

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
NOVEMBER 5, 2007

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on November 5, 2007, 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, McMullin, O'Callaghan, Satterly, Truitt

Also present were Assistant City Attorney Hermes, Clerk-Treasurer Rhodes, Director of Development Andrew, 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 September 27, 2007, Pre-Council Meeting, and the October 1, 2007, Common Council Meeting. Councilor Satterly seconded the motion, and the motion passed *viva voce*.

COMMITTEE STANDING REPORTS:

STREET AND SANITATION: Councilor Satterly presented this report.

Thank you, Madam Mayor. The 2007 leaf pickup schedule is posted on the City website. The new Sanitation truck has been placed in service as of October 31, '07. That completes the report.

WASTEWATER TREATMENT UTILITY: Councilor Satterly presented this report.

In October, the total flow to the Wastewater Plant was 234.17 million gallons, for those who keep statistics. Average flow was 6.81 million gallons per day. Combined sewer overflow—Environmental Protection Agency keeps statistics on that—4.745 million gallons. Percent treated in the Plant was 98.43%. As far as projects are concerned, the Barbary Lift Station reconstruction is essentially complete. It only lacks the landscaping. The contract amount of \$891,000 has reimbursed, \$490,000 by a grant from EPA. The Western Interceptor Phase II bid has been awarded to Atlas Excavating for \$3.8 million, with construction started November 1, '07. I might mention that Atlas Excavating also had Phase I of the Western Interceptor. The Green Meadows Lift Station, which also will be partially covered under a grant, is scheduled for bid on December 1, '07. That completes that report.

Mayor Mills said okay, thank you.

Councilor O'Callaghan said may I—?

Mayor Mills said yes, Councilor O'Callaghan.

Councilor O'Callaghan said excuse me, Mayor, may I just make one quick comment—

Mayor Mills said certainly.

Councilor O'Callaghan said about the new Sanitation truck. I just love that it says, "Go Greener West Lafayette. Reduce, Reuse, and Recycle."

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Mayor Mills said thank you.

PUBLIC SAFETY: Councilor Keen presented this report.

Thank you, Madam Mayor. Change your clock and change your battery. That's the word from the West Lafayette Fire Department this month. As you know, everybody had to change their clocks this month, and that's always a good time to change your batteries in your smoke detectors, to make sure that they are functioning properly. Keep in mind, too, that certain smoke detectors do have an effective working life of about 10 years, and so, if your smoke detector is older than 10 years, you should consider replacing it. For the month of October, the West Lafayette Police Department handled just under 1,500 calls, which was actually down by about 11% from the month previous. During that same month, the Police officers participated in a variety of different training projects. The rest of the report will be on file in the Clerk-Treasurer's Office.

PURDUE RELATIONS: Councilor McMullin presented this report.

It was somewhat exciting week at Purdue in West Lafayette. The Neil Armstrong Hall of Engineering, I'm sure everyone saw, opened up this week. We also have Women's Big Ten Soccer Tournament starting up. I just spoke with a few of the women's soccer players this evening over burritos, and they were fairly excited for the game against Northwestern on Thursday, I believe. Other than that, I'm going to cede the rest of my time to Jim Cox. He's a Purdue Student Government Senator in the College of Liberal Arts.

Mr. Jim Cox said thank you, Councilor McMullin, and thank you to the City Council for hearing me tonight. Purdue always enjoys the relationship we have with the City of West Lafayette. I would say the majority of us are happy to go home for the summer, but also very sad to leave campus. I won't take up too much of your time, but I would like to come here on behalf of Purdue Student Government and the Purdue student body. I'd like to voice our concern and discontentment with the safety precautions taken during construction of the Fleischhauer apartment building being built on the outskirts of campus. It's kind of, I guess, almost catty-cornered to the West Lafayette Public Library. Mr. Fleischhauer's project has, at times, had no fencing surrounding the project, and has left large machinery in the streets with no one to guide traffic, nor do they have any warning of moving machinery. These safety concerns are an ongoing problem for students, being that it is in the path that many students travel home after school and, worse, it is close to the bars. Now, we hope that, in the future with his second phase that he will be building, that these safety precautions are fixed. We do feel this is a problem for students. That is a big concern right now, with the Purdue student body is safety issues, whether that's walking home at night or concerns such as these. So we just hope Mr. Fleischhauer pays attention to these precautions and we hope that, in the future, there are people out there to flag traffic, as well as students going home, just in general, to make sure they have a safe environment to surround themselves with. We hope that, in the future, he just pays more attention in general to these safety concerns. That is all I have to say. Again, I thank you, Councilor McMullin, for yielding me the time, and I thank the Council as well.

Mayor Mills said thank you, Mr. Cox. I'll just address that a little bit. As part of the second phase planned development, we required him to come up with a real safety plan for that area. I don't know if you've been down there in the last month, but it's all fenced now. They're working within the perimeter of that fenced area, and they will continue to do that through the second phase. So, we know there were issues during the summer, and once students were back in town and it was much more dense down there with pedestrian traffic, we required them to have a safety plan for this next phase. We will watch it very closely. But we appreciate your comments very much. Thank you for being here.

Councilor McMullin said I just want to add on here that Jim [Mr. Cox] and I were talking, and I told him that the City Engineer Mr. Buck has been more than helpful in talking with me, and he'd be happy to talk with Jim [Mr. Cox], and he understands that, you know, there's only so many eyes and so many ears, and we're doing the best we can.

Mayor Mills said well, and we're doing more than we were in the first phase, because we realize there were problems, so thank you very much for your comments.

PARKS AND RECREATION: Councilor Hunt presented this report.

Thank you, Madam Mayor. There's actually good news from the Parks Department, which frequently there is. The Sagamore West Farmers' Market was awarded a \$38,000 grant from the U.S. Department of Agriculture, to establish an 18-month "green and lean" marketing program. The grant was just one of two awarded in Indiana, and there were only 23 nationwide. But this year the Market attracted 29 vendors, its third season. The grant will be used to draw more vendors and to promote the health benefits of market produce. The last weekly Market was October 31, but there is a Thanksgiving Pre-Market the day before Thanksgiving on November 21. That was fun last year. A little cool, but they had some nice things for Thanksgiving. And the Market, then, will reopen for the season in May of 2008. There's signing and landscaping along Nighthawk Trail. The Riverside Skating Rink will open November 23, and its open hours that day will be staggered a bit, to allow some rest for the ice. But it's 1:00 to 3:00 p.m., 4:00 to 6:00 p.m., 7:00 to 10:00 p.m., so there are two one-hour breaks. And the next Park Board meeting will be November 19 at 4:30 at City Hall. Thank you very much.

Mayor Mills said I will just add a comment about the Farmers' Market. We were very fortunate to have a third very successful season of the Farmers' Market. I want to thank our vendors, many of whom have been with us from the first season, and all of the volunteers—we have so many volunteers who make that Market happen, who get out there early, who help us put out the signage, who work the parking lot, who help the vendors set up and tear down. It just wouldn't be possible without all those volunteers. So, we've had a great season because of all the great community support and all the people who come out and buy their vegetables every week, and they will have the Market the week of Thanksgiving again, like they did last year. Hopefully, we won't be six inches deep in snow and people will be able to get out there and buy their vegetables. But we are excited about the Farmers' Market grant. It's going to allow us to market the Market much better for the coming season. We're looking forward to some of the great activities that we can do with that \$38,000, and I want to thank particularly Kathy Cubberly who ran the Market this year, and Kathleen Mills—no relation to this Mills—who ran it last year and who have both worked very hard to keep that Market going. It's been a great success. And, as always, a thanks to the Parks Department who does a lot of the work behind the scenes, and the Street Department who helps us also with traffic. It's successful because of all that great cooperation.

