wastewater Treatment Utility into the General Fund, so that we can pay for our business in anticipation of our tax draw being received. So, the normal use of monies from other funds for operating expenses until those tax draws can be logged.

There was no further discussion.

Ordinance No. 31-06 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #52) (Submitted by the Area Plan Commission)

Mayor Mills said Councilor Griffin, do you want to comment on this?

Councilor Griffin said yes. [Ordinance No.] 31-06 is basically some minor changes, clarifying of buffers between different zonings, in order to protect both types of zonings. It's become evident that there was need for clarification, as the prior new ordinance has been tested and used.

Mayor Mills said any questions for Councilor Griffin?

There was no further discussion.

Resolution No. 25-06 A Resolution To Maintain Adequate General Fund Cash Reserves (Submitted by Councilors Keen, Plomin, and Truitt)

Mayor Mills said this is the resolution introduced by some of the Council members, to maintain a 10% cash balance in the General Fund and to include that for each of the budget years following 2007, the cash reserve increases by 1% until it reaches 15%.

Councilor Satterly said may I speak to that resolution?

Mayor Mills said certainly, Councilor Satterly.

Councilor Satterly said when I read this resolution, which is written to be mandatory on the Mayor. It uses the words, "The cash reserve in the General Fund shall not be less," which is a mandatory term, and I was concerned about the separation of powers between the executive branch and the legislative branch of the City, and so I asked the City Attorney for an opinion, and he provided that to me yesterday. I have provided copies for everybody on the Council and I put them in their mailboxes today, and the City Clerk also sent email out, which I appreciate. I'm not sure I knew how to do that on my computer. But I would say that this resolution would be illegal if it were to pass, based on the opinion from the City Attorney. So I would give Randy [Councilor Truitt] an opportunity to withdraw that resolution if he wishes. If he does not, I'd make that motion that we withdraw it.

Councilor Griffin said I'd second the motion.

Mayor Mills said discussion?

Councilor Keen said well, can I address that?

Councilor Satterly said sure.

Councilor Keen said I have a copy of the findings from Gambs Mucker & Bauman, and nowhere in there do I find him saying that this resolution is illegal. What he does emphasize is the fact that he's referring to the budget itself. He refers to the budget itself and how this may require the Mayor to do something with the budget. This resolution does not require anything to be done, as far as mandatorily with the budget. What it is asking is that, through the budget process, or through the way we do business, that we maintain a General Fund cash reserve. I would also say that there is highly unlikely any way that this could be illegal, because we are not precedent-setting here. This is something that is done by cities all over the United States and the State of Indiana, as well. I don't see where—

Councilor Satterly said requiring the Mayor to present a budget—

Councilor Keen said no, it's not requiring the Mayor to do anything. It's requiring the Council to maintain an adequate balance of funds and/or reserves.

Councilor Truitt said and if it was an illegal situation, you wouldn't have a book written in regard to maintaining adequate cash reserves. You would not be able to go to websites or talk to other municipal officers that currently require adequate cash reserves within their budget. It's not a mandate to the Mayor. Now, if you would like to have that wording changed, what I heard tonight was multiple individuals talk very favorably about the fact of a desire to maintain adequate balances. I was excited to hear that. So I also then said to myself, "Great, when we get to this resolution, we'll probably have some individuals that will put their vote behind that statement. So what I would like to hear from counsel or from someone, what do we need to do in regard to this resolution, in order to begin to have a fundamental document or program or philosophy in place to allow us to budget to? So that's what we're trying to go after here, and if we can't do it at all, then I'd like to know that for sure. I didn't read that in that letter that it's totally illegal.

City Attorney Associate Flanery said may I speak to that, please?

Councilor Truitt said yes, please, I would love that.

City Attorney Associate Flanery said [City Attorney] Bob Bauman did write this, but I am an attorney in his office, and—

Councilor Truitt said and what is your name?

