

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
October 2, 2006

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on October 2, 2006, at the hour of 7:30 p.m.

Mayor Mills called the meeting to order and presided.

The Pledge of Allegiance was repeated.

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

Absent: Satterly.

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

MINUTES: Councilor Griffin moved for acceptance of the minutes of the August 31, 2006, Pre-Council Meeting, and the September 5, 2006, Common Council Meeting. Councilor Truitt seconded the motion, and the motion passed *viva voce*.

COMMITTEE STANDING REPORTS:

STREET AND SANITATION: Councilor Plomin presented this report for Councilor Satterly.

The monthly highlights from September: Fairfield Contractors continue reconstruction of curbs and sidewalks safety improvement project on Salisbury. The 2006-2007 fall recycling schedules are in the mail; I have an example here. Specific times for area leaf pickup will be posted on the City website and in the *Journal and Courier*, pending weather conditions. The process for picking up the leaves is the same as in the past—rake in a windrow 12 inches from the curb line. Do not mix any debris or branches with the leaves, as this only hampers the speed with which the leaves can be picked up. Every reasonable effort will be made to get the leaves in a timely and economical manner. Please note there will be no leaves picked up the weekend of Thanksgiving, November 20 through the 23 due to the shortened week, and double routes for trash and recycling. This concludes the report.

WASTEWATER TREATMENT UTILITY: Councilor Keen presented this report for Councilor Satterly.

The month of August, the actual flow at the Wastewater Treatment Facility was just under 259 million gallons of flow. Of that, 98.87% of it was treated, which left a little bit to be overflowed, and most of that was through the Wet Weather Facility. That completes that report.

PUBLIC SAFETY: Councilor Keen presented this report.

Apparently with the Police Department and with the Fire Department, there's a lot of question about the NIMS requirements that are part of the compliance program that goes with what the Fire Department and the Police Department both have to participate with. Anyway, there's some question as to how much of that we're going to be using that, maybe as little as five years from now, and so if you get a copy of the September Fire Department report, it kind of lines all that out, so you might want to take a look at that.

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NIMS is the National Incident Management System. The West Lafayette Fire Department has been approved to receive \$43,000 in equipment through a Homeland Security grant. Included in that would be a dispatch radio for Station #3, new portable radios for each of the three annexation firefighters, plus additional radio equipment. A second generator grant application from a different program that is pending approval. It was intended for use at Station #1, however, if it is approved, depending upon the timing of the approval, we may be able to accept the generator for both Stations #1 and #3. For that same time period in August, for the Fire Department, they've been very busy. Their calls were up by—

Councilor O'Callaghan said is this the Police Department?

Councilor Keen said this is the—what did I say?

Councilor O'Callaghan said Fire.

Councilor Truitt said Fire.

Councilor Keen said excuse me.

Councilor O'Callaghan said just to clarify.

Councilor Keen said Police Department. Their total calls were up by 27%, which is 354 calls up from the month previous, and they were up 7% from a year ago. One of the things I would like to report about is that the Department's first Citizens' Police Academy has completed its fifth week. The Citizens' Police Academy is an eleven-week program that meets one night a week for approximately 2 to 3 hours. It covers a variety of topics, including dispatch and communications training and field training program, and just a number of other things there. I know there's a number of people who have been involved in that, and it seems to be going quite well, from what I understand. That completes my report.

PURDUE RELATIONS: Councilor Plomin presented this report.

We have a new school year upon us, and with it, we also have a new group of students representing Purdue Student Government here to report on the goings-on with PSG, with the Local Government Relations Committee, and with the City-Community Relations at large. They are J.D. Barnes, who's in charge of the group, Mark Rhudy, and Adam Kline. I'd like these gentlemen say a few words in front of the microphone.

Mr. J.D. Barnes said thank you for having us this evening. Like he said, I'm J.D. Barnes, the Director of the Local Government Relations with the Purdue Student Government, along with my committee Mark Rhudy and Adam Kline. This year we hope to increase the awareness of issues and improve relations that pertain to Purdue University and the City of West Lafayette. We currently are working on voter awareness, especially for the upcoming elections and the elections coming next year, and are constantly serving as a liaison between Purdue and its local government. Thank you for having us this evening, and we look forward to a very successful year.

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Mayor Mills said thank you for being here. We had a great year last year, we had a student representative here every meeting, so we appreciate you taking the time and interest in our local government. Thank you.

Mr. Mark Rhudy said we look forward to working with you this year.

Mayor Mills said thank you. We look forward to it, too.

Councilor Plomin said this concludes my report.

PARKS AND RECREATION: Councilor Hunt presented this report.

September 24 was rather exciting in Tapawingo Park. The Sonya Margerum Fountain was dedicated, and the first annual Art on the Wabash event was well-attended. I got there late in the afternoon, and the rain held off until right about the time it stopped. It really was very pleasant there. In addition to other issues in the Parks Department, there's a new wildlife viewing deck being built at the north end of the Celery Bog. There was a new one built on the south end, and it was very nice. You can watch the heron and the egret flying around. In addition, there's activities going on, as far as new trees and shrubs being planted in West Lafayette this fall. 270 new trees and 1,500 new shrubs, and the largest number of plantings is set to go at the Midway there where Sagamore West merges with Northwest, so that should add some beautification to the City. In addition, the Lincoln Park is being planned. There's been some holdup because there's some historic building there, and so the plan for the Lincoln Park has been completed and approved by the Indiana State Historic Preservation Officer. That park was developed in a response to community requests and that neighborhood association. The remaining dates for the Sagamore West Farmers' Market are October 4, October 11, and October 25. In addition, the Park Board voted the last meeting to approve a new Pre-Thanksgiving Market Farmers' Market the day before Thanksgiving on November 22. So that should be exciting and they're selling whatever. I wish them well. That should be enjoyable. WALLA, the Wabash Area Lifelong Learning Association, classes at Morton start on October 16, and the next Park Board meeting will be October 16 also, at 4:30 at the Riverside Skating Center. That concludes my report.

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

The Redevelopment Commission met on September 18, and they heard a report about the Wabash Landing Garage. You may recall that I reported earlier that Curtis Development and Sheehan Property Management took over management of the garage last year, and they have been working very hard to maximize profits and decrease costs. They have some exciting ideas for the future for the garage. In 2006, we'll have a positive balance for the first time for the garage. The Redevelopment Commission toured the garage earlier in that day, and they received a report on the condition of the garage, and they approved a resolution to appropriate the funds for the recommended work, but also to get monthly income and expense statements about the garage, as well as a quarterly report on any of the facilities that the Redevelopment Commission has interest in and have invested in, and then also a yearly inspection by the garage. So I just want to encourage people to use the garage when you visit Wabash Landing, hopefully very often. It's easy to use, it's safe, and it's very inexpensive. Coming from New York, it's an inexpensive garage; the first hour is even free. The Commission also heard a report on

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the light/banner pole project on Sagamore West, and it is proceeding very well. There are some spots where there are double poles, and some people may be concerned about that. That's because they're not taking the old poles down until the new ones are fully functional. Also, the Tapawingo South Project is proceeding, but it will be spring before that's completed. But they are adding street lights along the trail that will connect the trail to River Road. Those fixtures will be like those at Tapawingo Park, so they should all fit in nicely. I also do want to mention that one of our Purdue Research Park companies has won a national award. Andara Life Science, now Cyberkinetics, received the Gold Electrode Award for the best new neurotech product. It has to do with spinal cord recovery. Exciting things going on in the Department of Development.

PERSONNEL: Councilor O'Callaghan presented this report.

I don't really have too much of a report, but just to note that we did indeed approve the salary ordinance for elected officials on Thursday at the final budget adoption meeting.

BUDGET AND FINANCE: Councilor Truitt presented this report

On September 28, the 2007 budget was voted in, so we're looking forward to that process being over. We have one other item on the agenda this evening, Resolution No. 25-06, and I will defer my comments until that time. Thank you.