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

Thank you, Mayor. The Redevelopment Commission met on October 22 and heard a presentation from Stan Lambert [Executive Director, Wabash River Enhancement Corporation] on the Wabash River Enhancement Corporation. Along those lines, it was an exciting dedication of the spot for the boathouse for the Purdue Crew. Great to see all the Purdue Crew alumni out, and that's going to be an exciting addition to the Wabash River and develop a community rowing program, which would be neat. But lots and lots of exciting economic development news this month, most recently, the dedication of a new building at the Purdue Research Park for—that was just this past Friday—it's a neat joint venture. It's called the

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Lakeview Technology Center, and it will combine patient care and research with a high-powered MRI, and it's just a really exciting program, partnership with the healthcare systems in Lafayette-West Lafayette and the biomedical—as well as the School of Biomedical Engineering. The Center will also house a growing Purdue Research Park company, Simulex, and a restaurant. The City Council did provide an abatement for the Technology Center, but not for the restaurant part. It's just another example of the City working with PRF to grow great jobs and services here. Certainly another major announcement this month was the \$60 million Champion Center planned for the Family Inn site in West Lafayette. That condominium-hotel mixed-use project will be a great addition to our community. A West Lafayette grad, Alex Moon, and a few partners have developed a new company here in West Lafayette, a laser-tag equipment company, so putting all those years of video games to good use. We've had the great award, national recognition for the Main Street program, and that is a national program, and it was given that recognition and it is—the program is run by the Lafayette-West Lafayette Development Corporation, and it's aimed at making the Hilltop-to-Hilltop work really well, and that's another example of the cooperation. And that Lafayette-West Lafayette Development Corp. this month also made the announcement about nearly \$2 billion in major capital investments have been announced recently. Well, those investments have been made since January 2006, and we have a lot of these announcements come along and the Development Corporation thought it would be good to take a perspective and put them all together, which is really pretty exciting. The Tippecanoe County leaders all working to create a business climate that attracts new enterprises and helps push up average earnings, while driving the unemployment rate even lower. Lots of honors for Purdue Research Park companies. We've talked about Imaginestics before, and they've gotten another wonderful award. Professor Chaturvedi who's part of, the founder of that Simulex company, and 27 Purdue faculty honored for their annual inventors recognition dinner. And this is for outstanding commercialization. So it's that bringing from the University to business. Federal grants, federal funding going to Indiana companies and universities, \$55 million. And of the 10, four of them are in our area. And Purdue Research Foundation has reported that this is a record year for startup companies formed through Purdue University licensed technologies. Fifteen companies were launched from July of last year to June of this year, and five companies the previous year. Just exciting things going on all over the place. And the last thing I'll mention is that the Tapawingo Drive South project being on the cover of the BLA update. So pretty exciting stuff going on in Development.

PERSONNEL: Councilor O'Callaghan presented this report.

Thanks, Mayor. I'll just mention that the insurance premiums for 2008 went to the Board of Works for approval on October 16, and [Human Resources Director] Diane Foster tells me that they are nearing completion of open enrollment.

BUDGET AND FINANCE: Councilor Truitt presented this report

Thank you, Madam Mayor. On everyone's desk in front of them is your consistent cash transaction report that I'm sure you are excited to receive. Plus probably one of the most exciting times of the year is when you receive this big booklet, the Comprehensive Annual Financial Report, otherwise known as the CAFR. So, with that to kind of go along with what Councilor O'Callaghan was talking about, I'd like to talk a little bit about achievement of a different sort. If I could read, "The CAFR has been judged by an impartial panel to meet the high standards of a program, including demonstrating a constructive spirit of full disclosure to clearly communicate a financial story and motivate potential users and user groups to actually read the CAFR." This not-for-profit professional association [The Government Finance Officers Association] serves over 16,000 governmental finance professionals, and has offices in Chicago and Washington, D.C. This certificate of achievement for excellence in financial reporting has

been awarded to the City of West Lafayette by the Government Finance Officers Association of the United States and Canada for a Comprehensive Annual Financial Report.” That’s the CAFR. “The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. So, therefore, it’s with great pleasure that we award the Financial Reporting Achievement Award to Judy Rhodes, Clerk-Treasurer of West Lafayette.” So, Judy [Clerk-Treasurer Rhodes], I have a certificate for you from the Association that I’d like to give to you. That concludes my report.

REPORT OF APC REPRESENTATIVE: Councilor Griffin presented this report.
Madam Mayor, no report tonight.

REPORTS OF SPECIAL COMMITTEES:

Mayor Mills said we have tonight, during the reports of special committees, a presentation by the East Tipp Middle School. We have a group of young people here today, under the direction of their faculty sponsor Malcolm Springs, and they are going to present to us a report that they did on Morton Community Center. So we have Jenny Blackburn and Kate Sutton and some of their classmates, and we’re looking forward to that.

Mr. Malcolm Springs [faculty advisor] said thank you. Thank you for taking the time for us. We’ll just take about five minutes. We are from East Tipp Middle School, which is the exact opposite side of the County that you guys are on, but many of our students are involved in activities over on the west side, especially at the Morton Community Center. As the Lego League team, there are four parts of things we have to do. We have to design and build an autonomous robot, we have to program that, and we also have to make a presentation of how to save energy to a number of people. Since we’re involved at Morton Community Center, we did an energy audit of Morton Community Center, and now I’m not going to talk any more. I’m going to turn it over to the experts, Jenny [Blackburn] and Kate [Sutton].

Mayor Mills said thank you very much.

Ms. Kate Sutton said so when we did our audit at Morton, we found out that the natural gas heating system, the air conditioning, and the fluorescent lighting are all very efficient, but the one problem that we found out was they have single-pane windows, which allows for a lot of heat loss. And, as you can see, there are many, many windows at Morton. And they’re in all shapes and sizes. There’s 129 in all, including the 10 windows in the multi-purpose room, and they span two stories, so they are really big. Also, the steel frames on the windows expand and contract with the changes in temperature throughout the day, and that causes the glass to crack in some places.

Ms. Jenny Blackburn said we contacted the Parks Department and learned that they had already done a study at Morton about the window issue and had come up with three possible options for upgrading the windows. The first was to restore the frames and install storm windows over the existing windows. Though storm windows do reduce heat loss, they are not pleasing to the eye.

Ms. Sutton said another option was to install new steel frames and then double-pane windows. Although this is historically accurate, it’s very expensive compared to the amount of money that the new frames and new windows would actually save. And then our final option was to install new aluminum frames and double-pane windows. This is the cheapest of their options, but it’s not historically accurate, and it is the least energy efficient of the options that they came up with.

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Ms. Blackburn said we are proposing a fourth option that we believe stays true to Morton's historical importance and would greatly reduce the gas heating bill during the winter. It was used to renovate the old Armory on Ninth Street in Lafayette and was very successful. Seeing as the Morton Center was built just two years after the old Armory, we believe that this option would be the best course of action. Right now, the Morton frames are rusting and the paint is crumbling and cracking. So we think that the existing windowpanes should be removed and the steel frames should be sandblasted in place, to remove old paint and rust.

Ms. Sutton said double-pane low-e window units would then be installed, and we made a little poster to explain what that means. So double-pane means there are two layers of glass with a $\frac{3}{8}$ -inch airspace in between them. This helps in reducing the heating bill, because it takes longer for heat to pass through a thick layered material than it does to pass through a single layer of glass. And low-e is a type of glass that helps in insulating the windows. All objects absorb and give off heat, but when you use low-e glass, it serves as a barrier, stopping the heat from being projected outside of the building. You could sort of say that it's like a mirror, it reflects up to 50% of the heat back into the room. Low-e glass also prevents UV rays from getting through the window. It can prevent up to 60% of the UV rays. Those damage hardwood floors and hardwood furniture and carpets. It makes them fade.

Ms. Blackburn said since tax dollars will be used to fund this project, we think that the money should be spent at local companies, so we worked with Lafayette Glass Company and Scharer Masonry to come up with a plan and cost estimate for the project. The estimate was around \$260,000, and this includes the cost of material and labor to sandblast, prime, and paint the steel frames, and the installation of the new low-e panes.

Ms. Sutton said all in all, we've come up with a plan that will reduce energy consumption at Morton, make the building more comfortable for the people who use it every day, preserve the historical integrity of a building that has lasted almost 80 years, and save money for the City of West Lafayette.

Ms. Blackburn said thank you.

Clerk-Treasurer Rhodes said could you introduce yourselves to the Council, please.

Noah Skiles, Bryce Wilson, Alex Hoffmann, Eric Barlow, and Mycah Davis introduced themselves.

Mayor Mills said thank you so much. This was really excellent. You did a wonderful job. Are there questions from the Council? Can you take questions?

Ms. Sutton said so we gave you the little colorful pamphlet, and that just has general information about the low-e glass, which we explained, and it has more numbers and percentages and stuff.

Mayor Mills said so do we have these estimates in writing from Lafayette Glass, so we can go there and get this price that you quoted us?

Mr. Springs said actually, we do.

Ms. Sutton said we do, indeed.

Mr. Springs said they measured all the windows to do this.

Councilor Truitt said Malcolm [Mr. Springs].

Mr. Springs said yes, sir.

Councilor Truitt said can the next step be maybe having them form their own little consulting company and take it to the residential community? I thought that that was a great presentation, and hopefully you guys learned a lot and I thank you for coming. It's fantastic.

Mr. Springs said [Parks Superintendent] Joe Payne really helped us on this, and so we hope to make a presentation to the Parks Board as well. So thank you for your time. They have school tomorrow, and they have homework that I have assigned, so they need to get home and do that. This is not a political statement, but we're going to leave.

Mayor Mills said we have started a "Green West Lafayette" initiative, and we hope that some of you might be interested. So we have an application form on-line, if you go to the City website, so if any of the class is interested in helping us make West Lafayette greener, please tell them to sign up.