Mayor Mills said I'm sorry, we should—

City Attorney Associate Flanery said I apologize. My name is Taylor Spalding Flanery. I'm an attorney with Gambs Mucker & Bauman, and I'm stepping in for Bob Bauman today, based on the fact that he's attending his son's wedding.

Mayor Mills said thank you, and I should have done that at the beginning tonight. I apologize for not introducing Taylor.

City Attorney Associate Flanery said I apologize for that, too, that I didn't introduce myself to everyone. But, basically, I have read the statutes that he has discussed in this letter, and also have done basically the same research that he had done. To answer your question, I think the main way that the Council, according to the Indiana statutes is allowed to make sure that there are adequate cash reserves, is to decrease any amount in the budget that the Mayor presents that they want to just decrease. That statutory authority is given, it's cited here in the letter itself, and that is one of the ways, obviously, to spend less cash is to spend less money. That keeps the balances of the reserves up. The resolution itself does actually impact what the Mayor does, because it says in here in statute [IC] 36-4-4-4(b)(3) that, "The city executive," being the Mayor in this instance, "shall meet with the departments"—excuse me, I think I cited the wrong part, but the Mayor revises the different estimates or requests of the departments to come up with the budget request that is submitted to the Council. And then the Council has a different role. The Council does not tell the Mayor what to put into the budget, but the Council at any point can decrease any of those numbers, and may have valid reasons for doing so. Cannot, according to the statute, increase those numbers without the agreement of the Mayor, though.

Councilor Truitt said so, in other Indiana cities that have this type of program in place, it's more of a financial philosophy statement, then, it's not a resolution?

City Attorney Associate Flanery said I don't know, personally, because I did not do any research about that, what other Indiana cities have in regard to resolutions or philosophies into this regard.

Councilor Truitt said do you know if Mr. [City Attorney] Bauman spent any time talking to any other municipalities that are comparison third class cities like ours?

City Attorney Associate Flanery said I don't know that answer to that. I'd looked at the statutes that he had in this letter and read them for myself, to understand them, to be able to speak to that today. If you would like me to find out that information, I would be happy to do so.

Councilor Truitt said do we have, as elected officials, do we have the right to call out an opinion being formed by the Attorney General, or is that only by legislators?

City Attorney Associate Flanery said again, I'm not aware of that.

Clerk-Treasurer Rhodes said you have the right.

Councilor Truitt said do I have the right?

City Attorney Associate Flanery said thank you, Ms. [Clerk-Treasurer] Rhodes.

Councilor Truitt said so I could get this done for—? How long did it take for this to be done?

City Attorney Associate Flanery said I don't know. I myself read it and did some reading on it and so forth, and that took me about an hour and a half, but I don't know how long Mr. [City Attorney] Bauman spent doing the initial research.

Councilor Truitt said okay.

Councilor Keen said Madam Mayor.

Mayor Mills said yes, Councilor Keen.

Councilor Keen said I do have an alternate opinion from another attorney here locally, and if I could read that, I would like to, just to get it on the table. This is from attorney Eric Burns. He says that, "The legal opinion does not address the resolution. In the first and last paragraphs of the appended question and legal opinion answered is framed in reference to controlling the Mayor's submission of a budget. On this I agree with Mr. Bauman. Unfortunately, for his opinion, the resolution does not attempt to control the Mayor or her budget. It says, 'The City shall ultimately, when all Council votes are taken, have certain cash reserves.' The Mayor may present any budget she wants. This resolution which, if passed, could be overruled any time by the Council voted otherwise, but it just loosely binds the Council to cut expenditures until certain cash reserves are achieved. The legal opinion has nothing to do with this resolution, except

support it and stating that the Council may impact cash reserves by exercising its power to reduce budget expenditures." I just have that in the form of an email; I don't actually have it in a legal opinion form like this, but if you need that, I'm sure I can get it.

Councilor O'Callaghan said so he says he feels it just loosely—

Councilor Keen said I just got this today, so—

Councilor Plomin said I have a question from—

Councilor O'Callaghan said but just could you read that part again?