REPORT OF APC REPRESENTATIVE: Councilor Griffin presented this report.

Tonight, our last order of business will be to act on a resolution to amend the comprehensive plan, and this will be to incorporate into it a multi-hazard mitigation plan for Tippecanoe County. The plan is a requirement of the Federal Disaster Mitigation Act of 2000. Its purpose is to plan for a disaster before it occurs, in order to reduce the physical and economic and social impact of such a disaster. It recognizes the fact that \$1 spent on mitigation ahead of time saves \$4 in costs when those hazards and those disasters happen. Their mitigation plan covers hazardous waste, hazardous materials, tornadoes, floods, earthquakes, utility outages, and so forth. Another important part of it is that we need to adopt it, in order to ensure that all the communities, our community will be eligible for future Federal disaster assistance. It also makes us eligible for hazard mitigation grants, which is involved, again, in that \$1 up front saving the \$4 when the disaster happens, because, of course, these things—some of them are highly likely in our area, some are less so. So we will act upon that tonight. That's my report.

REPORTS OF SPECIAL COMMITTEES: none.

PUBLIC RELATIONS:

Certificates of Appreciation to Farmers' Market Volunteers

Mayor Mills said we're going to start tonight with some special certificates of appreciation. We are in the waning part of our second year of the Farmers' Market, our very successful Farmers' Market, and we've had two great leaders of the Farmers' Market, Larry Oates last year, and Kathleen Mills who is here with us tonight. They've worked very hard, both of them, to make it very successful, but it would not be successful without all the volunteers who work every week very diligently to get cars in and out, to help the vendors set up their booths, and to do whatever needs to be done out there at the Farmers' Market. We would like to recognize some of our volunteers tonight, because they have been involved for both years of the Farmers' Market, and I think we all appreciate, all of us

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as residents of West Lafayette appreciate, the time and effort that they have put into this project, to provide all of us with the opportunity to have great fresh vegetables and fruits at the Market. So I'd like to present a few certificates. Kathleen, I don't know if you want to come up, too. The first is to Robert Hurst. Mr. Hurst, thank you so much for your very hard work. Next, to Lynn Cason. We have our Farmers' Market logo on these pens. The other person is Ed Yeoman, and Ed isn't here tonight, but Kathleen will make sure that he gets his gifts.

Employee Service Anniversaries

Mayor Mills said we have a few tonight, two, actually. Brian Lancaster in the Fire Department, he's our Fire Inspector, celebrates 20 years with the City in October, and Katrina Vaughan has done multiple jobs in the City, first in the Police Department 12 years, and then now three years in the Clerk-Treasurer's Office. We give them both our congratulations and our thanks, both wonderful employees to work with. So thank them for their time.

West Lafayette Community Beautification Award

Councilor Plomin said Elizabeth and Daniel Hartley are the winners of the October 2006 West Lafayette Beautification Award for their colorful garden at 2248 Indian Trail Drive. Elizabeth is the main gardener, and Daniel is a most helpful garden assistant. Pink is the main color of the garden. Elizabeth says she likes pink because it is a cheerful color, and has especially a significant value because Elizabeth is also a breast cancer survivor. So I have a few pictures of their beautiful garden at Indian Trail, and I'll give these to you. Here's the big one. And if you'd like to come up and say a few words, I have your award right here. There's a longer report, I've just read some excerpts of it. I just ask that this be included in the record also.

Ms. Elizabeth Hartley said Madam Mayor and West Lafayette City Council, thank you so much for this opportunity. I'd like to introduce my family that came with me tonight, my mother and dad, Jim and Charlotte Walker, and my mother-in-law, Phyllis Hartley, and the gardener's assistant, my husband. I couldn't do without him. You know, I was thinking about this award, and it does mean a lot. I'd just been a West Lafayette resident for almost three years when Dan and I got married, and West Lafayette is a great place to live. My church is just a few doors down the street, I can walk to church. I work at Purdue University, so I just have to go a short distance, and then I've got family right here. And I just want to say thank you to the Council, and I really want to say a public thank you to my neighbors. I've really gotten to know a lot of them. Indian Trail is a great place to walk, and I know a lot of my neighbors there in Wabash Shores, and I know all the dogs. They have been a great source of encouragement to me, especially this past year, just offering their prayers and thoughts. It's just really a lovely place to live, and I just want to say thank you and let you know that.

Mayor Mills said thank you very much for being here and to adding to the beauty of our City through your hard work. We all appreciate that. Thank you. And feel free to leave whenever you want, you don't need to stay. Thank you.

FINANCIAL REPORT: Clerk-Treasurer Rhodes

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Clerk-Treasurer Rhodes said the Council has received the State Board of Accounts ledger reports. I'll have no further report this evening.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

Ordinance No. 29-06 An Ordinance To Establish The Major Moves Fund (Prepared by the Clerk-Treasurer) Councilor Griffin read Ordinance No. 29-06 by title and moved that it be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Truitt.

Mayor Mills said this is an ordinance to establish a Major Moves Fund. As you all know, we are getting Major Moves money from the State as part of the toll road leasing, and we would like to put those dollars into a separate fund, so that we can track what we use that money for, so just setting up another road and street fund. Are there any questions or comments?

Councilor O'Callaghan said just note that's it's not something— My understanding is it's not required to set up this fund, but that it's good practice in order to track those funds.

Mayor Mills said right, absolutely. Councilor Plomin, did you have anything?

Councilor Plomin said that's actually what I was going to say.

Mayor Mills said okay, good.

There was no further discussion.

Ordinance No. 29-06 passed on first reading, 6-0.

Clerk-Treasurer Rhodes said Councilor Griffin, may I ask for a second reading this evening, as we are expecting our first allocation mid-October?

Councilor Griffin said Madam Mayor, I move we suspend the rules for second reading tonight. The motion was seconded by Councilor Truitt, and the vote on suspending the rules passed by voice vote.

Councilor Griffin read Ordinance No. 29-06 by title, and moved that it be passed on second reading, and that the vote be by roll call. The motion was seconded by Councilor Truitt.

Councilor Plomin said I have one question. What's our expected distribution? I didn't know we would get some money so quickly.

Clerk-Treasurer Rhodes said approximately \$198,000. We have received two estimates, the most recent estimate in early August was, in fact, a bit lower. However, the formula is processed by the State Auditor's Office. I'll let you know in approximately two weeks.

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Councilor Plomin said okay.

Mayor Mills said thank you.

Clerk-Treasurer Rhodes said that will be for two years in a row, we'll receive that amount.

Councilor Plomin said so \$190,000 for each year?

Clerk-Treasurer Rhodes said yes.

Councilor Plomin said so we'll get nearly \$400,000?

Clerk-Treasurer Rhodes said correct.

There was no further discussion.

Ordinance No. 29-06 passed on final reading, 6-0.

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) Councilor Griffin read Ordinance No. 30-06 by title and moved that it be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Truitt.

Mayor Mills said this is an ordinance to provide temporary loans from two funds, Parks Nonreverting Operating, \$100,000, and the Wastewater Treatment Utility, \$250,000. These monies will be used in the General Fund for operating costs, until we get our tax disbursement. I didn't realize that, sorry. Thank you. Parks and Recreation Fund, I was wrong. We need to move money to Parks and Rec to continue to operate that department, so we're borrowing temporarily. Are there any questions or comments? Councilor Truitt.

Councilor Truitt said the repayment of those amounts would be replenished when?

Clerk-Treasurer Rhodes said these temporary loans will be repaid by December 31 of this year. Previously, you may recall, you gave me temporary loan authority from NRO in the amount of \$250,000 for temporary loans, and likewise, another \$250,000 from the Wastewater Utility. Much of the loans that we needed were, of course, paid back June 30, 2006, so we're on a second round of borrowing and then paying back, and I simply don't have enough authority remaining to complete the cash flow needs for the year. I actually only have, I think, \$45,000 of loans outstanding now from NRO, and \$155,000 from the Utility for Parks at this time.