Mr. Springs said will do. Thanks.

Mayor Mills said thank you so much.

PUBLIC RELATIONS:

Employee Service Anniversaries

Mayor Mills said we have two employee service anniversaries for November. Cheryl Kolb in the Parks Department who is celebrating 15 years with the City, and Doug Perkins in the Street Department, 5 years. So we offer them our congratulations and our thanks for their great service.

West Lafayette Community Beautification Award

Councilor Hunt said it's a great pleasure for me to present this. The northern gateway to West Lafayette is at the intersection of Happy Hollow Road and State Road 43 North. There's an Adopt-a-Spot there, and it was built, established, and enlarged by the Tippecanoe County Master Gardener Association in the early '90s and has been appreciated by many who stop at the picnic area, look at the flowers and the trees, and walk to the river. Perennials, trees, and bulbs from personal gardens have been carefully transplanted in a very cost-effective manner. And prized rocks have been donated to the heartscaping. Evidently, some of the rocks have disappeared now and then, because they're quite attractive. Master Gardeners preserved and kept enlarging the planting area with lots and lots of daffodils and naturalized bulbs to welcome spring. Don Nead, who's been a Master Gardener since 1996 is sort of the coordinator. He's recorded helpers every year, assigning each Master Gardener a week to care for the gardens. Volunteers do the maintenance, they do the watering and the weeding, and Don plans the addition of the annuals. The efforts of these faithful Tippecanoe Master Gardeners have created a very colorful welcome spot in West Lafayette. It's my pleasure to present this award and the photograph—I wish you'd go down and see it, even now it looks nice, although I think you put it to bed, Don. Is that right?

Mr. Don Nead said no, not yet.

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Councilor Hunt said okay, so anyway, here is the picture, and I have the certificate here. Don, if you'd like to say a few words.

Mr. Don Nead said yes, I'd just like to say the Master Gardeners of the County have been the ones responsible for that garden from its inception. In fact, it was designed by one of them, and various pieces and parts of it have come from not only Lafayette, but you can find pieces of various people who are residents of West Lafayette down there in some form or other, but also, from the rest of the County. It's one of my pastimes in my retirement, and I plan to continue to do it. I finally made the commitment to my fellow Master Gardeners that it will not get any bigger than it is now.

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

Mayor Mills said please.

Councilor Hunt said first of all, that photograph and the write-up, a little more elegant write-up, that was done by Lynn Layden is on the website. I think we're up to date with the pictures and the citations for the Beautification Award on the West Lafayette City website. Thank you.

Mayor Mills said thank you, Lynn [Ms. Layden].

Mayoral Appointment to West Lafayette Human Relations Commission

Mayor Mills said one other item under Public Relations, the Council got, in the last few weeks, the résumé of Asako likubo, who has agreed to be a new appointment to the West Lafayette Human Relations Commission. As you might remember in the last couple months, we have expanded the number of appointments on the Commission—at their request—so that we can have a greater diversity on the Commission and have more members available when they meet. Asako has graciously agreed to join that group, and we look forward to having her. So I would make a motion to have her approved as the newest member of the Human Relations Commission. Motion was seconded by Councilor O'Callaghan. Any discussion?

Councilor O'Callaghan said we just might mention that Asako is also a Beautification Award winner.

Mayor Mills said yes, she was. She was earlier in the year.

There was no further discussion. The motion to appoint Asako likubo to the West Lafayette Human Relations Commission was unanimously AYE.

Mayor Mills said again, thank you to Asako for being willing to serve the City as one of the Human Relations Commission members.

FINANCIAL REPORT: Clerk-Treasurer Rhodes

Clerk-Treasurer Rhodes said I just wanted to make a few comments about the cash transaction report in particular. On the lower part of the report where we summarize personnel expenditures, you'll notice that Police is only 1.5% greater than this time last year. That's really due to the number of new positions in that department that were unfilled for a greater part of this year, and some additional turnover. If you look toward the bottom of the personnel section, you'll see the line, the very bottom row, "Police Grant Projects," which is now at about \$42,000. You may recall that we removed that from running through the Police Department budget. This is salary which is reimbursed from State grants. Nonetheless, we believe that most of the

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

overtime budget in the Police Department will be needed. There have been a number of special activities that have required overtime, as well as coverage while there have been vacancies. However, I think that is the most notable change, as of this time this year compared to last. You, of course, received your normal State Board of Accounts ledger reports. I wanted to just make a quick budget update. The last time we talked about the budget was September 10. Two factors are affecting our budget process. One is that trending is not done for 2007 Pay 2008. The Form 11s, which will be the assessments of property, will probably not be delivered to taxpayers until January. That means that there is no certified assessed valuation to do any tax rate calculation. So you can see that's going to really push us back into pretty much the first quarter of 2008 probably before we have tax rates. The other factor that's affected us is that the breakdown of our allocation of local option income tax, the COIT and the EDIT, is being held up by the Department of Local Government Finance, because they're giving all counties until the deadline, December 31, for adoption of Local Option Income Tax to replace a portion of property taxes. The only way they will release the income tax breakdown information is if they have an ordinance of the Tippecanoe County Income Tax Council saying definitively that we will not implement this Local Option Income Tax or, of course, that, in fact, we are going to. And that would form the basis for the calculation. So we are going to be held to the very end of December before they even begin to do the calculations to provide us with that information. We normally rely on this information for making budget decisions. One final change; budget hearings which normally were conducted in October will not be conducted until, once more, sometime in 2008, when the certified AV is available and the tax rates have actually been calculated. This is a different process. DLGF is trying to get more accurate information out to taxpayers before they hold the local public hearings on the budget, which used to be held in the fall, prior to them actually working the budget. So, taxpayers and the Council probably won't get our numbers until, I think, well into 2008.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

Resolution No. 29-07 (Amended) A Resolution Requesting The Transfer Of Funds (Clerk-Treasurer, City Hall, Police, Sanitation, Motor Vehicle Highway) (Prepared by the Clerk-Treasurer)

Councilor Griffin read Resolution No. 29-07 (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 Satterly.

Mayor Mills said this is an amended resolution that was amended in Pre-Council, and this is for transfer of funds in the General Fund from Clerk-Treasurer Legal Services, Contract Services, and Instruction, \$5,200, to Insurance, Licenses, Permits & Fees; in City Hall from Gas, \$3,650 to Postage; in the Police Department, from Repair, Parts & Equipment, Contract Services, Instruction, and Vehicle Lease Purchase, \$34,000, to New Uniforms, Gasoline, Oil, Tires & Tubes, and Repair Services. And in the Sanitation Department, from Postage and Vehicle Lease Purchase, \$10,300, to Certifications, Exams, and Other Equipment. That was a total in the General Fund of \$53,150. And in the Motor Vehicle Highway Fund, from Travel, \$400 to Institutional Supplies, \$400, for a grand total of \$53,550. Are there questions or comments from the Council?

Councilor Keen said Madam Mayor, I did have one comment.

Mayor Mills said Councilor Keen.

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Councilor Keen said in the City Hall transfer, I wanted to offer a motion to reduce the transfer due to the postage by \$2,361.38, because of the additional Citywide mailing of the open letter.

Councilor Truitt said I will second that motion.

Mayor Mills said all right, we have a motion to reduce the transfer in City Hall. This was from Gas to Postage for \$3,650, to reduce it by \$2,361.38. Is there discussion?

Councilor Griffin said can you expand upon that a little bit, your rationale?

Councilor Keen said my rationale is that this open letter that was sent out, in my opinion, was political in its nature, and I don't believe that taxpayers should be having to pay for political information being sent out. And that's what this transfer is going to pay for, is that letter.

Councilor Griffin said so, it's not the Mayor's job to inform the City of this \$600,000 error?

Councilor Keen said no. I just said that I believe that the information that was sent out was political in nature, and I don't believe the taxpayers should have to pay for it.

Mayor Mills said and I will comment, since it's me they're talking about here. This was an open letter to the citizens of West Lafayette, three days after we discussed this at Pre-Council, telling the citizens that we were not able to file an annexation levy appeal for \$600,000, and assuring people that our budget would be fine, but we would have to make cuts and changes to be able to fund the budget for 2008 and to be able to end up with reserves at the end of 2008 to start 2009. I think it's my responsibility and my job as the Mayor of the City of West Lafayette to let people know when there's a significant change in the financial situation of the City, and since we had included that \$600,000 in our budget process, I thought that was a significant change in the financial situation of the City. There was nothing political about it. If this hadn't been an election year, I bet nobody would have batted an eyelash. I've sent out other letters in the past, I send out quarterly newsletters about what is happening in the City, because, again, I think it's my responsibility, as the Mayor, to let people know what's happening. And there is no other medium available to me, besides an open letter to the citizens to let that kind of information be known. You can't count on the media to get the word out. Certainly not everybody listens to the same media source, and so that is my option as the Mayor of the City of West Lafayette. I certainly stand behind that. It was not political in nature. And, again, it followed immediately on the heels of the budget process, and the first public discussion of the loss of the chance of appeal on Thursday, the letter was written on Friday, and mailed out on Tuesday.