Councilor Keen said, "The Mayor may present any budget she wants. This resolution which, if passed, could be overruled any time by the Council voted otherwise, but it just loosely binds the Council to cut expenditures until certain cash reserves are achieved."

Mayor Mills said and that's what Taylor [City Attorney Associate Flanery] basically said to you.

City Attorney Associate Flanery said yes, that's what I said that you could do, based on the statute.

Councilor Keen said and that is the intent of what we're doing here—

Councilor Plomin said I have a question.

Councilor Keen said is we're trying to— Go ahead.

Councilor Plomin said for Taylor [City Attorney Associate Flanery]. Does this necessarily bind the Mayor? Because there's another option— This binds the cash reserve in the General Fund. It doesn't bind how the Mayor submits the budget.

Councilor Keen said exactly.

City Attorney Associate Flanery said that's correct.

Councilor Plomin said the Council can take action to make this happen, so it does not necessarily bind the Mayor.

City Attorney Associate Flanery said I would have to read it again, but, I mean, the statute—

Councilor Plomin said real quick, let me read it.

City Attorney Associate Flanery said sure.

Councilor Plomin said, "[1] The cash reserve in the General Fund shall not be less than ten percent (10%) of the General Fund budget for the 2008 budget and thereafter; and [2] For each of the budget years following 2007, the cash reserve of the General Fund shall increase by one

percent [1%] to the General Fund budget until reaching the minimum cash reserve of fifteen percent [15%.]" It doesn't talk anything about the Mayor, it doesn't say anything about how the Mayor can submit the budget, how the Mayor can go through the budgeting process. It just says that, at the end of the day, after the Council is presented the budget, the Council's will is that we reduce expenditures ourselves and not stand on the Mayor— There's no separation of powers violation.

City Attorney Associate Flanery said what I'm saying, though, is you can do that without this resolution, because that's given to your power to do that under the Indiana statute.

Councilor Plomin said yes, but this is great to say. We had Pre-Council meetings, we had previous Council meetings, and we had informal meetings where Councilors said, "This low, no lower, and we will make sure to build these funds up in the future." And that's great. Let's put it on paper, let's put everything in black and white and say, "10% is reasonable," and let's take it and put it on paper and move forward.

Councilor Keen said and I don't understand why anyone would really want to oppose that philosophy in finance anyway.

Councilor Griffin said may I explain why I would oppose it?

Mayor Mills said Councilor Griffin.

Councilor Griffin said my concern here is that, you know, I'd like to say although I understand in some states there are actually limits on how high the cash reserve can go, that cities are not allowed to accumulate too much money. And the philosophy is that, what they take from the citizenry, they need to get spent and not be accumulating. So, I mean, that's another philosophy, but my concern is that we can't necessary see—well, we can't for sure see one year ahead—but we can't see three or four years ahead and not know that this marvelous goal may be—everyone behind this dais may decide we can't achieve that. We've laid off, let's say, three years from now for whatever reason, there have had to be layoffs, as there have been in many cities. Heaven forbid that happens, but we can't see into the future, and I think that to pass this and say that we are going to hold—we're not holding the Mayor to this, we're holding ourselves to this, and I think that there are times when— I'm afraid that there may be a time that we may say, "We can't make it." And then what's the good of the resolution? It is that "loosely binding" phrase that scares me a little bit. Is it loose—?

Councilor Keen said but by your own statements, I think it needs to be loosely bound, so that we have the opportunity to change it when necessary, given the event of any type of an unseen disaster or need for cash. I mean, when you look at it, 9% is not even enough to run our City for three months. I mean, that scares me. If you look at it from a business point-of-view, we need to keep an adequate supply of funds available, just for operating expenses, if nothing else, and we don't even have that.

Mayor Mills said we'll, I'll just add a comment that 9% does not include the Economic Development Income Tax money. You know, you're looking only at the General Fund there, and, as I said before, we have other revenue sources that we can use for operation. We

choose to use them now for other needs, but they are available, and if you're going to actually look at what is available for operation over a certain number of months of time, you need to include all those dollars that would be available, not just the General Fund.