Councilor Plomin said to be clear, this is not borrowing from an outside entity like a bank. This is borrowing from funds within the City that have balances to other funds, also within the City, that have depleted their balances, correct?

Mayor Mills said absolutely, which we do often.

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Clerk-Treasurer Rhodes said this is strictly cash management, and there's a peculiarity with the governmental accounting standards. In fact, if you look at our annual financial report, not the cash report, but the CAFR, the accrual-based report, you won't find any evidence that these transactions have ever occurred. They're washed out.

Councilor Hunt said and by that, you mean we've repaid them by the end of the year?

Clerk-Treasurer Rhodes said yes, we've repaid them.

Mayor Mills said okay, any other questions or comments?

There was no further discussion.

Ordinance No. 30-06 passed on first reading, 6-0.

Councilor Griffin said you would like to suspend the rules?

Clerk-Treasurer Rhodes said yes, please.

Councilor Griffin said I move so to do, in order to assist the Clerk-Treasurer in carrying out the necessary fund balances. The motion was seconded by Councilor Truitt, and the vote on suspending the rules passed by voice vote.

Councilor Griffin read Ordinance No. 30-06 by title, and moved that it be passed on second reading, and that the vote be by roll call. The motion was seconded by Councilor Truitt.

Mayor Mills said are there any additional comments or questions?

There was no further discussion.

Ordinance No. 30-06 passed on final reading, 6-0.

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) Councilor Griffin read Ordinance No. 31-06 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 Truitt.

Mayor Mills said Councilor Griffin, do you want to talk about this?

Councilor Griffin said yes, this addresses several issues that have, since the UZO, the Unified Zoning Ordinance, was passed, our new one, several issues that have come up, and our administrative officers and other persons who oversee our zoning have determined that minor changes need to be made. They discuss buffer yard requirements, structural projections and stoops, nonconforming mobile home parks, and similar things.

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Mayor Mills said all right, any questions for Councilor Griffin?

Councilor Plomin said I have one, actually.

Mayor Mills said Councilor Plomin.

Councilor Plomin said over the past week or so, I've come to know that T-Mobile is looking to add a cell phone tower near West Lafayette [High] School, and they're having some trouble doing so, because of the zoning requirements in the area. And I wanted to see— There's a section here that changes the definition of "primary communications tower," and I just wanted to know if this is a result of that, or what these changes are.

Councilor Griffin said I don't think, if you'll bear with me just a minute and let me look back here— Mr. [City Engineer] Buck, can you be of any assistance on that?

City Engineer Buck said this is very similar to the existing definition of a primary use communications tower. I don't know, I think it was just clearing up a slight—

Councilor Griffin said I believe it was the word "zone."

City Engineer Buck said yes.

Councilor Griffin said I believe that there was a change in the word "zone" and there was some ambiguity—

City Engineer Buck said it used to read, "in an Agricultural or an Industrial," I think, I3 or I2, it specified exact zones, Agricultural or Industrial, that it defined the primary use communications tower for, and that's changed now to a "non-residential zone."

Councilor Plomin said okay.

Councilor Hunt said may I add something?

Mayor Mills said Councilor Hunt.

Councilor Hunt said there was a hearing at the High School, maybe five weeks ago, maybe more, about where T-Mobile presented their ideas to a group of people from the neighborhood, and there were a lot of people there that didn't, in the neighborhood around the high school, that didn't want it. But the man from T-Mobile made a very nice presentation, I think there were two of them there. And then I think the School Board decided not to do it. And then I think we got another email later about some more complications, but—

Mayor Mills said well, and right now, as I think Councilor Griffin may be suggested, that kind of use would be a violation of the Unified Zoning Ordinance, so that's what the objection is at this moment.

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Councilor Plomin said I just got in after the fact of meetings, and I understand that it was redesigned to look less like a cell phone tower and more like a flagpole, and I've seen some mock-up pictures. They look very nice, but I just wanted to see, because we don't get changes with the zoning ordinances like we do with the City ordinance, the City Code changes, where the old parts are crossed off, and the new parts are put in. I just wanted to be clear as to what these changes would affect.

Mayor Mills said thank you. Any other question or discussion?

There was no further discussion.

Ordinance No. 31-06 passed on first and only reading, 6-0.

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

Mayor Mills said this is a resolution submitted by Councilors Keen, Plomin, and Truitt, to require the City to maintain a cash reserve in the General Fund, and to build up that cash reserve in each succeeding year after 2007, until it reaches 15%. Are there questions or comments tonight on this resolution? No questions or comments tonight?

Councilor Hunt said I believe we had a rather lengthy discussion at Pre-Council about this. If I understood the two legal opinions that we got, one I did not see in writing, but it's my understanding that one of them said that this was probably illegal, to tie the hands of the Mayor. And if I remember, if I may paraphrase the other one from another attorney, was it was nonbinding. So we have binding and nonbinding, I guess. And so that kind of confuses me about what to do next.

Councilor Keen said Councilor Hunt?

Councilor Hunt said yes.

Councilor Keen said may I make a clarification?

Councilor Hunt said yes.

Councilor Keen said the statement made about the opinion that I got is not actually a legal opinion. It was simply a conversation between two individuals. And that's really all it was.

Councilor Hunt said was the crux of it that it was non-binding? Am I paraphrasing?

Councilor Griffin said it was loosely binding, I believe, was the term that we heard—

Councilor Hunt said loosely, okay.

Mayor Mills said are there other comments tonight?

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Councilor Keen said I think that, if I may speak.

Mayor Mills said certainly, Councilor Keen.

Councilor Keen said Councilor Hunt had said that Mr. [City Attorney] Bauman's opinion of this resolution was perhaps illegal. I did not see that specific wording in here, as far as being illegal. I suppose you might be able to read that in there, but I don't see that that is the point of this. Even besides that, I think that the point that we're trying to make here is that it's just good fiscal stewardship to have this kind of resolution in place. This is not precedent-setting ruling or resolution here. This is something that is done all across the United States by hundreds of cities everywhere. There's nothing illegal about this. I just think it helps us to clarify our own ideas and goals. It helps us to put on paper what we all say we want. That's the intent of what we're trying to do here.

City Attorney Associate Flanery said may I respond, Madam Mayor?

Mayor Mills said please.

City Attorney Associate Flanery said I'm speaking on behalf of [City Attorney] Bob Bauman tonight. I'm an attorney in his office. When he wrote this, I think that the last sentence of this letter of September 27 makes it clear that—I'll just read it, "...based on the principle of division of powers and the requirement that a municipal entity follow the statutes that prescribe how the fiscal powers are to be exercised, the Common Council has the power to impact the operating balance by its power to reduce the budget appropriations, but it does not have the power to require the Mayor to submit a budget containing any particular provisions, including requirements as to the operating balance." That is our basis for stating that we do not believe this resolution was in compliance with the idea of separation of powers that is provided in the Indiana statutes and Indiana Constitution. If this resolution, upon my reading, either impacts the Mayor directly, which would be definitely a violation of separation of powers, or it is attempting to impact the Mayor's authority indirectly by requiring her to present a budget to the Common Council that would have the appropriate cash reserves in it, which is not allowed, because she is supposed to be the one that chooses what the amounts in the budget that she shows to everyone, and then they get to reduce it, if they do need to. I think the other point that needs to be clear is that, I don't know what other states in the United States have done in regard to resolutions of this sort, but what is concerning about this is in regard to Indiana State law. [City Attorney] Bob Bauman and I are not aware of any other cities in Indiana that have such resolutions. I'm not saying that doesn't exist, I'm just not aware of them, but what other states do is not our concern, because it's the Indiana laws that we're talking about here.

Councilor Truitt said is that only related to cities? I mean, what about institutions like State institutions like Purdue and Indiana? How does State statute treat those individuals, do you know?

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City Attorney Associate Flanery said well, the statutes that are listed in this particular letter are in regard to second and third class cities. I'm not familiar right off the top of my head with Purdue, but these are specifically in regard to second and third class cities.