Councilor Satterly said was that letter not reviewed by some committee and was deemed not political in nature.

Mayor Mills said it went to the Election Board, and they said it wasn't their purview to look at that letter.

Councilor Hunt said I am, if I may—

Mayor Mills said Councilor Hunt.

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Councilor Hunt said I went to that meeting at the Tippecanoe County Building, and they indeed met, the three members on the board, and they did agree it was not in their purview. But the charge was made at that area, and that's how the board ruled.

Councilor Truitt said well, the press did report on this situation, number one. So whether you believe that or not, that's one mechanism that was used. I think if the letter itself was generic in nature, as far as just talking about the situation, I might have a different feel, but I think that it was awful pointed, and I think there's plenty of other individuals that agree with that, so that's why I seconded the motion, and I'm going to hold true to that. I think that it was not necessary. I do agree, though, that it's the Mayor's responsibility to inform, but the mechanism to inform is in question here.

Mayor Mills said and, again, I won't agree with you. All the letter stated was what had happened, the facts of the case, nothing more than that. And it went to every citizen which I think is, again, my responsibility. And I would be certainly shirking my duties as the Mayor if I didn't inform people that we had a serious change in our budget situation for 2008. And that, I think would be cause for grave concern, if I didn't let people know what had happened, because I would not be doing my job.

Councilor Keen said well, I would say that I would respectfully have to disagree with you in that. As Councilor Truitt says, I think, it's the mechanism and the format in which the letter took that was, that I believe was political in nature.

Councilor Griffin said call the motion, call the question on the amendment.

There was no further discussion.

Mayor Mills said all right, we have an amendment on the floor to reduce the transfer from \$3,650, reduce it by \$2,361.38. Would you call the roll, please.

The roll call vote on the amendment:

AYE	NAY
Keen	Griffin
McMullin	Hunt
Truitt	O'Callaghan
	Satterly

The amendment to Resolution No. 29-07 (Amended) failed, 3-4.

Mayor Mills said all right, is there other discussion on any of the transfers in any department?

Councilor Keen said can I make one more comment, Madam Mayor?

Mayor Mills said Councilor Keen.

Councilor Keen said obviously there's a lot of information in this transfer that needs to be passed. However, I do not feel that this is something that I can vote in favor of and not support at the same time, so I will be abstaining from voting on this issue.

Mayor Mills said any other comments?

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

There was no further discussion.

Mayor Mills said all right, will you call the roll, please.

The roll call vote:

AYE	NAY	ABSTAIN
Griffin	McMullin	Keen
Hunt	Truitt	
O'Callaghan		
Satterly		

Resolution No. 29-07 (Amended) passed on first and only reading, 4-2-1.

Resolution No. 30-07 A Resolution Authorizing The Mayor Of The City Of West Lafayette To Enter Into An Interlocal Agreement With The City Of Lafayette, City Of West Lafayette, County Of Tippecanoe County And The Area Plan Commission Of Tippecanoe County (Submitted by the Area Plan Commission)

Councilor Griffin read Resolution No. 30-07 by title and moved that it be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Satterly.

Mayor Mills said all right, this is a resolution agreed upon between the different jurisdictions. We are purchasing requested traffic counting equipment that we will all use, using 80% federal funds. Our City participation in the agreement would be for 20% of our total, or \$323.90. And this is submitted by the Area Plan Commission. Are there questions? Any discussion?

There was no further discussion.

Mayor Mills said all right, will you call the roll, please.

Resolution No. 30-07 passed on first and only reading, 7-0.

Resolution No. 31-07 (Amended) A Resolution To Require Monthly Bills To Be Filed For Legal Services (Submitted by Sam Haynes)

Councilor Griffin read Resolution No. 31-07 (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 Satterly.

Mayor Mills said all right. This is an amended resolution. It was amended in the Pre-Council on Thursday night, to require, as Councilor Griffin said, monthly legal bills be reported. It had a bit of language change to support code enforcement. Councilor O'Callaghan entered that on Thursday evening. Is there discussion and comment?

Councilor Truitt said I would like to start—

Mayor Mills said Councilor Truitt.

Councilor Truitt said by asking Mr. Haynes to come up, and since we had a citizen actually take the time to put forth a resolution, which I thank him very much for, in having that resolution

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

changed in some way, shape or form, I would like to invite Mr. Haynes up to kind of talk a little bit about what he had in mind, in regard to the resolution.

Mr. Haynes [713 Avondale] said thank you. I appreciate the chance to speak to the Council concerning City business. As you said, the present resolution has more to do with housing code than getting the legal bills in in a timely manner. I was told that the attorneys had the bills in, but for different reasons, they weren't submitted to the Clerk-Treasurer and therefore they weren't submitted because we didn't have the appropriations. For that reason, I would like you to pass this motion, because the City must be able to appropriate the funds to enable the Clerk to pay the bills in a timely manner. You know, I would like a little information. I thought we'd have an opportunity to—from the audience—to speak about the postage thing. That's not the way we normally do it? You don't ask for any comments from the audience?

Mayor Mills said we typically—I guess we typically don't always have discussion on the resolutions, but we'll certainly have time in the Citizen Comments at the end that you can talk on anything you'd like, Mr. Haynes.

Mr. Haynes said thank you very much. But it is a little late now. It's already been passed, right? Or does it take a second reading?

Mayor Mills said no, it doesn't, a resolution.

Mr. Haynes said not on a resolution. Okay, thank you very much.

Mayor Mills said we will listen to your comments later, though.

Mr. Haynes said thank you.

Mayor Mills said all right. Other comments? Discussion from the Council? Councilor O'Callaghan, do you want to add anything?

Councilor O'Callaghan said yes, thank you, Mayor. I guess I would just like to say that I kept as much of Mr. Haynes' words as possible, didn't change his words very much at all. But oftentimes, on resolutions and ordinances, we have some background as to why we're doing this legislation. And, really, the only reason for the increased legal fees that are mentioned in Mr. Haynes' words are the legal services incurred in code enforcement cases. And so I thought it was very important and appropriate to add the background information that the City really does have a vested interest in code enforcement, that the Council has adopted policies and procedures to address the housing code and occupancy limitations, and that it does cost some money to do that. But it is a priority to enforce the code, to enforce it for health and safety of the occupants. That's the BOCA housing code part, and definitely important to enforce it, in terms of the occupancy limits. When a house is overoccupied, it can lead to increased police calls, it can lead to deterioration of the housing stock, more vehicles parked, more noise, and also to upset the balance of owner-occupied and rentals in the neighborhood, as a landlord who will overoccupy a house can pay more for that house than a single family can pay for. And so it upsets the balance of, and actually encourages conversion of single family homes to rentals. And so that's why I felt it was very appropriate to add this and leave Mr. Haynes' words as much as possible the way that he wrote them.

Mayor Mills said we have—you have in front of you tonight, a few handouts. You have first—and Mr. [Director of Development] Andrew is here from the code department from

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Development—but you have a handout that lists the original budget for code enforcement legal, the first additional appropriation that happened in April, the second appropriation that happened in September, what that total for the year is, what is still available, the expenditures, the balance, and the pending bill for June, July, and August. And then you have, at the bottom, the information that there's still bill outstanding from September and October. On the second sheet, you have the 2007 code enforcement fee breakdown by case, and that gives you the charges in September, so this is through the end of September. The October billing is not complete, because we've just finished October and they're still pulling those totals together. But you will have that as soon as they have it. And then you have a pie-chart graph that gives you the code enforcement breakdown by case—three of our large cases, general costs for code enforcement, and then the other cases lumped together. So that gives you some background. Mr. Bauman and Mr. Andrew put these numbers together, so you could see kind of where we are at this point. Questions?

Councilor McMullin said I guess I was wondering—

Mayor Mills said Ross [Councilor McMullin].

Councilor McMullin said correct me if I'm wrong, Mr. Haynes. I was curious. I thought this resolution was simply meant to make sure that we were accountable as a City, to make sure that our bills are filed on time. In terms of the amended resolution—this question's for the Clerk-Treasurer—is there any change, in terms of what actually happens in the filing of the bills? Is there a difference in the readings, in terms of actuality? Or was the extra wording just put there to read?

Clerk-Treasurer Rhodes said are you asking me whether the—well, the amendments, I can briefly review them, were to add three Whereases, which has no impact on the actions that are proposed. And, actually, the actions proposed have been unchanged. The actions that are proposed would involve conduct by attorneys providing legal services to the City, the filing of their bills and submission of their bills in the timeframes prescribed. The sections that were amended really don't change the actions that were proposed in the original resolution. Am I correct in my interpretation of that? That was my understanding when the amendments were made at Pre-Council.

