

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
PRE-COUNCIL MINUTES  
NOVEMBER 29, 2007

The Common Council of the City of West Lafayette, Indiana, met in the Board of Works Room at City Hall on November 29, 2007, at the hour of 4:30 p.m.

Mayor Mills called the meeting to order and presided.

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

Absent: Griffin.

Also present were City Attorney Bauman, Clerk-Treasurer Rhodes, Director of Development Andrew, City Engineer Buck, Fire Chief Drew, and Human Relations Director Foster. Public Works Director Downey arrived at 4:37 p.m.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

Ordinance No. 33-07 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect [Northwestern, LLC (NB & R1 to NB)] (Submitted by Area Plan Commission)

Mayor Mills said this is an ordinance to amend the UZO, and it's Northwestern, LLC; NB and R1 to NB. This is the former Smitty's property, and it has been zoned two different ways, the easternmost part of the property, particularly the parking area, was zoned R1 and grandfathered in that R1, I believe. And the owner is trying to rezone in an effort to move the property, I think, more quickly. Anybody looking at the property, of course, is going to have to deal with that double zoning. And so they are going to go ahead and rezone the whole thing to Neighborhood Business in hopes that they can get a serious buyer for the property. Any questions on that?

Councilor Hunt said did they have an APC meeting yesterday on this?

City Engineer Buck said last night.

Councilor Hunt said last night. And was this discussed?

Councilor O'Callaghan said it was approved. Yes. It was discussed last night.

Councilor Hunt said okay. And I have a question also. Is the grassy area that's behind the loading dock Smitty's?

Councilor Truitt said what?

Councilor Hunt said is the grassy area with the trees in it on Lindberg toward Salisbury, is that part of this?

Councilor Truitt said you mean by the dumpster?

[overtalking]

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Councilor Hunt said I need to know, is that in—? That's not in this?

City Attorney Bauman said maybe this guy knows.

[overtalking]

Mayor Mills said we're asking about the Smitty's property, Dave [City Engineer Buck], and what part of—Ann [Councilor Hunt] has a question about a grassy area with trees towards the Lindberg side, is that part of this property?

Councilor Hunt said if the road goes through the parking lot, then it's to the Salisbury side of the parking lot, by the loading dock. So maybe it's not. I just didn't know.

City Engineer Buck said there's actually a platted street there, so most of it's tree lined that I think you're asking about is in the street right-of-way.

Councilor Hunt said okay, so it's not part of this rezone?

City Engineer Buck said correct.

Councilor Hunt said okay. Thank you very much.

Mayor Mills said and they're talking about the Lindberg side.

City Engineer Buck said we're talking about the part that runs north-south—

Mayor Mills said right.

City Engineer Buck said perpendicular off the Lindberg side.

Councilor Hunt said yes. It's got a number there, but I can't read it.

Councilor Satterly said it's the width—

City Engineer Buck said I think it's 30 feet; it's the width of the street right-of-way.

Councilor Satterly said it's the width of the street.

Councilor Hunt said okay.

City Engineer Buck said an unimproved street right-of-way.

Councilor Hunt said okay. And I have another question. What all can go into Neighborhood Business? Can Hooters go in is the question I was asked?

Councilor Truitt said strike that from the minutes.

[overtalking]

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Councilor Hunt said that's my constituent's question.

City Engineer Buck said it could, yes. It's an eating and drinking establishment, and those are allowed, as long as it doesn't have a drive-through.

Councilor Hunt said okay.

City Attorney Bauman said that's an interesting concept.

City Engineer Buck said drive-throughs are not allowed in NB.

Mayor Mills said any other questions? Any other discussion?

[overtalking]

Councilor O'Callaghan said but they can't get a river liquor license?

Director of Development Andrew said no.

Councilor O'Callaghan said it's too far away to get a river liquor license.

Mayor Mills said anything else?

There was no further discussion.

Resolution No. 32-07 A Resolution Approving The Designation Of An Economic Revitalization Area For Property Tax Abatement For Tapawingo Drive Partners, LLC (Prepared by the City Attorney)

Mayor Mills said Mr. Bumbleburg.

Councilor Satterly said can I ask a question first?

Mayor Mills said sure.

Councilor Satterly said will this take two readings?