Councilor Keen said I would just like to respond. First of all, in Resolution No. 25-06, nowhere is it worded in there that it requires the Mayor to do anything. It does not require her to submit a budget with anything in it. What this is doing is it is actually making a resolution that we could maintain adequate General Fund cash reserves at a specified level. And whatever budget she wishes to present, that's completely up to her. This is just a guide, if you will, to help ensure the citizens of West Lafayette that we have adequate funds in place to keep running government. This is just good business. This is just common sense, in my opinion.

City Attorney Associate Flanery said well, of course, under the statute that's been cited, of course you already do have the authority as the Common Council to reduce any amounts that the Mayor presents in her budget. Any of those can be reduced right now. That's the State statute. I'll just remind you of that.

Councilor Plomin said may I—?

Mayor Mills said Councilor Griffin.

Councilor Griffin said Madam Mayor, you know I don't think that this resolution is going to change the Council's role as stewards, and that's a term that's already been used tonight. It's a term that has been used by several Councilors over several years and over the past couple of months that we've been discussing the budget, but I think that what our role here as Council members is that, if we don't like a given percentage in a given year, if we think that an increase of— We may think that a cash balance, for whatever reason, in the General Fund of 10% isn't enough. We may think that next year. We may think that, for whatever reason, that 25% is necessary. And I believe that our role is to look at the budget and to propose amendments at the time of the budget discussion to say, "I propose an amendment to the budget which reduces this department or this line item by such-and-such a percentage." If we're going to take seriously our stewardship role, I don't think that we should give that up to the Mayor and say, "Look, do whatever you want, but you've got to have 10% left in the General Fund." I think that our responsibility is, in fact, based upon input that we have from the citizenry, is to make specific recommendations, we do it by the means of motion, and it's either voted up or voted down, and what's important to me is that that's a role that we had always had available to us, and what's important to me is that it is a role that was not exercised throughout the Budget and Finance Committee meetings over the past couple months, and it was not exercised on either of the two readings of the budget, to specifically change and reduce any line items, so that we could say, "Now we're comfortable because we've got a cash balance of 10%."

Councilor Truitt said Madam Mayor—

Councilor Plomin said that might be—

Mayor Mills said Councilor Truitt.

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Councilor Truitt said I think our fiscal stewardship, Councilor Griffin, has been our votes of “no” for the budget, starting back before this started going down. So we’ve had a lot of philosophical conversations in these meetings, in regard to whether we should micromanage and throw out different types of alternatives. I remember the first budget process like it was yesterday, when there were, I think, eight different scenarios that were presented to the Councilors that attended the meetings that threw out all different types of options. But, unfortunately during that process, it’s in one ear and out the other, and that’s a frustrating thing to sit through, so I think that it’s been relatively clear that our votes are speaking what we feel is right for the City. I think having a cash balance up above 25% and dropping in a large way over, not just one year, but over three years, is bothersome. I will agree with the Mayor in regard to some of the investment, which is necessary, but there’s other years where that drop has taken place that is not related to the investment. So I find it disturbing that something that everyone on this Council I’ve heard verbally have supported this philosophy, so I don’t understand why this is always so difficult, something like this. Something that is relatively straightforward. Now, the thing that does come into play that I was not aware of was the legality of it, but I do find it hard to believe that other local municipalities and cities in the State of Indiana that have similar ordinances and resolutions in place—maybe they’re philosophies, maybe they’re investment statements, but I do know that they’re out there. I did make a note that I’m going to try to find those. But I do have a question, though, Ms. [City Attorney Associate] Flanery, in regard to this. If we would vote on this and it passed and you were not aware of whether this was right or wrong, and you did a ruling like this, what’s the procedure in that regard? It would just be—? I mean, what happens in that situation?

City Attorney Associate Flanery said well, frankly, I don’t know the answer to that. I’ll find out for you, though.

Councilor Truitt said and so this letter right here states that this is illegal?

City Attorney Associate Flanery said well, I think that this letter here states that, if this is in any way, either directly or indirectly, if you’re planning for this to indirectly or directly affect what the Mayor can do in submitting her budget to the Council for their approval or not, then that would be a violation of separation of powers.

Councilor Truitt said how do we make changes, then, to the budget then, and not have it be directly or indirectly related to—?

City Attorney Associate Flanery said there is already, like I said earlier, there’s already a way in the statute to do that at any point by going down. If the Mayor says, for example—I’m using very easy numbers here—10 and you want to do 5—

Councilor Truitt said right.

City Attorney Associate Flanery said at any time, that can be a motion that is made, and, if it is voted on, it can be reduced. Now, the way the checks and balances are written into the statute, if it was to be increased to 15, for example, the Mayor would have to agree

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with that. But it can always be reduced, which will have the effect of increasing the cash reserves.

Councilor Truitt said so is it illegal for us to pass this? Or to vote on it and should it pass—?

City Attorney Associate Flanery said well, I guess what I'm concerned about is that several people have felt that it's going to affect the Mayor, and the Mayor is going to have to stick within the 10% reserves or 11%, whatever year that you're on, and if that's the case, it would be a violation of separation of powers and shouldn't be passed.

Councilor Keen said even though other cities all across the United States have done this?

City Attorney Associate Flanery said well, the reason that we're saying that we don't feel like—that it would be a violation of separation of powers, at least indirectly, is based on Indiana statute. So I cannot speak to what other states in the United States have done, because they don't have, of course, Indiana statutes. Now, as I said earlier, I'm not aware of any other cities within Indiana that have a resolution such as this. I'm not saying it doesn't exist, I'm just not aware of it. So I haven't been able to discuss that with anyone from those cities, because I just don't know who to talk to about it.

Mayor Mills said I'd like to just take a moment to make a few comments, because I'm not suggesting we're getting bogged down in the legal, because I think that's important to hear that, but I'd like to talk philosophy for just a minute. Because we had this discussion briefly on Thursday, but I gave a very thorough overview of the 2007 budget on Thursday, and I'm not going to go through the entire thing again tonight. But I'd like to remind all of you that the philosophy of this administration has not changed for protecting the City's cash balances. I still believe that a healthy balance is 10% to 15%. That thought has not changed on my part, as I said on Thursday. We are facing outside forces on the budget right now that have impacted how much cash we do have, and after this resolution was submitted, I did a little searching myself, and if you go and look at some of the financial groups that talk about cash reserves and General Fund reserves, there's quite a difference in philosophy across the board. Some people think 5% is ample cash reserve, some people think 25% is ample cash reserve, so I think the argument could be made for anywhere in between. And I'll say again, I am comfortable with 10% to 15%. I intend to work very hard to build up those cash reserves back to that point as soon as possible, but, as I said in the budget presentation, you all know what we have faced in the last few years. We have the pre-1977 pension obligations, which have been very large; we have faced the increased cost of utilities and gasoline, which have also been very large. We are very fortunate we had large cash balances to depend on. Other cities have not been so lucky and are in the red now. We are not in the red. We have not laid off a single person, we have managed to give salary increases to our employees every year; we're doing that again this year. We are using a minimal amount of our Economic Development Income Tax dollars for operating costs, and I hope we can continue to do that, but the General Fund cash balances are not the only financial resources that are available to the City. So I think when you look at that, yes, is it lower than it has been? Absolutely it is. But we have other resources and we have resources of operating that we haven't touched yet, you know, we have not laid off any people, we did not give a 1% or a 0% increase in

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salaries this year. Each year, we've asked our employees to pick up a little bit more of their health insurance, and we will do that again this year. We have not exhausted the other avenues for lowering our costs of operating. I hope we won't have to. I hope we will be able to keep growing this City in the way I think we all appreciate. We have the winner tonight say this was a great place to live, and I think you know that people like what we're doing, they love the trails, they love the growth in the Research Park. We can't do those things without investing in the City. Yes, we're investing a little bit more cash this year for the annexation, but, again, you know why we're doing that. You all agreed with the annexation, with the exception of Councilor Plomin. We are going to increase our assessed valuation for the City a great deal over the next 15 years with that annexation, and that's going to help our tax base immensely. It's going to lower our property tax rates, and those are all the kind of investments that we have to do. And I'll use the same, you know, simple analogy that I used on Thursday. I doubt if any of you go out and put a new \$20,000 roof on your house without lowering the cash reserves you have in your savings account. I certainly can't do that. But you do it when you need to, you invest money that's important, and then you spend the next several years building those reserves back up. We are no different in that regard than a family. I will remind you of one last thing, and that is 80% of that General Fund is personnel, and so you all have the ability to make those tough decisions. If you think there's not enough reserve in that General Fund, then during the budget process is the time to do that. You're talking about cutting personnel. I mean, that's the bottom line. You're really talking about cutting personnel. 80% of those dollars are personnel. 72% of those dollars are police and fire. And I personally don't think that's what the citizens of West Lafayette want. Not when we have not exhausted every other way to build up our cash reserves. I will stop there.