Councilor O'Callaghan said and that was my intent as well, to leave Mr. Haynes' words as much as possible and to add the background information and take this opportunity to express the importance that the City places on code enforcement, that this was the reason why the bills were so high. But it's unfortunate when these cases cause that price to go up. But I think we have people in our neighborhoods that could speak to how strongly they feel about code enforcement. And this is an opportunity to put that on record.

Councilor Truitt said and I think the other item that we did talk about was I hated to have it all be focused on just the legal side of things. I mean, we have other professional services that are provided, that if they're holding their bills, then this same resolution should apply to those individuals, because it's hard—I mean, you can imagine if you went to an attorney and they didn't send you a bill for three months, I mean, it would be difficult if you keep racking it up that you don't understand where you stand. And so, from a fiscal standpoint, I think the important thing for me—I mean, I would personally rather have it be more all-encompassing and more comprehensive to include not just the legal side of things, but, you know, I think putting this other language, I think all of us are in favor for fair and equitable code enforcement. And the important thing to me here is that the sections 4 and 5 now that really hit what the resolution is

after, is that they're required to submit their bills once a month. And I think that will be very helpful, and that it should be uniform and should not be withheld for any reason. So, even in those cases where it's still pending, if you want to call it that, we still have the opportunity to receive accrued billing statements from the individual, so that will also be helpful from a fiscal standpoint. So I wish the wording was not changed and added in there, but I think, to Councilor O'Callaghan's point, I think the gist of it is still in place, I believe.

Mayor Mills said [Assistant City Attorney] Ms. Hermes is here, from Gambbs Mucker & Bauman, and she has been involved in much of the code enforcement work. Do you have comments for us?

Assistant City Attorney Hermes said well, just a little bit of historical perspective, and I have to say for approximately the last year and a half, I haven't been significantly involved in doing code enforcement work, but prior to that, I did the work for five or six years. The enforcement program has been around since the 70s, but in 2001, there was a significant change which was approved by the Council on a 5-2 vote to require occupancy affidavits that require the signatures of both the tenants and the homeowners. The design of that program was to shift a significant part of the burden to landlords to monitor overoccupancy. And I was involved in code enforcement during the time and after that time. I'd like to tell you that, since 1997, up until the present time, we had zero trials. Our last trial before the cases that we have was back in 1997. Since that time, I believe that we have only had one case that has been required to go to hearing, which the City was awarded summary judgment on a case, I believe, back in 2002 or 2003. So for an approximate 10-year period of time, we had no trials. And now, in this year, you know, remarkably, we have three trials, and they've been very—it costs a lot of money to try cases. And particularly when those cases are very vigorously defended—which people have a right to do—and raised constitutional issues, which has been the situation in this case. In terms of the handout, the pie chart, it's just a picture in time, a snapshot. But it's my understanding that that reflects the bills that were paid in 2007, which may include work done in 2006, because, obviously, there's a time lapse between billing and payment in any event. I would tell the Council that, in the 2006-2007 period, during which time I didn't personally do the work, but the most recent figures that we put together show that, in the absence of the three cases that are currently either have been tried or are being tried or have been tried in part—if you take out those three cases, the City has spent approximately \$14,600 on enforcement costs on about a dozen or so cases. And they have received in fines on those same cases approximately \$15,600. So, basically, the cost of enforcement has been approximately equal to the fines that have been received. And what people need to understand is that, for whatever reason, and maybe [Director of Development] Mr. Andrew can tell you, the money doesn't go back into legal, it goes back into the General Fund. So the fact that we have recouped the money that we spent really doesn't get recognized. And that's really for the past year and a half, when I haven't been primarily in charge of these cases. That's the history. Generally, we may sue cases out to get people's attention, but generally those cases don't go to court. We recover the costs of enforcement. And, from a historical perspective, which I can speak from, that has generally been the situation. In my five or six years that I did the cases, not a single trial. I had a successful summary judgment motion, but generally, we sued cases out, landlords and tenants would agree and acknowledge their violations, and the case would be resolved fairly quickly. People have a right to vigorously defend the lawsuits that have been brought. But, so far in the litigation, the City has received favorable decisions, in part, on all three cases that are pending. And I did bring copies for the Council members of the three favorable decisions, and, you know, we're going through the trial process. In one case there has been—well, in all three cases, really—violations have been acknowledged and essentially in those three cases, the total amount, I think, if you look at the potential fines that the City may receive, is somewhere

between a minimum of \$100,000 to \$200,000, using the minimum fines. And traditionally, you know, if there's a range of fines that's been available, the City has requested summary judgment, in order to limit the legal expense, and asked for the minimum fines, because our number one goal—and I think this is true of the program administrator, Allen Grady [Assistant Director of Development], has been to secure compliance and to do it at the most cost effective manner we can. But, the three cases this year, I mean, the last case we had to try was in 1997, and that was a case that was very expensive. The landlord vigorously defended it and took it on appeal, and the City prevailed in all respects, and we recouped the fines in that case. In the summary judgment that I had, we prevailed in every respect and the individual waived his right to appeal, and the case was settled. So the City has been very successful in what it's done and has been very, I think, selective in making sure that the information that's gathered by the code administrator and the program administrator is good information before lawsuits are started.

Councilor Truitt said is this \$14,000 number that you just used in your analogy, is that only related to costs from the legal? I mean, surely that's not a fully-loaded—

Assistant City Attorney Hermes said no, that's the legal cost.

Councilor Truitt said that's the legal, so it's not really the true enforcement cost, because—

Assistant City Attorney Hermes said oh, no.

Councilor Truitt said that would be mileage and gas and so on.

Assistant City Attorney Hermes said that's just—

Councilor Truitt said that's just— Okay. All right.

Assistant City Attorney Hermes said that's just the—

Councilor Truitt said I mean, it's kind of hard to compare those two, then—

Assistant City Attorney Hermes said well, yes and no—

Councilor Truitt said because enforcement cost is a big number.

Assistant City Attorney Hermes said yes, right. But enforcement costs—those costs are ongoing, regardless of whether you send it out for—

Councilor Truitt said yes, but when you look at fines and so on— I just want to make sure, because, yes, you're right. That looks like you're covering—

Councilor O'Callaghan said the legal costs

Assistant City Attorney Hermes said and historically—

Councilor Truitt said I just wanted to make sure that I got that down, so—

Assistant City Attorney Hermes said I'm just telling you, this year is—

Councilor Truitt said yes.

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Assistant City Attorney Hermes said totally extraordinary.

Councilor Truitt said now if I could ask a question, Pam [Assistant City Attorney Hermes] on this chart, so if I look and understand—these percentages here—we'll use Weida, for example here, 63% of the total code enforcement breakdown costs, so that would mean that it's \$75,000?

Assistant City Attorney Hermes said I can't tell you what the costs, I mean the numbers, are.

Councilor Truitt said I mean, so—

Director of Development Andrew said it's a moving target.

Councilor Truitt said no, but the target had to stop at some point to come up with this, and I'm just—

Director of Development Andrew said that's to date. We have additional—

Councilor Truitt said so if we look at the \$124,000 which now has a balance, Josh [Director of Development Andrew], of \$560, you could take 63% of \$124,000 and—

Director of Development Andrew said right. You've got \$560.88 left. As a result of that, we're waiting to see the additional bills—which we got one for September from Pam's [Assistant City Attorney Hermes'] firm—

Councilor Truitt said that \$18,000.

Director of Development Andrew said we have another for October from Pam's firm, and then we have one from Ice Miller.

Councilor Truitt said okay.

Director of Development Andrew said that would run from August to date.

Councilor Truitt said but this chart right here is using the balance of—

Director of Development Andrew said to date, right.

Councilor Truitt said \$560.88, so it would be—

Director of Development Andrew said roughly.

Councilor Truitt said so \$75,000 for Weidas. Right.

Director of Development Andrew said and it may be—the percentage will probably increase.

Councilor Truitt said do you have any idea on how much time Ice Miller has spent on this?

Assistant City Attorney Hermes said no, I don't.

Councilor Truitt said no.

Assistant City Attorney Hermes said I've been—

Councilor Truitt said out of it—

Assistant City Attorney Hermes said I haven't done a lot of work on that case. I can tell you about some of what has required substantial amount of work. I can make some comments on that, because I have reviewed the docket and I also looked at the work that was done, so... But I haven't looked—

Councilor Truitt said okay.

Assistant City Attorney Hermes said at Ice Miller's—

Councilor Truitt said okay. And we haven't gotten—and we have absolutely no idea—

Director of Development Andrew said nothing.

Councilor Truitt said okay. All right. See, it would be great if this resolution was in place before, right—

Director of Development Andrew said yes.