Councilor Keen said well, since we have those kinds of things available to us, then what is the damage in passing a resolution like this then?

Mayor Mills said well, I guess from my perspective, you are making a statement that, regardless of the financial situation of the City, you want us to be inflexible in how we approach a budget every year. Like in the example I gave you, I doubt if any one of us goes to put a new roof on our house, we're going to have the same amount of savings in our savings account that year as we do the next year, after the roof is paid for. So do you have those kinds of standards for yourself? I mean, I think all of us know you have to have some flexibility in your own budgeting process for it to be functional. And should we absolutely have a philosophy to keep 10% in the cash reserves? Absolutely. Absolutely, that should be the philosophy, 10% to 15%, I couldn't agree with you more. But should we mandate that, so that we are not flexible from year to year, as we find ourselves addressing needs? No, I don't think we should.

Councilor Keen said but I don't see where this resolution—

Mayor Mills said that's why we have a Council—

Councilor Keen said is binding to that point.

Mayor Mills said that's why we have a Council and a Mayor. That's why you have the oversight on the amount of dollars that are spent. We already have that flexibility built into the process. If you don't like the number of dollars in reserve, you have the ability to cut the budget, so I think, to me, that's the point. That ability is already there, and you don't have to pass a resolution to say you're going to keep 10% reserve funds. You have the ability through the statute to make that determination every single year.

Councilor Keen said but what this does is it would ensure that anytime there is the desire to keep those adequate funds available, and in the situation where we have, we just voted on a budget 4-3, when you get into a position where the minority on that Council does not have the power by vote to affect those, this resolution would make that happen, without even having to vote on it, is what it would do.

Councilor Truitt said we need to have guiding principles in regard to the budgeting process. I mean, Purdue University has a—

Mayor Mills said I agree with the guiding principles. Absolutely.

Councilor Truitt said right, and so right now, when you look at our reserves, it's all based on internal feeling, where you want to be. "Oh, 6% is okay this year, 10% is okay this year."

Mayor Mills said no, it's based on the realities of the budget of the year.

Councilor Truitt said well—

Mayor Mills said the philosophy hasn't changed, Mr. [Councilor] Truitt. The needs from the year have changed. The philosophy has not changed, and I know you cited what I said. Trust me, I still would like to have 10% to15% cash reserves every year. My philosophy hasn't changed at all. But the reality of it this year is, if we are going to annex, and you all voted—except for Councilor Plomin—for that, then we have to invest some of our cash reserves in making that happen.

Councilor Truitt said I haven't heard anyone, besides Councilor Plomin, I haven't heard anyone argue the investment of that amount of dollars into the annexation area. The reason why I voted against the budget was I strongly believe there's a fundamental error and problem internally in regard to our City finances. And I hope that I'm wrong in regard to that. I truly hope that I'm wrong, and if I'm wrong, then we'll just go on our merry way. But if we would add something to number 1 to make it more flexible—

Councilor Satterly said Randy [Councilor Truitt], would you do this, would you say, "recommend" instead of "shall be?" Say, "It's recommended that the cash reserve be not less than 10%." Then that's a philosophy, but it's not mandatory, on Council or—

Councilor Truitt said I would—

Councilor Satterly said on the Council or—

Councilor Keen said the resolution itself is not mandatory.

Councilor Satterly said oh, yes it is, when it says "shall," that's mandatory.

Councilor Griffin said I have trouble with—

Councilor Keen said but we can change that at any time and vote on it in the future, if we get to the point where we need to be less than 10%, we can vote and say—

Councilor O'Callaghan said except the example that you just said, Gerry [Councilor Keen]. You just said that this would give the minority an opportunity to amend that.

Councilor Truitt said I would support the "recommend." That language.

Councilor Satterly said then you're voting on a philosophy.

Councilor Truitt said philosophy, and that's what I'm looking—yes. I can't speak for anybody else, but I would support the "recommended."