Councilor Plomin said Madam Mayor, may I?

Mayor Mills said Councilor Plomin.

Councilor Plomin said I know this year our \$20,000 roof is annexation, but this is the third budget wherein we've spent more money than we've taken in. So what were the other two \$20,000 roofs that we purchased using more money than we took in?

Mayor Mills said pre-1977 pensions. I've already mentioned that. I mean, we've talked for the last three years about those pensions and our concern that we had a huge spike of need, and in 2008, we'll be over that hump. So we have no choice in the pensions, we have to fund that pension. It's our obligation to our police and firefighters.

Councilor Plomin said but if—

Mayor Mills said that's one of the big spikes in our use of cash.

Councilor Plomin said in reviewing for last Thursday's budget meeting, I looked through the minutes of the budget meeting for the previous year, and in the previous year, we used an extra disbursement of EDIT to fund our pensions, not extra money from the General Fund.

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Mayor Mills said if you go back and look at the monies that have been put in the pension funds for the last five years, that has been going steadily up. The obligation is increasing each year—

Councilor Plomin said and we met that obligation with EDIT in previous years, not with General Fund.

Mayor Mills said no, we had increasing obligation in General Fund. We were fortunate to have the COIT distribution that we put toward the pensions also, or we would have taken a larger chunk out of the property taxes for pensions. We're very fortunate to have that COIT money.

Councilor Hunt said the DROP, if I may, may I?

Mayor Mills said Councilor Hunt.

Councilor Hunt said the DROP, which we'll have to pay—I don't know, it decreased. It used to be five or six firemen and now it's maybe five, but we have to give them big boluses of cash in the beginning of '08, and we've pretty much funded that. And that was a big concern last year, a big concern, and so that's a big roof over a lot of our firemen.

Mayor Mills said and I think you know what our gasoline costs have done in the last two years. All of you have faced the same thing, so there are costs out of our control. It's unfortunate.

Councilor Plomin said let me see if I understand correctly. The City is costing more and more to operate.

Mayor Mills said absolutely.

Councilor Plomin said and we're not getting enough money in, because we're capped from the State that's indexed to inflation, and, in general, the cost of running the City is going up. I think that's reflected in our balances. As we continue to not watch the costs of running the City, we will continue to spend more money than we take in.

Mayor Mills said Mr. [Councilor] Plomin, we watch the costs of what we use to run the City. We watch them absolutely every day. And those efficiencies that I gave you in September are how we've been watching very diligently the costs. As I said again tonight, we use a small portion of our EDIT, our Economic Development Income Tax money, for operating. We will use every penny of that if we have to. We don't want to. We want to be able to provide new jobs for this community, invest in the Research Park, invest in the businesses along the Parkway, but we will use that money for operating if we have to.

Councilor Plomin said the cost of running the prosecutions from the Merit Commission nearly approach \$200,000 this year.

Mayor Mills said and that was a cost outside of our control, Councilor Plomin. A perfect example.

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Councilor Plomin said I would disagree. Lafayette spends a much more efficient dollar on its legal expense when prosecuting their Police Merit Commission cases, because the Chief acts as his own representation. They don't hire outside attorneys. And items like this—I mean, if you want to go down the road, we can talk about the things we brought up during the budget meetings for having a car allowance and controlling the car expense, because we're talking about gasoline being out of control. I mean, there were many, many suggestions brought up through the budget process, and every budget meeting, it was said, "This budget is too high. It will be lower." And we'd suggest things and they said, "It will be lower, don't worry, it will be lower." And it's never that we don't propose things, never we don't bring up ideas, see how we can make it better, it's always a wait and see. The Mayor will work on the budget after the department heads present, and then we'll get what we get out of it. It's not that we're not making suggestions. I resent that assertion. But I have a rhetorical question for Ms. [City Attorney Associate] Flanery.

Councilor Hunt said you don't want an answer?

Councilor Plomin said you can answer it if you like, but I've got an answer, and it comes out of Mr. [City Attorney] Bauman's opinion. The question is, can the Council, outside of the Mayor, guarantee a 10% General Fund balance? And it can, because, as Mr. [City Attorney] Bauman cites, the Council has the ability, without controlling the Mayor, to reduce the budget and increase the savings. And so I would disagree with Mr. [City Attorney] Bauman's opinion that it's an illegal resolution, and that it unduly hampers the Mayor, or it indirectly or directly affects what she does, because wholly outside of the Mayor, the City Council can reduce the budget and guarantee 10% to 15% cash balance.

City Attorney Associate Flanery said that's correct, and it's already in the statute that way.

Councilor Plomin said thank you.

Mayor Mills said all right. Other comments?

Councilor Keen said Madam Mayor.

Mayor Mills said Councilor Keen.

Councilor Keen said a couple of things. One of the reasons that we want to establish this—I have a list of items that could be used for reserve funds and that sort of thing, and this comes from the National League of Cities website. One of those things is cash flow requirements; economic uncertainties; including downturns in the local, state, or national economies; local emergencies; natural disasters; loss of major revenue sources; unanticipated operating or capital expenditures; uninsured losses; tax refunds; future capital projects; vehicle and equipment replacement; capital asset; and infrastructure repair and replacement. That list is just a few things that I think we need to have a reserve in place for. You yourself said it was very fortunate that we had these funds in place in previous years, in order to be able to have those funds. And I do agree with that. But I must remind everyone that that didn't happen just magically. That happened because of good fiscal stewardship by previous administrations, who built those reserves

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and had them there for us. This graph, I want everyone to see, this graph is the basis for what we are doing here tonight. This graph demonstrates that, since 2004, when we had a cash reserve of nearly 28% has dropped off significantly—I don't remember exactly what the number was, between '04 and '05, but between this year and next year, it's going to be over 10%, closer to 12% by the time we get done, and between the three years, it has dropped off over 20%. And that's in three years. And if you look at the history, we've had adequate or much higher reserves in years previous, clear back to 1995. This is our reason for wanting to do this, is so that we can ensure that the City doesn't have to go into the red. The way we see it, the City's heading that way right now. We're trying to keep that from happening, and this is one way that we can make that happen, we hope.

Mayor Mills said all right. Other comments? Councilor O'Callaghan.

Councilor O'Callaghan said I guess I would just like to speak to the philosophy again. I certainly do agree that we have talked about the ideal of having a 10% to 15% balance, and that is something that I think that we will all strive for. I think a policy is something that's appropriate; I think legislation is something that's not. I am glad that we did not have this in place this year, so that we could approve a budget that was a visionary budget, that would allow us to grow the City by a third and have that investment in the future, and that's why I will vote against this resolution.

Mayor Mills said all right. Other comments? Councilor Truitt.

Councilor Truitt said I just have to say one thing. Just because we have an interest in this does not mean we do not want to invest in the future. Just because we have an interest in something like this does not mean that we do not think that West Lafayette is a great place to live. Some of us are fourth generation West Lafayette people. So I take great offense when someone states something like that.