Councilor Truitt said because then you'd have this information.

Director of Development Andrew said and lawyers don't always bill in a timely manner.

Councilor Truitt said yes.

Councilor O'Callaghan said because—

Director of Development Andrew said especially in cases of this size. Evidently they don't need the money?

Councilor Truitt said exactly.

Councilor Keen said Madam Mayor.

Mayor Mills said other comments?

Councilor Keen said I have one last comment.

Councilor Truitt said I grew up with an attorney, though.

Assistant City Attorney Hermes said so you know.

Mayor Mills said Councilor Keen.

Councilor Keen said I just wanted to point out for the public that Mr. Haynes' original intention of this resolution is still intact, even though there's been a lot of wordage and verbiage added to it.

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

His original intent to require legal services to be billed once a month is still intact, and therefore I can support this.

Mayor Mills said other? Councilor Truitt.

Councilor Truitt said one more question. Judy [Clerk-Treasurer Rhodes], in regard to available funds and such that are out there, do you have any updated information that you can share, for the good of the order, in regard to this information?

Clerk-Treasurer Rhodes said the information provided to you, that there is available for expenditure for code enforcement, \$124,000 appears to be correct. We agree on the total expenditures to date, Ice Miller and Bauman, leaving a balance to be expended of \$53,244.37. We've been advised that there are pending bills that use up \$52,683.49, which we learned at Pre-Council had not been submitted for payment, because—I heard two things. Perhaps Council members could confirm that, that Mr. Grady [Assistant Director of Development] didn't have sufficient time to review them, and that there wasn't enough time to pay them. But it appears that there's enough money to pay them.

Director of Development Andrew said there's enough money to pay those. We haven't had an opportunity to review, in depth, those bills that were submitted, because we've been in court on a weekly basis. And we need to go over those one-by-one to account for everything. And that's been the holdup. We also thought we'd wait until everything was in, from Ice Miller and from Pam's firm, and then make one appropriation, which makes it much more efficient just to do this once, instead of on a monthly basis.

Clerk-Treasurer Rhodes said I would say normally if you, Mr. [Councilor] Truitt, we have certainly had other experiences in which we have expended the appropriations for legal services. And our practice in the past has been to expend up to the limit, and then the bills that couldn't be paid were returned with an explanation, as required by statute. But they were copied and kept on file in my office. So they were public documents. These bills are public documents. The only other information we have on legal liabilities is that the City Attorney prepares a management letter for the State Board of Accounts auditors, as part of our annual audit, in which he discloses pending litigation that may have financial consequences to the City, and he also discloses if there is a significant or material liability between him and the City. That is how I learned of the original \$23,000 liability from 2006. That letter is a management representation letter from legal counsel. However, I must ask the State Board of Accounts auditors to see a copy, and that's how we have some idea of the obligation. However, that letter may not even be prepared until spring of the following year. So, in order to have any kind of reporting of legal obligations, there needs to be another mechanism. We simply can't rely on that year-end City Attorney letter. However, I would guess that most of you are not even aware that that exists. But it's a weak tool, compared to having more regular submission of bills, albeit that there may not be appropriations to pay. But nevertheless, they can be filed and are available for public inspection and to be provided to the Council, if they request.

Mayor Mills said other comments?

Councilor McMullin said I guess that's just what my question was about. I wanted to make sure that we were focused on the scope of the bill, that we're just trying to be accountable and make sure that we have the legal bills submitted, so we know how much we have to pay. I'm not really sure if the actual wording addresses that, but I think it's a good step towards accountability on our part.

Assistant City Attorney Hermes said can I make one additional comment, in response to Councilman Truitt's questions about the Weida case? That case has been one that's truly been extraordinary for a number of reasons, and people can see some of this on their own, because you can log on to the court system and there's an online docket, which you'll find is 22 pages long. There are seven defendants in that case, and there have been an incredible number of motions that have been filed. Since November of 2006, when the Weidas retained new counsel, the motions have included a motion for summary judgment that the property could not have been overoccupied by one of the defendants, which was denied. There was a motion that the trial court lacked jurisdiction, subject matter jurisdiction over part of the case, which was denied. There was a motion to reconsider the trial court's decision, with regard to the summary judgment, which was denied. There was an objection to the court's denial of the motion to reconsider, which was denied. There was a motion to continue to the trial for the specific purpose of pushing it back until after the elections and into the new year, which was denied. There was a motion for judgment on the pleadings, which denied. And then, finally, there was a motion to dismiss the City's complaint, which was also denied. In fairness, the City filed a motion for summary judgment, which was denied in part. We filed those motions in an effort to avoid having to go to trial. The City did receive a partial summary judgment in its favor, finding that there had been a violation, that an incorrect occupancy affidavit had been filed. It listed four names. One of the young women had never lived there. At the time it was filed, one of the other people had moved out, and there were three of the people who were actually living there had never been on the affidavit, so the ruling was in favor of the City, granted summary judgment in part. But there have been 18 depositions, I believe, 10 court hearings, a lot of written discovery. It's just been a really extraordinary case. But the City has, in fact, received favorable rulings, and, you know, the case has been tried, and we should have a result. Despite what the paper says, it's not going to be any day, because the court asked for findings to be prepared. So I would expect that perhaps before the end of the year we'll have a result in that case.

Councilor Truitt said I think, you know, we're focusing on right now, you know, justifying, I think, that what my position has been on this is as long as our code enforcement program is fair and consistent and properly handled, then it is everyone's responsibility—and I don't think there would be any person that would contest this type of resolution or this type of ordinance, as long as it's fair and equitable and consistent. And, so as long as that's the case, I mean me personally, I don't have—

Assistant City Attorney Hermes said I mean, I just—the pie chart might cause people to say, "What's with that?"

Councilor Truitt said right.

Assistant City Attorney Hermes said and this is the rest of the story, I guess, so to speak.

Councilor Truitt said right. I still say, "What is that?"

Assistant City Attorney Hermes said the pie chart?

Councilor Truitt said yes, but still—

Assistant City Attorney Hermes said I'm not into pie charts.

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Councilor Truitt said but still—

Councilor Hunt said may I make a comment?

Mayor Mills said Councilor Hunt.

Councilor Hunt said it seems to me that this resolution was brought forth by Mr. Haynes, and he said he's satisfied with it. I think we should proceed with the vote.

Councilor McMullin said I have one last question.

Mayor Mills said Councilor McMullin.

Councilor McMullin said that's good. I mean, I support the resolution, but what happens if the resolution isn't followed, so that bills aren't submitted in a timely manner? What's the follow-through?

Mayor Mills said well, once it's passed, we will abide by the resolution. That's how the City works. That's how the City runs. We follow the ordinances and resolutions that are passed by the Council.

Councilor McMullin said that's what I hope, too. Okay.

Mayor Mills said any other discussion?

There was no further discussion.

Mayor Mills said all right, will you call the roll, please.

Resolution No. 31-07 (Amended) passed on first and only reading, 7-0.

Councilor Truitt said thank you, Mr. Haynes. I appreciate your involvement.

Councilor Keen said thank you very much.

Councilor O'Callaghan said and, Mayor, may I just thank the people that came to support code enforcement. It's certainly an important issue, and we're glad that the Council recognizes how important code enforcement is, even if it gets to be expensive sometimes.

Councilor Truitt said fair, equitable, and consistent. That's exactly right.

COMMUNICATIONS: None.

CITIZEN COMMENTS:

► Mr. Bruno Itin [3352 Hamilton Street] said I'm a lifelong resident. I do have one question. About an hour ago, I was watching this on TV, and I decided I had to come say something about the letter that was mailed. What was so important that it had to take a single mailing to address it to the citizens of West Lafayette?

Mayor Mills said a drastic change in the 2008 budget. So our budget was built around that \$600,000.

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Mr. Itin said could it have not waited for a newsletter or another, you know—

Mayor Mills said I didn't think so, sir, because we had just finished the budget process. We had just had our first public discussion, and the news media was starting to cover it, and I think the citizens deserve to get the truth of the situation and the information that was conveyed.

Mr. Itin said now, on the eve of an election, or if you go on vacation tomorrow, or if you win the election, I would hope you wouldn't waste my tax dollars in sending a letter to tell us that you were on vacation or won the election.

Mayor Mills said I certainly wouldn't but this was information pertinent to the running of the City.

Mr. Itin said yes. I just think it could have waited until a newsletter. That's my only comment.

Mayor Mills said thank you.

Mr. Itin said thank you.

► Mr. Sam Haynes [713 Avondale] said that letter, when I received it, and I'm not the brightest person on earth, but I thought and read it to mean that the Clerk-Treasurer had cost the City \$600,000. In actuality, she didn't fill the form out right, which apparently resulted in the City not being able to raise \$600,000 in taxes.

Mayor Mills said that's correct.