City Attorney Bauman said it doesn't take two readings of that, that's the declaratory resolution. Then at the next meeting, there'll be a public hearing and the confirming resolution.

Councilor Satterly said so that will take place at the January meeting?

City Attorney Bauman said right.

Mayor Mills said okay, Mr. Bumbleburg.

Mr. Joseph Bumbleburg [Ball, Eggleston law firm] said I think that this has gotten a fair amount of press, and even subject to an editorial in today's newspaper. Editorials, sometimes I wonder when they support what I'm doing, if I've done something wrong.

[overtalking]

Mr. Bumbleburg said in any event, this request for a tax abatement for 10 years was approved on Monday at the Economic Development meeting at noon, after a fair amount of discussion. And I've given you some drawings to take with you and everything, but here's an aerial photograph, here are the two bridges coming across, and the land that we're talking about is right in here, and Tapawingo moves right through there. So that is the general scene. This is land that, I think, Mr. Shen said that he had owned for many years and that has been the subject during all of these years, of an area where what essentially construction fill was placed there. So that's the area that we're talking about. The kind of buildings that we would like to put—and understand that this is in Arizona, and so it's similar to this, but if we do it as we have carefully said, these palm trees won't be there. And as somebody, maybe Mr. [Councilor] Truitt, you asked earlier, is this one building. Currently, it is one building, but it has this interesting branding by the Marriott people of two different kinds of institutions. These two drawings that I have here will kind of give you an interesting part of the layout. Here's State Street, here's Tapawingo Drive, the filling station that was done as a Planned Development last year is in about this location, and you can see this is where we are. This one here gives you a little better shot of what the parking areas are on this particular thing. We'd like to build this, we'd like to build it on Tapawingo. What we believe here is, through these photographs that I've shown you, that this is clearly a gateway to the City. From a selfish point of view, I look out my office window, and this is the view I see of West Lafayette, and I would like to see this as part of the gateway, too. It would be really very nice. Again, I've shown you what the pictures are going to be. Approximately 151 rooms under the SpringHill brand, and 110 under the Fairfield brand, and they are both a Marriott franchisee. These guys could speak to that better than I. This is about a \$30 to \$31 million investment in your community. We seek this abatement because we have this unusual circumstance here. It's the ground under this. The ground under this, as I just indicated to you a minute ago, is going to have to be taken out, this construction fill and all of those kinds of things, because it simply is not something that you can build this kind of a building upon. So when we had this looked at, and I had—was just given this evening, because this question came up at the Redevelopment meeting—let's say, the engineering people who studied this say, among other things on this cover letter, "It is recommended that the fill material from this site be removed and the footings constructed on compacted structural fill." And I think what we were told and what we understand—and I will leave the engineers to correct me on this—the way this stuff is all laid in there, for example, the concept of driving pilings would be very difficult, because there are huge pieces of cement and that sort of stuff. Just as a practical matter, digging it out is the only way you can do that. And it has to go down about 25 feet, and the cost of that is someplace right at \$1.5 million on this whole thing. This project will add 50 or 60 new jobs, a payroll of about \$1.3 million. Our abatement, to which these other gentlemen can talk if you have questions about it, is a 10-year abatement. And it really does help us get this unusual expense of cleaning the ground so that we have it. What is the benefit to West Lafayette? Well, you're going to take a piece of ground here that probably is marginally useful, and turn it into something that will be a superior use. Now, when I say "marginally," what do I mean? I'm sure that the engineers would tell us that on that 25 feet of stuff, there are some buildings that you can build. But they may not be the kind of building that you would like to have on your gateway. They would be small, short, squat buildings, and they would not have the kind of character that you would like to have for this whole area, which you have spent a generation of West Lafayette time and effort to try to make into an awfully nice section of your City. Those of us who remember what the old Sears building looked like and all that kind of stuff, now look at what is probably the premiere Planned Development certainly in Tippecanoe County and maybe in middle Indiana. And this just becomes a really nice addition to that. So I have Jim

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[James J. Curtis, Jr., President, Sheehan Companies] and Matt [Matthew Frankiewicz] here with me, and John [Mr. Shen, property owner] is here, to answer any of your technical questions. We would request that, on Monday night, you grant us an approval on this matter. Thank you.

Mayor Mills said questions for Mr. Bumbleburg or any of the other gentlemen?