Mayor Mills said I don't think anybody suggested that, Councilor Truitt.

Councilor Truitt said we've had conversations along those lines. I'm just saying that I also think West Lafayette is a great place to live, and I want West Lafayette to continue to be a vibrant place

Councilor Keen said absolutely.

Councilor Truitt said I want the businesses, I want the jobs, I want the vision. I mean, I could step up and stand up like Councilor O'Callaghan did in regard to her voting last time about the vision of the City. I'm in favor of the vision of the City, but I want a fiscally responsible City, as I'm sure all of us do. I've heard Councilor Griffin said that he supports this, Councilor O'Callaghan said she supports—I don't know, I haven't heard Councilor Hunt yet, but I'd like to call the question, personally.

Clerk-Treasurer Rhodes said may I speak?

Councilor Keen said yes, I was going to ask if we could have the Clerk-Treasurer speak.

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Mayor Mills said okay.

Clerk-Treasurer Rhodes said I'm representing the Department of Finance, because, by statute, I am the head of the Department of Finance, and I have an obligation to you, as your fiscal officer, to provide some information. The reserve fund policy is part of a management framework that is nationally recognized as a best practice. We are competing with the best communities in the nation for economic development investment in our community, and for providing the kind of quality that makes us the place they want to live. We should be comparing ourselves to our peers at this level of competition, at the level we're aiming for, just as Purdue did in setting its goals. So I look to the Palo Altos, the Chapel Hills, the other communities that we're competing with. I think they're models. A reserve fund policy is a good step and a necessary step for our City as it grows. You'll see the peers that we're competing with already have these kinds of financial frameworks in place. They do it because it's been an asset to them. But doing something like this is a collaborative step, collaborative, it's a joint effort of the Council, the Mayor, and the Finance Department. It's something that they do together because it's going to bring value to their city. We should find a way to get this job done. If this resolution in this form isn't the format for doing that, we should work on one that will be, because a reserve fund policy has financial consequences for the citizens of West Lafayette. It's a key element in the credit analysis of our City, how the debt market looks at our City and how it rates us. And significant unprecedented decline in reserves compared to our long-term trend in which we were stable, that's a potential rating change driver. It's something we want to pay attention to. A reserve policy normally specifies a reserve floor that varies from jurisdiction to jurisdiction, because it's normally based on the particular revenue stream of that jurisdiction, how stable it is, for example. It's based on what the long-term budget reversions are in that jurisdiction, and the specific risks faced in that jurisdiction. A reserve policy may also specify what kinds of revenue drawdowns are acceptable, for example, one-time versus recurring expenses, and we've heard a lot of discussion tonight about how much of this is one-time, how much of this is recurring expense in the drawdown. The policy can require that plans be established to address future operating shortfalls, if that's the reason why reserves are drawn down. Another component of a reserve policy is often specifying how the fund balance will be rebuilt after the drawdown. This demonstrates that rebuilding that fund balance is a priority. Finally, a reserve fund policy is adopted by a governing body. It shows institutionalization, not an improvised practice or an informal practice, but one that is more likely to be sustained. There's a saying in the credit industry, "The higher the rating, the higher the expectation." Well, we're up there. Our last rating was AA-. We need to meet those expectations, but the only way we're going to be able to meet them is with a collaborative effort, a joint effort. Furthermore, tomorrow night, West Lafayette is taking a leadership role by hosting a presentation about Hometown Matters. This is an initiative advocating greater fiscal home rule for cities and towns in Indiana. Part of that initiative is the pledge of cities and towns to have greater fiscal accountability and efficiency, to step up to the plate. What credibility does West Lafayette have that the idea of fiscal guidelines in some form, something that's nationally accepted, something like a reserve fund policy is going to be rejected out of hand. The proposals I've seen on Hometown Matters involve substantial increases in revenue to cities, not entirely only property tax relief. We're going to have to demonstrate best practices in financial policy are going to guide our decision making at the local level, if we're going to want to be able to exercise these greater local fiscal powers. The

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constraints our City is under are very real. I want to just close by pointing out a report that you get every year, but I'm not sure it rings the bells maybe that it might. I give you an annual Sanitation Expense and Revenue Report, and the lower part of that report shows kind of an odd schedule, which shows the increase in the levy we received by having an excessive levy appeal back effective 1991 for costs of closing the Tippecanoe Sanitary Landfill. Now we received a permanent increase in our levy of \$120,000. Our expenditures continued through 1998, but they were considerably less than the permanent increase in our levy. I keep a running total for you of all the surplus we have as a result of that. If you really want to look at the General Fund, the surplus we have is really based on the fact that we received an increase in our property tax and we didn't have matching expense, because this year, it totaled over \$2.5 million. That's really the key, why the City was, in one sense, able to build up surpluses—a historical accident there that allowed us to adjust our levy. I don't think we're going to have more accidents like this in the future. When we go for an annexation levy appeal, we're not going to be able to ask for a levy increase and then not have the expenses. We're really going to have these expenses. The expenses of providing services to the annexation area are very real and are going to be significant. So we're going to not be able to rely on that circumstance easing our financial situation in the future. We're really going to have to address the factors that are causing the recurring deficit. It's more than just what we're doing; it's where we're doing it, among all of our funds. It's something that really takes a collaborative effort. But other communities have done it. We could do it, too. But there's got to be a willingness to at least take a first step and use an approach, a framework for financial planning that's a little bit more sophisticated than we've used in the past, because we're facing more complex problems. And also we're asking to assume greater fiscal control locally. I think we have certainly the capability and the willingness in our governing body here to take on that task, and I would ask, as part of your deliberations tonight, you'd consider how we could accomplish that, how we can move toward that as a goal. Thank you.

Mayor Mills said okay. I couldn't agree with the Clerk-Treasurer more. We are a growing City, we are a developing City, we are reaching the level where we have to evaluate constantly our policies, and I am 100% in favor of a reserve fund policy. I think we have one unspoken. I'd be happy to put that policy on paper. I'm happy to collaborate and work with all of you to do that, certainly happy to work with the Clerk-Treasurer. But, again, I don't think we need a piece of legislation to do that. I think we need a good sound policy for the City of West Lafayette. I'd like to see that happen. I think we do have credibility, we have been very involved in the Hometown Matters process. People know that we are the lowest in tax levy and tax rate, appropriations per person, of all third class cities. We've been very frugal, we've managed very well. We do need to make changes as we grow. I'm absolutely in support of that.

Councilor Griffin said Madam Mayor.

Mayor Mills said yes.

Councilor Griffin said how would you propose that policy coming to fruition, and in what timeframe?

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Mayor Mills said well, the first suggestion was tonight. I'd be happy to sit down with all of you and the Clerk-Treasurer in some kind of work session and put something together that we'd all be happy with on paper.

Councilor Hunt said I have a comment, please.

Mayor Mills said Councilor Hunt.

Councilor Hunt said the last three budget votes that I've been involved with have been the same—they've been 4-3, 4-3, 4-3. It's very distressing to me, because I haven't seen it as a collaborative. Personally, I think I've seen it—unfortunately, I've seen it as political. And one of the Councilors just said that this would assure good fiscal stewardship. I think we can assume that the Mayor has good fiscal stewardship backing up every decision she makes. And that's how I feel. I don't think this is necessary. I think collaboration would be good. I think there are many ways we could collaborate. I won't mention better attention at the hearings, where the department heads present their budgets. That's always distressing to me, that that attendance isn't perfect. So those are my thoughts. I just think that the Mayor—we can assume, and I have confidence, that she has good fiscal stewardship, and I don't like this resolution. I just don't think it's collaborative.

Mayor Mills said other comments?

Councilor Plomin said may I—?

Mayor Mills said Councilor Plomin.