Mr. Haynes said which I don't know as that would be received real favorably. It wasn't with me, but the letter left a lot to interpretation, and I interpreted it to mean that she failed and the City lost \$600,000. Which, as it turns out, is not true.

Mayor Mills said no, and the letter said we would not have the opportunity to file the annexation levy appeal, and that's exactly what happened. And we discussed this during the budget process, and I—

Mr. Haynes said in actuality, there's just a tax increase that you wanted.

Mayor Mills said it absolutely was. And I talked about that during the budget—

Mr. Haynes said I didn't understand it that way when I read it, and it's probably because I'm—

Mayor Mills said I talked about it during the budget, that the property tax would be raised with the appeal. But it was an investment for the annexation. I made no secret about that during the budget process.

Mr. Haynes said well, I took it very politically, to be honest.

Mayor Mills said well, I'm sorry. It wasn't intended.

Mr. Haynes said the timing and, again, I don't interpret things probably the way I should. You know, I was surprised at the amount of time that the attorney and several of the people, Councilor O'Callaghan, spent trying to justify why we are spending so much on attorneys. That

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

wasn't the reason for this. It was only to get the money so we could pay them in a timely manner. But for some reason, on your side of the fence, felt like they had to justify why we're spending so much on attorneys. And they spent a lot of time on that, I swear you did.

Mayor Mills said I don't think it's my side of the fence, Mr. Haynes. We're all working for the City.

Mr. Haynes said well—

Mayor Mills said we're all working for the citizens who live here.

Mr. Haynes said that's a very good political statement.

Mayor Mills said it's true. It's very true.

Mr. Haynes said thank you.

► Mr. George Molnar [906 Princess Drive] said I have been here before, and a couple of comments. I don't want to monopolize, I will stand back if somebody else wants to take over. I've had a couple of requests that the Citizen Comments be available earlier in the meeting, specifically prior to the approval of the minutes, and I think that a five- to ten-minute period with an appropriate sign-up sheet, with a two- to three-minute opportunity for the people who sign up, and the rest of the people can, in fact, present their points later. I've requested that several times over the past year. It doesn't seem to have taken effect, but I would just like to request it again. In terms of the people who are running for office, I would simply like to point out that there are laws—specifically United States Code, Chapter 35, Section 1725, with regard to stuffing things without proper postage in mailboxes. Both parties and several candidates have been, in a sense, shall we say, guilty of that, and I would just appreciate that somebody, especially running for political office, should know that stuffing things in mailboxes without the proper postage is, in fact, a violation of federal law, US Code, Chapter 35, Section 1725. Quick question. There have been several comments about property taxes, and I have a difficult time understanding, and I would just like to make sure that I understand what people say. In the newspapers, there have been several quotes with regard to the fact that residential property, that is increasing residential property, whether through annexations, zoning, or other means, in fact, will decrease property taxes. I would like to ask anybody currently running for reelection if, in fact, they honestly believe that. Because a lot of people have been quoted in the newspapers with that. In fact, if they have any documentation whatsoever that a metropolitan district such as Lafayette, West Lafayette, Tippecanoe County, where the median home price is maybe \$150,000, \$175,000. We're not talking about Westchester, we're not talking about Darien, Connecticut. Okay, we're talking about West Lafayette, Lafayette, Tippecanoe County. I cannot believe that anybody would honestly believe that increasing residential housing would decrease property taxes. Does anybody running for reelection here believe that? And if they believe it, could they give me one independent analysis that proves that? Not something comparable to, "Well, you know, if you have an NFL franchise, it helps your city." "If you have a casino, it helps your state." Those are all biased, okay? Every town in America wants an NFL, NHL, NBA, MBL franchise, and the ones that have the most of them, in terms of Philadelphia, Detroit, San Diego, Oakland, are the worst municipalities in the country. So, it's a myth. And I believe it's also a myth that increasing residential housing decreases property taxes. But a lot of people here says it does, okay? Tell me, we recently moved here from Philadelphia. Penn State—I realize that's a bad phrase right now—Penn State University does exhaustive studies of geographic, demographic, economic studies. Southeastern Pennsylvania is called SEPTA.

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Okay, every dollar that's raised by property taxes causes \$1.17 to \$1.47 in residential expenses. It's schools, roads, schools, sewage, schools, buses, okay. Somebody please tell me how anybody running for reelection in this community can tell me that increasing residential housing, however, decreases property taxes?

Mayor Mills said and I can tell you that I don't think anyone is saying it decreases, but cities typically annex, because as you increase the number of housing units in your community, the rate of increase of property tax levels off, because you're spreading the cost of service over more homeowners. You have very little overhead for that change, so it's not that it doesn't go up, but it goes up at a much more gradual, more stable rate than without those increase number of houses.

Mr. Molnar said okay. Not to be argumentative. Any factual evidence of that here in Tippecanoe County here in this SMA?

Mayor Mills said I can't, because we haven't annexed for many years.

Mr. Molnar said okay, fine. Thank you. Just one—

Clerk-Treasurer Rhodes said we had an analysis which we discussed back in September, first presented in August at the budget hearing, and then at our September Council meeting, which we discussed, some analysis done by a financial consultant, purporting to show a breakeven point for property taxes with an annexation occurring either in two years or seven to 13+ years, based on assuming a rate of growth in property value, and also assuming that only part of the cost of the annexation would be handled by property tax. Other revenues would have to handle other expenses. When you try to do those scenarios, you can get artifacts, because they depend on forecasting economic factors which we're not very good at, it turns out—

Mr. Molnar said I understand. Again, I'm not interested in a debate. I will contact you aside and find out. But I'm simply saying that, given the median house price here, and given the housing rate of increase which is almost nonexistent in this community for the past five to ten years, to say that housing rate of increase of property values, coupled with other things, I mean, it's nonexistent. You're talking about—anyway, thank you. I don't want to... There was a Pre-Council meeting last week where I know, according to the minutes and that, that this whole aspect of the attorney's fees and the billing and that was discussed. Why wasn't somebody prepared tonight to say, "Here's what the bill is." I mean, this isn't a surprise. You know, nobody walked in tonight at 8:30 and said, "What's the attorney's fees for this?" It was discussed at the meeting last Thursday.

Clerk-Treasurer Rhodes said no one knew at the meeting. That question was asked on Thursday and the answer was "We don't know."

Mr. Molnar said okay, then, why was this hesitation this evening, in terms of what's the bill?

Mayor Mills said we have the bills through the end of September—

Mr. Molnar said okay.

Mayor Mills said and the bills from October are still being compiled. This is through September.

Mr. Molnar said okay, fine. That certainly wasn't the impression that I got, and I apologize.

Mayor Mills said this was handed out tonight through the end of September.

Mr. Molnar said then I apologize. There was a question with regard to what happens if the landlords don't follow the ordinances. And the answer was, "Well, we follow the ordinances. That's how the City works."

Councilor Griffin said that wasn't the question.

Mr. Molnar said I'm sorry.

Councilor Griffin said the question was what happens if an attorney doesn't submit his bills on a monthly fashion?

Mr. Molnar said right. And the answer was, "We follow the ordinances." I think that was the actual quote, "We follow the ordinances. That's how the City works." I would like to go back to September 20, 2006, and I apologize to the people here who aren't familiar with this, and I will brief, so I don't want to waste anybody's time. September 20, 2006, one of our neighbors, who we hadn't even met at that time, had three unlicensed, unregistered dogs who were allowed to run loose on their property who entered our property and killed one of our cats and severely injured two of our other cats. The only penalties that that person incurred as a result of West Lafayette ordinances was that Judge Lori Stein Sabol fined her the minimum amount for violations of City ordinances. Two ordinances, one, to not be registered, and the second is to run off-leash. There was actually no fine imposed for the damage and death and destruction that this woman's dogs caused to our cats. I took the woman to Small Claims Court where Judge Greg Donat, in a sense, found her liable. He fined her a certain amount of money which didn't even come close to covering our medical expenses. And I'm not talking about emotional distress. I'm not talking about loss of companionship. I'm simply talking about the coverage of our medical expenses. Since that time, those dogs have been allowed to run at loose in Tippecanoe County, in West Lafayette, in direct violation of Ordinance [City Code] 61.01, where it's described as, "Any animal that without provocation has been known to have scratched or bitten a human being, inflicting a personal injury or who promiscuously attacks other animals." That's Ordinance [City Code] 61.01. Ordinance [City Code] 61.01 is "It is unlawful for any person to harbor or keep within the City any animal covered by this chapter that is vicious or creates a nuisance." By definition, given what Judge Sabol, even though I think that her decision was totally inadequate, she found the woman guilty, Judge Donat found the woman guilty, and yet this City has refused to enforce— I'm not asking for additional ordinances. I'm not asking for any other monetary damages. I'm not asking for emotional distress. This City has refused for eight months to enforce an existing ordinance. I've spoken here before. Okay. I've spoken here time and time again. I've written to the Mayor. I've written to Councilmen individually. I've written to [City Animal Control Officer] John King. I've written to the Police Department. Those animals terrorize my wife, myself, our friends, our family. This City has done nothing to enforce your existing ordinances. Okay. I think that the responsibility of the people who are elected is to protect the public. You cannot selectively and arbitrarily enforce ordinances. I don't care what John King thinks. I don't care what the Chief of Police thinks. I don't care what the Mayor thinks. I don't care what anybody—Republican, Democrat, Libertarian, Ron Paul, Rue Paul, anybody else—it's an ordinance. You cannot selectively and arbitrarily enforce ordinances, any more than I can choose which laws I want to obey. Those of you who are not running for reelection, I want you, during your term, to correct the situation. Those of you who are running for reelection, I respectfully request that you contact the

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Tippecanoe County Election Board tomorrow and remove yourself. You are not fit for public office.