Councilor Plomin said I'd like to stick with "shall," because, if we want to unbound by this, it will require us to pass a resolution repealing this resolution. And then we would have to vote on the budget.

Councilor Hunt said I got lost there, I'm sorry.

Councilor Plomin said correct?

Councilor Hunt said "unbound?" I'm sorry, I got lost.

Mayor Mills said this is Pre-Council, so this hasn't passed yet.

Councilor Satterly said this resolution hasn't passed yet.

Councilor Plomin said we're saying if this was in place and in effect, then how could we, in a year, pass a budget with a 9% cash balance?

City Attorney Associate Flanery said well, I think Ms. [Clerk-Treasurer] Rhodes may want to speak to—someone asked earlier [in the Special Council meeting], "What would happen if we didn't pass the budget by the deadline?" We go by the old budget, isn't that correct?

Clerk-Treasurer Rhodes said that's correct.

City Attorney Associate Flanery said so you may be putting yourself in that position, if you can't undo your resolution and you can't pass the budget as with 9%.

Councilor Plomin said but could you undo the resolution, if we do it?

Councilor Satterly said it depends on how many votes you have.

Councilor Plomin said if this is on the books and the City was bound by the "shall be no less than 10%"—

Councilor Truitt said and you got into a sticky situation—

Councilor Plomin said and we got in a situation where we needed to spend the cash, how could we get around this?

Councilor Keen said by vote by the Council.

Councilor Plomin said it would be a majority vote to repeal this resolution, and then a second vote to spend the cash, right?

Councilor O'Callaghan said that doesn't sound "loosely bind." That doesn't sound "loosely bound."

Councilor Plomin said what it sounds like is it sounds like you have to admit that you didn't do what you said you were going to do. It's like setting intermediate goals for yourself and writing them down, and holding them up in your face every day and you say, "Today I'm going to work out," "Today I'm going to work out." And you check off the box. And some days you don't check

the box, and that feels bad. And so you're motivated to do it. And this would motivate the City to be smart stewards of the money and be prepared for unforeseen circumstances.

Mayor Mills said I have to take exception to that comment, Mr. [Councilor] Plomin. A piece of paper does not motivate me to look out for the good fiscal condition of the City. I'm elected to do that, and I try to do that every day. So, you know, a resolution passed by the Council is not going to encourage me to do this job any more sincerely and honestly than I do.

Councilor O'Callaghan said since it sounds like there may be some disagreement among the people that presented it, and this is indeed just Pre-Council, maybe they might like to get together over the weekend and see if they want to present any changes on Monday.

Councilor Truitt said well, I think we'll—

Mayor Mills said Councilor Griffin still has a comment. Councilor Griffin.

Councilor Griffin said Randy [Councilor Truitt], philosophically, the Mayor has said she endorses this. Philosophically, as you said, everyone, or I believe it was Matt [Councilor Plomin] that pointed this out, every one of us said, "Gosh, yes, 10% or better, that would be great." Okay? Philosophically, I endorse this. I am really concerned about the legal ramifications of it, and I'm just going to say, I cannot vote in favor of it, if these are the words that are going to be used, then I can't vote in favor of it until the legal questions are clarified. And if the way to do that is with the Attorney General's Office, I don't know, but I can't vote in favor of it until that is clarified. Once I have an understanding of that, then I can address the issues. Philosophically, I'm in favor of this. I think that "loosely binding" is pretty vague to me. It's almost an oxymoronic statement, it's just too—I don't understand what that means. I'm either bound or I'm not, and if I'm bound, then I'm bound, and you can say, "Well, it's tight" or "It's loose," both of them could become extremely uncomfortable bindings for us. I philosophically am in favor of this. I think that what you've brought forward here, philosophically, is an excellent idea, but I would not—the first issue is the legal issue. The second issue to me is the one—that I do not wish to bind ourselves in the future or future Councils to something when we cannot see the future.