Councilor O'Callaghan said Joe [Mr. Bumbleburg], can you show where the Speedway gas station is in relation to that.

Mr. Bumbleburg said well, let's see. I think that's it, right there. This is State Street and it comes around a little bit—

[overtalking]

Mr. Bumbleburg said it's right in here, because there's a City lift station, isn't there? And we're right next to that.

Councilor Truitt said isn't it back further?

Councilor Satterly said that isn't the parking lot for the River Market Apartments?

Mr. Bumbleburg said no, I don't think so.

City Attorney Bauman said no.

Mr. Bumbleburg said that would be farther down the other way.

Councilor Satterly said farther down this way?

Mr. Bumbleburg said yes.

Councilor O'Callaghan said so what's between—? So this green is abutting State Street? It's not. What's this space in between here?

Mr. Bumbleburg said this is State Street over here.

Councilor O'Callaghan said yes, so what's in that space right there?

Mr. Bumbleburg said right there?

Councilor O'Callaghan said yes.

Mr. Bumbleburg said I would suspect that—Mr. Buck would have to help me—but that's right-of-way.

City Engineer Buck said that's State Highway right-of-way.

Mr. Bumbleburg said yes.

Councilor O'Callaghan said State Highway right-of-way. Thank you.

City Engineer Buck said it'd be nice if they'd give it to you.

Mr. Bumbleburg said it'd be nice if they'd give it to anybody.

City Engineer Buck said yes.

Mr. Bumbleburg said and you folks would like to control that, too.

Councilor Truitt said but I don't think that's the Speedway, though.

Mr. Bumbleburg said you don't think it's that far down?

Councilor Hunt said it might curve—

Councilor Truitt said because you can see it's way up, it's way up here.

[overtalking]

Mayor Mills said yes. If you look at the—

[overtalking]

Councilor Truitt said yes, I think John's right.

[overtalking]

Mr. Bumbleburg said there's a slope in there. We're kind of on top of the hill, so that might very well be, Gil [Councilor Satterly], that might be the parking lot and we might be down here a little bit. But I was trying to find that lift station that's in there.

Mayor Mills said you can see it better on this.

Mr. Bumbleburg said okay, yes. The Mayor says you can see it better on this picture.

Councilor Truitt said see it way down there?

Mr. Bumbleburg said yes, there's the lift station right there—

Councilor Truitt said yes.

Mr. Bumbleburg said and the filling station's right in there. This is it. And the road does curve there, which is what throws that drawing off.

Councilor Truitt said all right, so we take this area, we turn it into an economic revitalization area. Is that area attached, then, to this project specifically? Meaning, if we go through this process, something happens with the deal—I don't know where the deal itself stands. I mean, is it a done deal, that if this goes forward, this project is happening?

Mr. Bumbleburg said you mean, if we get the economic abatement—

Councilor Truitt said yes.

Mr. Bumbleburg said will we build this?

Councilor Truitt said yes.

Mr. Bumbleburg said and the answer to that is for these guys to say, and the answer I believe is yes.

Mr. Matthew Frankiewicz said yes.

Councilor Truitt said is the answer yes?

Mr. Matthew Frankiewicz said yes.

Councilor Truitt said okay, and then if something would happen somewhere down the road, is that area, then, able—is it open to other projects then, at that point?

Mayor Mills said not with this abatement.

Councilor Truitt said okay, not with this abatement.

Mr. Bumbleburg said not with this abatement, no.

Councilor Truitt said okay. All right. So when it's site-specific, by designating it an economic revitalization area—okay, go ahead, Bob [City Attorney Bauman].

City Attorney Bauman said Randy [Councilor Truitt], the things that tie it in is—look in Section 4. “The partial abatement of taxes attributed to the redevelopment and/or rehabilitation of real property is subject to the limitations contained in the Statement of Benefits, which is a part of the attachment to this resolution.” And that Statement of Benefits, then, describes—

Mayor Mills said this project.

City Attorney Bauman said this project, as what type it is.

Councilor Truitt said okay, and where is that Statement of Benefits?

City Attorney Bauman said it's in the packet.

Councilor Truitt said okay, and that's on the back side of this?

City Attorney Bauman said yes.

Councilor Truitt said okay, great. Thank you.