Councilor Plomin said if we could just back up a second. The \$20,000 roof analogy, I think is a good one, because we're talking about things that are one-time and things that don't really occur every year, every couple years. But the items that were discussed—annexation and pension obligations and those types of things—we're going to see costs from those last year, the year before, next year, and the year after, and many years to come for each of these. And until we can learn to—I know we're doing a good job reining ourselves in, but we're obviously spending more money than we're taking in, so we need to do a better job. The City, as City, as a community, as a people, sets policy by passing resolutions. And when we have collaborative effort, a community-driven effort to put together a strategic plan or put together Vision 2020 or these other great things that we do as a City, it comes before the Council as a resolution and we vote on it. And that's what this is. This is coming before the Council as a resolution. We vote on it, it's policy, it's policy. And to say that we're going to make a policy and not vote on it and not put it through the democratic process is, I think, not good government. So I would recommend that we take a vote on this tonight and let it be adopted and then it becomes City policy.

Mayor Mills said thank you. Other comments?

There was no further discussion.

The roll call vote:

AYE NAY

COMMON COUNCIL MEETING MINUTES, OCTOBER 2, 2006, CONTINUED

Keen Griffin
Truitt Hunt
 O'Callaghan
 Plomin

Resolution No. 25-06 failed on first and only reading, 3-4.

Councilor Plomin said Madam Mayor, I request that we reconsider previous Resolution No. 25-06. I move that we reconsider the previous motion.

Councilor Truitt said can I say something in the record?

Mayor Mills said Councilor Truitt.

Councilor Truitt said in the records, you said 4 to 3?

Clerk-Treasurer Rhodes said yes, there were 4 NAYS and 3 AYES.

Councilor Plomin said there are only six of us here.

Clerk-Treasurer Rhodes said oh! I voted for Councilor Satterly!

Councilor Truitt said in favor of it or against it?

Clerk-Treasurer Rhodes said well, now it's 4 NAYS and 2 AYES. However, the result is the same, Resolution No. 24-06 fails.

Councilor Plomin said Madam Mayor, I move that we reconsider Resolution No. 25-06.

Mayor Mills said is there a second to reconsider the resolution.

Councilor Keen said I'll second that.

Councilor Plomin said is there any way we can modify this, can we come to a consensus agreement about a reasonable policy we can set for the City?

Councilor Griffin said why didn't we discuss this when we were discussing this? I'm confused.

Councilor Plomin said because it would be great if this had passed as-is, as distributed with a "shall not be less than 10%." But if it is more likely to pass, it's not likely to pass in this form, it's more likely to pass as amended, I think we should amend it so we can have a good sound policy in place for the City.

Mayor Mills said I would like to suggest that, if we are going to come up with a fiscal policy for the General Fund and cash balances, that we actually have some serious discussion and not make a spur-of-the-moment vote that changes this resolution. That we sit down

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and have real discussion about where we are going as a City, what we all feel comfortable with, and not a vote here tonight.

Councilor Truitt said Madam Mayor, I would like to suggest that the Budget and Finance Committee be the venue for those deliberations, with full input of all Councilors and, of course, you and the Clerk-Treasurer.

Mayor Mills said that would be fine with me.

Councilor O'Callaghan said so then the only reason for the reconsideration would be if we could change it tonight?

Mayor Mills said I think that was Councilor Plomin's suggestion.

Councilor Plomin said that was my motion, yes. I move that we postpone reconsideration on this until the November—

Councilor O'Callaghan said we have motion—

Clerk-Treasurer Rhodes said we have a motion on the floor.

Mayor Mills said we already have motion on the table. All right, we have a motion to reconsider the resolution.

There was no further discussion.

The roll call vote:

AYE	NAY
Keen	Griffin
Plomin	Hunt
	O'Callaghan
	Truitt

The motion to reconsider Resolution No. 25-06 failed, 2-4.

Mayor Mills said the discussion has been to now sit down, Budget and Finance Committee, all of us, and have serious discussion on a policy. Is that acceptable to all of you tonight?

Councilor Truitt said that's great, thank you.

Recognizing the consensus of the Council on this proposal, Mayor Mills said all right, we will move on.

There was no further discussion.

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Resolution No. 26-06 (Amended) A Resolution Requesting The Transfer Of Funds (City Hall, Police) (Prepared by the Clerk-Treasurer) Councilor Griffin read Resolution No. 26-06 (Amended) 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 O'Callaghan.

Mayor Mills said this resolution is to transfer funds in the General Fund from City Hall Office Equipment to Furniture & Fixtures, \$203,544, and in the Police Department, from Salaries – Full Time and Pensions to Salaries – Overtime, \$26,000. Are there any questions? You know that the City Hall transfer was shelving, storage shelving in the basement, and the Police Department is for a shortfall in overtime that will get us through the rest of this year. Any questions or comments?

Councilor Keen said can I—

Mayor Mills said Councilor Keen.

Councilor Keen said could I ask Chief Marvin if he'd step forward and explain the pension, in taking that from pensions, because that has been a discussion tonight and I want to make it clear that everybody understands how this is happening.

Police Chief Marvin said yes, thank you. This is not the pension fund that we've been talking about earlier, the pre-'77 pension fund obligation. This is from the '77 pension fund, wherein our General Fund account we have to budget 21% of a first class patrol officer's salary. We have to budget for that and place that in the General Fund budget, and put that towards the PERF requirement for the '77 pension fund. If we have an opening occur, which we've had some people leave this year, during that timeframe to when they leave to when they're replaced, that 21% of a first class patrol officer's pay is not paid to PERF for that position, so we've had some money that we don't have to obligate to PERF, which is available, now we can transfer over for overtime.

Councilor Keen said thank you.

Mayor Mills said any other questions or comments?

There was no further discussion.

Resolution No. 26-06 (Amended) passed on first and only reading, 6-0.

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) Councilor Griffin read Resolution No. 27-06 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 Truitt.

Mayor Mills said all right, Councilor Griffin.

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Councilor Griffin said this has been a process that has involved the public, and it is designed so. Public input was requested on a couple of different occasions, as this plan was coming together. In February, there was input requested and I believe some more in May, and the public did so, provided its input on particular areas of concern, and it is based upon that that the hazard areas were determined—tornadoes, earthquakes, winter storms—I didn't mention that the first time through, and if we do this and place this multi-hazard mitigation plan in place, it does make us eligible for federal funding in response to all those hazards.

Mayor Mills said good, thank you. Are there any questions for Councilor Griffin? Councilor O'Callaghan.

Councilor O'Callaghan said thank you, Mayor. So, Councilor Griffin, is there any particular cost of implementation of this mitigation plan?

Councilor Griffin said there are costs put together of what, based on prior experience on what the costs, economic particularly, economic and physical responses to the various hazards.

Councilor O'Callaghan said so that would be the cost of response to the—

Councilor Griffin said yes, that is the cost of response.

Councilor O'Callaghan said things, but the implementation of the plan itself—

Councilor Griffin said yes.

Councilor O'Callaghan said that itself, that doesn't seem to have much cost associated with it, does it?

Councilor Griffin said exactly.

Councilor O'Callaghan said it comes within the purview of the job responsibilities of the Area Plan Commission. They're the ones that produced this. We didn't have to pay for it all these or the PowerPoint and all that kind of stuff?

Councilor Griffin said exactly.

Councilor O'Callaghan said okay.

Councilor Griffin said and what has been demonstrated is that if there are specific plans put in place— What's involved in this is planning, for example, putting together a scenario that, if a tornado would occur, what kind of coordination of different public service entities, what kind of coordination needs to happen in order for us to respond as quickly as possible to save lives, to minimize economic input, and so forth. So, the expenses, in most situations, should not be great, but the payback should be 4 to 1.

Councilor O'Callaghan said yes, 4 to 1. Thank you.

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Mayor Mills said any other questions, comments for Councilor Griffin? Councilor Plomin.

Councilor Plomin said I think it's ironic that we are not doing the fiscal planning to encounter a multi-hazard situation, but we're doing all the other planning.