Councilor Keen said we do that all the time with other resolutions. We do that all the time.

Councilor Griffin said that's my opinion on this.

Councilor Truitt said well I think Councilor O'Callaghan—I think the resolution will stay the way it is, and if it's an appealing item for you to change the word to "recommend" or whatever, then I think you've heard at least from me, and we'll work on the legal side of this thing, and we'll take it from there.

Councilor Plomin said Randy [Councilor Truitt], are you going to talk to the Attorney General or call their office or—?

Councilor Truitt said I called them today, but—

Councilor Plomin said okay.

Mayor Mills said all right. Are you ready to—?

Councilor Keen said the thing I see this resolution is accomplishing is that it actually makes us put our money where our mouth is. We all sit here and say we're in agreement with the philosophy, we want to do these things, but I see this resolution as being something that would actually put us forward and actually make us do exactly what we all say we want to do.

Councilor Hunt said if I may.

Mayor Mills said Councilor Hunt.

Councilor Hunt said I don't see it like that. I see it as a way to bind the Mayor, and I see the way you all want to cut the budget, and I think you should give specific ideas about whether you want to cut public safety, roads and streets, the wonderful trash pickup we have. That's how I see it.

Councilor Keen said again, I would remind you that this is the Mayor's budget, and we either vote on it or we vote it up or down. If she wants to cut the budget someplace, I'd be happy to entertain those ideas, but as far as cutting the budget, that's not my job to actually cut the budget and do those kinds of things. I mean, I vote on a budget that the Mayor presents, and if she wants to put forth those kinds of budget cuts, then we can consider them.

Councilor Satterly said except this resolution puts the responsibility on the Council for budget cuts.

Councilor Keen said no, it doesn't put the responsibility on the Council for budget cuts—

Councilor Satterly said it doesn't—

Councilor Keen said it puts the responsibility on the Council for maintaining cash reserves.

Councilor Satterly said according to the legal opinion, the Council cannot force the Mayor to come up with a budget that has a 10% reserve.

Councilor Keen said and this is not asking her, this is not asking her to do that.

Councilor Satterly said but, according to the legal opinion, this resolution would require the Council— Let's say the Mayor doesn't submit a budget with a 10% reserve. This resolution would require the Council to make the cuts to get to the 10% reserve.

Councilor Truitt said the Council?

Councilor Satterly said the Council, right.

Councilor Truitt said that's correct—

Councilor Satterly said but Gerry [Councilor Keen] says he's not ready to make those cuts, he wants the Mayor to make those cuts.

Councilor Plomin said maybe it would be the smartest thing to do then, for then the Mayor to submit a budget that has a 10% cash reserve, because the cuts that the Council could make may come in uncomfortable places.

Councilor Satterly said be that as it may.

City Attorney Associate Flanery said well, Councilor Plomin, that's what we're saying cannot be done, because, with the separation of powers—

Councilor Plomin said wait, it's a difference between a wise and prominent course of action, and a legalist one. A legal remedy to us passing this is—

City Attorney Associate Flanery said well, you can speak to the Indiana Constitution about what's legalistic about separation of powers, but there were some ideas that people had, when they made that rule about separation of powers, that you may or may not agree with, but the way the statute is written is that the Mayor can make whatever budget recommendation that she wants. The Council can, obviously, at any point in time, decrease any of those amounts that they want to. And that's legal. That's what separation of powers is.

Councilor Plomin said yes, but if you're driving, right? and you see a wall in front of you, the wall will stop you or you can stop the car. And the Mayor's not going to submit a budget that has a 9% cash balance—

City Attorney Associate Flanery said well—

Councilor Plomin said because then those may come in uncomfortable places.

[overtalking]

Councilor Griffin said Madam Mayor.

Mayor Mills said Councilor Griffin.

Councilor Griffin said so what we as Councilors could have done was to have looked at any one of these parts of the budget on which we just voted, and have looked at any one of those things and made an amendment that said, "No, this budget is not acceptable to me." And the Council would vote on those individual things, if that's what we as Councilors felt so strongly that that was how we felt that we needed to exercise our stewardship.