► Councilor Truitt said Madam Mayor, one quick thing. You were going to provide a summary of the health insurance, and I didn't know, with Diane [Human Resources Director Foster] here, if that was going to still be the case.

Mayor Mills said well, you had brought it up before. We brought stuff.

Councilor Truitt said we don't have to go through a big presentation. I thought you were just going to email it, and that's something that I'd like to have and we agreed to.

Mayor Mills said you wanted me to email it? I thought you said you wanted me to talk about it on one night.

Councilor Truitt said well, you can talk about it. I mean, I would like to have it, one way or the other.

Mayor Mills said I will certainly email it you. You received this earlier. You received it in September. We can talk about it again tonight, and [Human Resources Director] Diane Foster is here, who is the expert in insurance for the City. I can tell you that we have two new plans this year. The Premier Plan and that Advantage Plan. I think you had a copy of what those costs were that you received, that we passed at the Board of Works.

Councilor Truitt said yes.

Mayor Mills said that is exactly what we have sent forward for the City. 2008, the Premier Plan will cost us \$339.50 per employee; \$611.09 with employee spouse; \$712.96, employee children; or \$1,028.53 for a family. And, for the Advantage Plan, which is the new plan with a deductible that we're hoping our employees will choose, \$315.49 for an employee; \$567.87 for an employee and spouse; \$662.52 for an employee and children; and \$955.78 for a family. I can tell you that I can give you the cost per pay for employees, if you want all that breakdown. It's a lot of detail.

Councilor Truitt said did you change—I mean, the philosophy of employees paying more of their share, what was the final decision? Because we had talked about the employees were going to pay more.

Mayor Mills said they are paying more. They are paying more.

Councilor Truitt said and what is that comparison?

Mayor Mills said so, last year the employee share was, for the Premium Plan—and Diane, correct me if I say this wrong—5.89%. This year, it's 10%, that's for employee only. For the employee and spouse, it was 25%, and this year it's 23%. For employee and child, 24.42% and 23%. And then for family, it was 19% and now it's 20%. And for the plan that has the higher deductible, so people will pay more out-of-pocket, those are flat rates, and 13% will be the employee share. And that is our way to incent the employees to choose that plan, which will cost the City less. Diane, you might want to jump in here. But, again, we are asking employees to pick up a bigger portion, and—

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Councilor Truitt said so, like, for example, and employee and spouse, they paid a burden of 25%, but now this year they pay 23%?

Human Resources Director Foster said yes.

Mayor Mills said Diane [Human Resources Director Foster].

Councilor Truitt said sorry, I didn't mean to throw a curve ball here.

Human Resources Director Foster said that's okay. I don't know exactly what information you'd requested. I'd be happy to send you whatever you'd like, if you'd—

Councilor Truitt said the important thing that I was trying to focus on was that we made this consortium decision, which was going to drive the health care dollar. Okay, we're still early in the program—

Human Resources Director Foster said right.

Councilor Truitt said but we're running down this path with this thought process. Then we had a discussion that we were going to move into a philosophy of having the employees pay some of the costs more in line with maybe other entities that are out there. And so what I was just curious on was where did we end up with regard to 2006, 2007, 2008? And what triggered it was the renewal rates that I saw for 2008. I just want to make sure we're holding true with doing our part, the employees doing their part, and so on. So that was the purpose of my question.

Human Resources Director Foster said okay, I'll tell you kind of philosophically what we were looking at, and in some areas, employees are paying a significantly larger percentage, and in others, as you pointed out, just slightly less. We tweaked those. The two plans, the Advantage and the Premier Plan—frankly, our utilization costs, when we got our renewal rates, were pretty high. And what we did with the Advantage Plan was offer that, hoping—there's a fairly significant difference between the employee premiums, as you can see on that, and potentially, there's more cost savings. The employees pay a smaller percentage on the Advantage Plan, hoping that, frankly, to kind of steer employees to that deductible plan, which this is the first year we've introduced that to them, so it's a little bit new, with the thought and the theory that, if you have a deductible, you are going to be a better consumer of the health care and the health care costs. And hopefully in a year or so, our utilization rates will go down and our renewal rates will decrease.

Councilor Truitt said now is Lafayette using that same philosophy? Because, of course, if they don't do it and we do it, it doesn't matter, as far as our loss ratio is concerned.

Human Resources Director Foster said they are.

Councilor Truitt said okay.

Human Resources Director Foster said they are. The Premier Plan is more expensive. Again, the philosophy is the heavy utilizers of the plan will pay more for that. So that's why the difference between the two plans, and it's a strategy we hope that, in the future, it's going to reduce our costs and lower our utilization.

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Councilor Truitt said so you feel, when you extrapolated all this and this 13% was a number that somebody—

Human Resources Director Foster said well, we did reduce that fairly significantly to—

Councilor Truitt said encourage that.

Human Resources Director Foster said to encourage. There has to be enough difference between the two plans to encourage people to participate in that. We don't know how that's going to come out yet. So our overall increase will probably be 11½% to 12½% is what we are targeting.

Mayor Mills said which, considering the national increase is 15% or 16%, we're pretty happy with. We think we're getting to be where we need to be as a city, as a community, since it's the two cities combined.

Councilor Hunt said Madam Mayor, may I make a comment? As I've said before, I'm probably the only one up here, at least there are not very many of us that are on Medicare. And I have gotten my Purdue bill, which is Purdue Retirees, and my Medicare increase, and my insurance next year for my husband and myself, we'll have to pay \$10,100, and that's an increase of 12%, so it seems to me at nationally—I don't want to pay that much, but nobody asked me. And we still pay quite a lot, and that doesn't count the dental insurance that I pay also. Just a little perspective for us older individuals.

Councilor Truitt said I'm younger and I pay the same.

Councilor Hunt said but you have—there are two of us.

Human Resources Director Foster said does that help?

Mayor Mills said other questions? Thank you, Diane [Human Resources Director Foster].

Human Resources Director Foster said sure.

Mayor Mills said Mr. [Public Works Director] Downey.

Public Works Director Downey said I'd just like to comment on the insurance for you, Randy [Councilor Truitt]. And I'm speaking for the Sanitation employees. Their biweekly pay went up about \$20 a month for a husband and wife, or a wife and two children, and their raise went up almost equal to that. And so the Sanitation employees, even though they don't like the expense and the extra money, they can't afford to do without it. So, just to let you know that they weren't too happy about it, but they understand the facts of like, and, of course, they need the insurance.

Councilor Truitt said I'm with them on that whole front, so just trying to understand the logic of everything, Dave [Public Works Director Downey]. I appreciate it.

Public Works Director Downey said I'm just telling you that—

Councilor Truitt said I know, I don't like paying—

COMMON COUNCIL MEETING MINUTES, NOVEMBER 5, 2007, CONTINUED

Public Works Director Downey said they're hard-working Sanitation employees—

Councilor Truitt said I know, I agree with you.

Public Works Director Downey said who are out there in all weather.

There was no further discussion on this topic.

► Ms. Persis Newman [1100 Hillcrest] said as I listened to the discussion tonight about our code enforcement, housing code, I've been watching this code as it's been enforced and developed since 1978. Tried actually to get similar code into Lafayette, and it never seemed to work. However, in recent years, there appears to be an erosion of compliance with the code on the part of some landlords, and if there's any concern about constitutionality, I'm at least encouraged to know that our State law allows for the designated person to notify violators. And if there's no voluntary compliance, to take the case to civil court. So our discussion this evening, having centered on the diminishing of compliance, that does concern me. Landlords are taxpayers. They should take into consideration the tax burden taken on by the whole community for noncompliance. Thank you.

Mayor Mills said thank you.

ADJOURNMENT:

There being no further business at this time, Councilor Griffin moved for adjournment. Motion was seconded by Councilor O'Callaghan and passed by voice vote, the time being 9:15 p.m.

Respectfully submitted,

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