Mayor Mills said any other comments or questions?

There was no further discussion.

Resolution No. 27-06 passed on first and only reading, 6-0.

COMMUNICATIONS:

► Hometown Matters Meeting, Wednesday, October 4, 6:00 p.m.

Mayor Mills said a couple of communications tonight. As the Clerk-Treasurer mentioned earlier, we will host on Wednesday night a Hometown Matters gathering here in the courtroom. We've invited officials from the counties around us to participate, we will have staff persons from the Indiana Association of Cities and Towns here to talk with us about Hometown Matters—what that proposal is and new revenue-generating ideas to offset some of the cost of property tax, so property tax replacement is the plan. I hope that citizens will participate. We would love to have as many people as possible to hear about the plan and to ask questions, to give input. It will be 6 o'clock here in the courtroom, and we will have water and cookies that will tide you over until you can get home to dinner. So I hope people will participate.

► Domestic Violence Awareness Month

Councilor O'Callaghan said October is indeed Domestic Violence Awareness Month. You may have noticed the purple ribbons on the City Hall on the way in. Purple is the color for domestic violence awareness. I just would like to encourage anyone who is experiencing family violence or who knows someone who is, to call the YW's Domestic Violence Intervention and Prevention Program, 423-1118.

► Thank You for Art on the Wabash Festival

Mayor Mills said I'll mention one other thing. We had last weekend, as Councilor Hunt mentioned, our first Art on the Wabash Festival in Tapawingo Park. Very successful, and I want to thank all the people that helped us put that together—Bev Shaw in Development, Brenda Lorenz in Parks, Shelley Lowenberg-DeBoer from TAF, Larry Oates helped us with a financial sponsorship, and then many volunteers, lots of Parks staff helped, a lot of volunteers from the community helped. We couldn't have had it all without that great help, and I'd like to also thank the artists themselves for participating, because we had a great turnout. I think we ended up with 29 artists, many, many citizens down there enjoying the day, and just taking advantage of the great art that we have in the community. I just wanted to say thank you to everyone who made the first one possible. We're already looking forward to the second one. We have a date chosen for 2007.

CITIZEN COMMENTS:

► Mr. Thomas Kessler [479 Maple Street] said I'm pleased to see the exchange between town and gown, and the commitment on that, because some of the behaviors I've

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observed in the New Chauncey Neighborhood on some recent weekends need a bit more commitment, I think. And I also, in that regard, would like to commend the unflappable personnel at the Police Department who take my late-night calls.

► Mr. George Molnar [906 Princess Drive] said good evening. My name is George Molnar. My wife and I recently moved from Chester County, Pennsylvania, which is about 25 miles west of Philadelphia. First of all, I would like to thank both the City of West Lafayette and other municipalities who have made us, in a sense, feel very welcome, including a gentleman named Victor from the Wastewater Treatment, who probably found it interesting that a new resident would want to talk about wastewater treatment, but we had a lot of trouble in Chester County, so I'm by no means an expert, but I know a little bit about it. I apologize if this isn't the proper venue, so I would appreciate telling me what is the proper venue. First of all, we purchased a home on Princess Drive, so I would like to know who is my representative?

Councilor Hunt said he's not here.

Mayor Mills said he is one Councilperson who is absent, Gil Satterly. But you are represented by two at-large. Councilor Truitt and Councilor O'Callaghan are both at-large.

Mr. Molnar said my wife was born in County Laois, where are you from?

Councilor O'Callaghan said well, we think County Cork.

Mr. Molnar said fair enough, thank you. Are these proceedings available? It's obvious there's lots of cameras here. Again, I apologize, I don't want to waste time.

Mayor Mills said no, this is fine.

Mr. Molnar said I've checked the website, but you can't learn everything from a website, fine.

Mayor Mills said tell us your issues, please.

Councilor O'Callaghan said these cameras are a class anyway.

Mr. Molnar said thank you. Just a comment. The citizens' comment section, I would like to recommend that it be put up prior in the agenda, specifically before the minutes for two reasons. One is the time. The other is that often citizens who make comments only see those comments reflected in the minutes, and they never have an opportunity to correct or enhance them. And if it waits another month in this case, our township supervisors—township is second class in Pennsylvania, met every two weeks—but even then, it would take a month or so, if somebody had a correction. This way, if there is in a sense a citizen or resident who has a comment and they see the minutes, they can simply say, "Oh, gee." I'm not saying that the transcriber, the recorder necessarily has to agree with them, but it's just a good opportunity to make things a little more efficient in terms of not having it drag out for several months. Two main questions, please. We had a water main break on Friday the 22nd on Princess. Due to the water company's commitments, and I guess the

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flushing of the things that are going on in West Lafayette, they actually weren't out there, able to get it repaired until Tuesday the 26th. There is damage. I'm not saying extreme damage, but I'm saying there's damage to our driveway, the yard, the curb, and there's just lots of mud on Princess. Is that the City of West Lafayette's responsibility or the water company's responsibility?

Mayor Mills said it's the water company, sir, which is a private utility—

Mr. Molnar said okay.

Mayor Mills said Indiana-American Water.

Mr. Molnar said fine, so I should tell them.

Mayor Mills said yes.

Mr. Molnar said okay, fine. Thank you. One other thing of certainly more serious nature. We have several cats, and before we moved here, we, in fact, had an invisible fence installed on our property, similar to the invisible fence which is an electronic containment system, as we do in our home in Pennsylvania. On Wednesday evening, September 20th, one of our neighbor's dogs—actually one or more of our neighbor's dogs—got out of their yard, killed one of our cats, and severely injured another. The cat that has survived has been treated extremely efficiently at the Purdue Veterinary Center. Dr. Steve Thompson and some other people have taken good care of her. Officer Miller/Phillips—I'm not sure of her last name, her card said one thing, her badge another—and Mr. John King, the animal control officer, have both been extremely professional and compassionate throughout the past week and a half. The difficulty is the following, as I see it. The West Lafayette ordinances, specifically Section 61 refer to an administrative and regulatory requirement for licensing and restraining dogs and animals. But, in fact, they do not assign any liability or responsibility for the actions of these animals. I talked to Representative Micon and Senator Alting this morning. They agree that, in fact, there is no Indiana State statute requiring this kind of liability or responsibility. There is an old statute that, very bluntly in Section 15 refers to effects of a U.S. Postal Service worker that's being bit by a dog. But this is not a first-bite state, this is not a liability state, this is not a strict liability state. My intention is not to punish the dogs, okay? My intention is to hold the people responsible and liable for these actions. This was, in fact, a Siberian husky, probably 3, 3 ½ feet high, weighing anywhere between 70 to 80 pounds. What's going to happen now is the person has been cited; they will appear in court on October 26th. They will likely be fined \$100 for not having a license. They'll likely be fined \$100 for not having the dog restrained properly. What I'm requesting is that you adopt ordinances that very bluntly hold the owner responsible for the actions of their animals. I never want to equate human animal life with non-human animal life, but there's actually nothing in the ordinance that, if we had a child that had been bitten by that dog, there is absolutely nothing in State or City of West Lafayette laws that would hold the owner of that dog responsible. My alternatives now are civil court, small claims court, or a major legal lawsuit. If that happens, this dog will be declared a vicious dog and this dog will likely be killed. That's not my intention. It's not the dog's fault, it's not the dog's problem. It's the owner of the dog's fault and the owner of the dog's problem. I strongly suggest that you

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modify ordinance 61 or whatever other ordinance you feel is appropriate, to hold the owners of animals who cause this damage at least, at a minimum, for the medical expenses of the injured animal, which now has ranged upwards of \$3,000. Thank you very much.

Mayor Mills said thank you, Mr. Molnar. We will have the City Attorney look into this very soon. Thank you.

ADJOURNMENT:

There being no further business at this time, Councilor Griffin moved for adjournment. Motion was seconded by Councilor Truitt and passed by voice vote, the time being 9:07 p.m.

Respectfully submitted,

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