Councilor O'Callaghan said and so then back on that other one, what's behind it?

Mr. Bumbleburg said you mean, the hill up here?

Councilor O'Callaghan said this—?

Mr. Bumbleburg said this right-of-way.

Councilor O'Callaghan said yes, I know that's right-of-way.

Mr. Bumbleburg said there's a slope there, if I remember the way this is, because this is—at least at this point, significantly lower, and then you get up to the top and on that whole area up there, you again get some greenspace, some right-of-way, and the right-of-way here is—

Councilor O'Callaghan said but just on the back of it. On this side.

Mr. Bumbleburg said over here?

Councilor O'Callaghan said yes, that's just—

Mr. Bumbleburg said it's more land like what's there now.

Councilor O'Callaghan said and that's also owned by Mr. Shen?

Mr. Bumbleburg said yes.

Councilor O'Callaghan said but the soil work—digging down to 25 feet—is just going to end at that line, so, depending on what gets developed and the other, it may be then that that project will have to go down and do that. It may be that it doesn't have to go down quite as far as 25 feet, like when we did the road, we didn't have to go down as far as 25 feet.

[overtalking]

Mayor Mills said we weren't building a six-story building, either.

Mr. Bumbleburg said no, you weren't.

Councilor O'Callaghan said so that's what I'm saying, is that the next spot might not be building as big a building, so it might not need to go down as far, it might not be as expensive a project.

Mr. Bumbleburg said yes. Each one of these will be site-specific.

Mayor Mills said and if I'm not mistaken, the other day, Mr. Shen, you said that the fill changed from this corner as you get towards River Road, correct? The fill itself changes.

Councilor O'Callaghan said less bad?

Mr. Shen said yes. A very quick answer is this, do you remember when we built that structure across the river, the old State Street right now is the walking bridge.

Councilor O'Callaghan said yes.

Mr. Shen said the old State Street pavement used to be there from the 1930s was underneath it. You remember Fauber Construction Company?

Councilor O'Callaghan said yes.

Mr. Shen said Fauber Construction Company got the project to remove the dirt and did the dirt work. The reason they got a contract because three of us owned that place. So we purposely put it there because it's close. But we also know what the consequences are. If it's 100 years from now, it doesn't matter. Also, from the River Road coming down towards the river, it's gently sloped. And here it gets steeper. While the other hand, the fill, the rest of the land is here, this South River Road here. The land here is only 15 feet deep to hit the original soil, and if you remember when they widened US 231, they didn't have to dig out that much. They put the road right on top. So you could see that this is the deep spot. But however this location is excellent, because we really don't want to put some kind of small building, all you see are air-conditioning units on top when you're coming across. Of course, we get offers every day, but we like their offer, because they have a nice building.

Councilor Truitt said can we talk a little bit about the economics of the transaction, what it means to the bottom line?

Mr. Bumbleburg said okay. Matt [Mr. Frankiewicz], I think that's—

Mr. Frankiewicz said sure, I'd be happy to.

Councilor Truitt said it may be difficult—I don't know if you want to use this—but let's talk a little bit for the good of the order of what it means.

Mr. Frankiewicz said sure. Well, this is—and I don't know if everyone has a copy of this—

Mayor Mills said they do.

Mr. Frankiewicz said it was distributed to us on Monday, in the Economic Development Committee meeting, and it's consistent with our assumptions, in terms of abatement. It certainly has an impact on our annual debt and income, the abatement. And it frankly helps to be a workhorse.

Councilor Truitt said so right now, from a tax standpoint, the alternative of not moving forward is paying taxes on the land as it sits today, which is not very much, I would guess?

Mr. Frankiewicz said the current assessed value—

Councilor Truitt said in relative terms?

City Attorney Bauman said yes, I think that information is in the Statement of Benefits package.

Councilor Truitt said it is. I just kind of wanted to just talk about it. So the—

Councilor Hunt said where is it? I didn't see it.

City Attorney Bauman said the first page.

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Mr. Curtis [President, Sheehan Companies] said I believe Mr. Shen pays about \$3,000 a year for that, and roughly, after the 10-year period, we'd be paying over \$550,000.

Councilor Griffin said well, or—

Mr. Curtis said or \$450,000.

Councilor Truitt said right.