Mayor Mills said absolutely.

Councilor Griffin said that is the mechanism. No one looked at any of these things and said, "Change that number." We just voted up or down, and that is the way we went about it. That is the way we should continue to go about it.

Mayor Mills said are we done with this discussion for tonight?

Councilor Hunt said given the weekend, and getting a legal opinion, Councilor Truitt, can you get a legal opinion from the Attorney General by 7:30 Monday night, and share it with us?

Councilor Truitt said if I can do it, I definitely—yes, for sure.

Councilor Hunt said what's the hurry?

Councilor Truitt said well, you just said by Monday night.

Councilor Hunt said no, no, but I mean why not put it off? I mean, it's not going to affect the budget now. It's going to affect the budget we create in '07, isn't that right?

Councilor Truitt said yes.

Councilor Hunt said so—

Councilor Griffin said well, if he can get it, he can get it.

Councilor Hunt said if you can get it, sure.

Councilor Plomin said here's why—

Councilor Hunt said I didn't know State government moved that fast.

Councilor Plomin said we have budget issues fresh in our mind and the cash we have at the end of the year is there as a result of how we conduct ourselves through the entire year, how the City conducts its business through the entire year. And we may be able to reach 10%, if we don't spend the whole budget this year, and then if we budget reasonably next year. And so we should have this on the books—

Councilor Hunt said my point is—

Councilor Plomin said sooner rather than later.

Councilor Hunt said well, okay. I do know that our year goes 12 months. I figured that out.

Mayor Mills said all right. Are you ready to move on?

Councilor Hunt said or 18 months actually, I guess.

There was no further discussion.

Resolution No. 26-06 A Resolution Requesting The Transfer Of Funds (City Hall, Police) (Prepared by the Clerk-Treasurer)

Mayor Mills said in the General Fund, City Hall, from Office Equipment to Furniture and Fixtures, $203.54. That was for shelving that we put in the basement to hold some of the Human Resources office. We do need a request for an amendment to [Resolution No.] 26-06.

Councilor O'Callaghan said so move.

Mayor Mills said is there a second?

Councilor Satterly said second.

The amendment to Resolution No. 26-06 passed by voice vote.

Mayor Mills said any question on this? I'm sorry. The second part of it actually includes the Police Department from Full-time Salaries, $12,000, and Pensions, $14,000, to Overtime to avoid a shortfall in the overtime budget. Any questions on either of those transfers?

There was no further discussion.

Resolution No. 27-06 A Resolution To Amend The Comprehensive Plan For Tippecanoe County To Include The Multi-Hazard Mitigation Plan Of Tippecanoe County 2006 (Submitted by the Area Plan Commission)

Mayor Mills said we all have a copy of the plan from the Area Plan Commission. I don't know if Councilor Griffin wants to add anything or—

Councilor Truitt said shall we go through this whole thing, Councilor Griffin?

Mayor Mills said or if Mr. [City Engineer] Buck wants to add anything.

[overtalking]

Councilor Griffin said let's start on page 1—

Councilor Satterly said word by word.

Mayor Mills said I didn't mean go through paragraph by paragraph.

Councilor Griffin said so a 30,000-foot view would be adequate for the Council?

Councilor O'Callaghan said on Monday.

Councilor Griffin said this is basically something that's required by the Fed, by the Disaster Mitigation Act, and it requires that we participate in the National Flood Insurance Program and

that we have to have a comprehensive document that shows how we would address natural disasters and so forth. So that's what it is. It was passed 13-0 to come to us.

Mayor Mills said okay, thank you. Any questions for Mr. [Councilor] Griffin? All right. Anything else tonight?

There was no further discussion.

ADJOURNMENT:
There being no further business at this time, Councilor Satterly moved for adjournment. Motion was seconded by Councilor Griffin and passed by voice vote, the time being 6:17 p.m.

Respectfully submitted,

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