City Attorney Bauman said yes, but that may be entirely—

Mr. Curtis said you pay it over a 10-year period, it's \$1.3 million.

Councilor Truitt said right, and the taxes abated would be \$1.9 million, so the return from that standpoint, at the end of the program, is a positive.

Mr. Frankiewicz said correct.

Councilor O'Callaghan said that's why one thing we like to talk about is, rather than tax abatement, a tax phase-in. By the end of 10 years, you will be paying full taxes.

Mr. Curtis said correct.

Mr. Frankiewicz said that's right. Yes.

Councilor Keen said and even during the abatement process, they're going to be paying more than they will be getting abated.

Councilor Truitt said and I think that's the important thing for all of us to keep in mind is that, I mean, if you look—Mr. Shen is paying \$3,000 right now in year one or year two—

[overtalking]

Councilor Truitt said and so that's an important thing to keep in mind. Josh [Director of Development Andrew], we talked very briefly about any kind of precedent that we potentially might be setting by doing something like this? What—?

Director of Development Andrew said we normally don't abate something like this. Most all of our abatements have been in the Research Park, and it was discussed at the meeting that this is a unique situation. It's a gateway, as Mr. Bumbleburg pointed out, and it's a small investment on the part of the City to get a \$30 million project.

Mayor Mills said actually the chair of the Economic Development Commission read into the minutes the fact that he would not be supporting this, if it were not special circumstances, that they needed the help to make it usable land. They were pretty clear in their discussion during that meeting, that they do not intend to set a precedent for a typical abatement on another project.

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Councilor Keen said well, if you look at the definition of an economic revitalization area, and all the abatements that I've gone through on this Council, this project more closely matches the definition than any of other ones I've ever voted on. I mean, this one definitely fits the description here, whereas others, you had to really kind of think about what they were doing. So I think that this project more closely matches the definition than several that have gone before us before.

Councilor Hunt said Gerry [Councilor Keen], do you mean the real estate rehabilitation? I mean, that's—

Councilor Keen said no, the economic revitalization area. When you look at the definition of what that encompasses, this project most closely matches that definition than others that have gone before us.

Councilor Hunt said okay, but in the first Whereas, it talks about the Indiana Code allows exceptions. Where it says, "Indiana Code...allows the partial abatement," and it talks about real estate improvements or rehabilitation. That's what I was looking at, too. This certainly is real estate rehabilitation, certainly your economic revitalization—

Councilor Truitt said and I think Gerry [Councilor Keen] was going to—I don't know—number 29 of the document that talks about impaired values.

Mayor Mills said other questions? Further discussion?

Councilor O'Callaghan said I think Ann's [Councilor Hunt's] point is well taken, that it is something that's within the Indiana Code that allows us to do abatement for this.

Mayor Mills said anything else?

Mr. Bumbleburg said thank you. If any of you think of an omitted question, I'll be around tomorrow morning and all of Monday, so call me, and I'll get the question and find one of these guys to get an answer.

Councilor Hunt said may I ask one other—

Councilor Satterly said we don't talk about cement, we talk about concrete.

Mr. Bumbleburg said concrete. You sound like my friend [unintelligible].

Councilor Hunt said may I ask one more thing?

Mayor Mills said yes.

Councilor Hunt said I wouldn't want to see a tax abatement come back, because—

Mr. Bumbleburg said very well. Thank you very much.

Councilor O'Callaghan said and we're not going to be able to say, "Where's the Marriott?" any more. Because there will be several Marriotts here.

There was no further discussion.

CONTINUATION OF DISCUSSION RELATED TO Ordinance No. 33-07 [To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect [Northwestern, LLC (NB & R1 to NB)] (Submitted by Area Plan Commission)]

Councilor Truitt said could we open up and questions for Mr. Gutwein, who came in on the first rezone, if Ann [Councilor Hunt] wanted to get any clarification.

Mayor Mills said absolutely. No problem.

Councilor Truitt said maybe Ann [Councilor Hunt] can re-ask.

Mayor Mills said I think it was answered

Councilor Hunt said yes, it was answered. Towards Salisbury from Smitty's loading dock, there's a grassy green tree area, and on the map it looks like that's on the other side of the road extension. It's right here. This is a parking lot, but the road goes through there.

Mr. Andy Gutwein [Bennett Boehning & Clary, LLP, attorney for petitioners] said there actually is not a road there.

Councilor Hunt said well, there's— Okay.

Mr. Gutwein said it's a platted road, yes, there's a platted right-of-way—

Councilor Hunt said I was thinking driveway, but it's a parking lot.

Mr. Gutwein said no, actually, the trees in the grassy area are the road.

Councilor Hunt said oh, okay.

Mr. Gutwein said are the road, yes. So what you scribbled on here, I think that's Al Parker's, I think he lives there, that's his home.

Councilor Hunt said is a building on it?

Mr. Gutwein said there's a home there—

Councilor Hunt said okay.

Mr. Gutwein said then there's a platted street that was never put in.

Councilor Hunt said okay, and that's probably the green.

Mr. Gutwein said yes.

Councilor Hunt said okay.

Councilor Satterly said it's a driveway, isn't it?

Councilor Hunt said there's a path through it.

Mr. Gutwein said there's a cut that goes into the parking lot, but that's actually separate from the road, the platted road.

Councilor Hunt said so, again, that green grassy area is—?

Mr. Gutwein said is right there.

Councilor Hunt said okay.

Mr. Gutwein said it's a platted road.

Councilor Hunt said so that is in—no, the rezone—

Mr. Gutwein said the rezone would stop at the edge of the platted—

Councilor Hunt said yes.

Mr. Gutwein said at the edge of the platted road.

Councilor Hunt said yes, that's what I mean. Thank you very much. I've gotten several comments from people in the neighborhood with our Northwestern Heights Neighborhood Association across the street, and they were just a little worried about what Neighborhood Business—

Mayor Mills said you missed the earlier question, can a Hooter's go there?

Councilor Hunt said that was a specific question I had. So what would you envision or also whether it will be a rental place, apartments?

Mr. Gutwein said well, certainly not in NB. NB would not allow any apartments.

Councilor Hunt said okay.

Mr. Gutwein said NB allows restaurant uses, but no drive-throughs.

Councilor Hunt said okay, that's what—

Mr. Gutwein said GB would allow drive-throughs. But we considered requesting GB, because it would make the property a lot more likely appealing to potential users, but we intentionally chose NB because it's already partially NB, it's already predominately NB. It's really extending it so that it's one of our grandfathered issues when we go with existing properties. It wouldn't allow—Dave [City Engineer Buck], correct me if I'm wrong, but it wouldn't allow anything that wouldn't currently be able to go into that location?

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City Engineer Buck said there are no new uses. I mean, most of the building now is NB, so there are no threats to the neighborhood.

Councilor Hunt said okay.

Councilor O'Callaghan said so Andy [Mr. Gutwein], are you and Bob attracting new business to this area?

Mr. Gutwein said you know the firm F.C. Tucker?

Councilor O'Callaghan said yes.

Mr. Gutwein said I'm their attorney.

Councilor O'Callaghan said okay.

Mr. Gutwein said I'm the attorney that's helping them with the process.

Councilor O'Callaghan said because it might be helpful Monday night to talk a little bit about the efforts that have been made. I know the Development Department has worked hard on trying to get something there, and the owners. It would be nice to have a little bit of discussion about the efforts that have been made to secure a business there.

Mr. Gutwein said okay. There is currently some interest in the property. I'll have to find out where that interest level lies between now and Monday—

Councilor O'Callaghan said that would be helpful.

Mr. Gutwein said to see if there's anything we can share or not.

Councilor Hunt said because, again the neighborhood association just across the street just went through a change with the dentists' office, and there was a neighborhood meeting, and it was almost a love-fest when they had it. It was. And now those same individuals have emailed me.

Mr. Gutwein said okay. I tried to call a few of the people we sent the notices to. I spoke with one gentleman across the street—

Councilor Hunt said right.

Mr. Gutwein said he didn't seem to have any questions—

Councilor Hunt said good. Because there's one particular family next to the dentists' office, and they're not on the email list. Okay, I appreciate that. Because I don't know if they'll be there, but they certainly had questions.

Mayor Mills said any other questions for Mr. Gutwein? Thank you.

Mr. Gutwein said thank you.

There was no further discussion.

Resolution No. 33-07 A Resolution To Approve Updates To Certain Policies Contained In The Personnel Manual For West Lafayette City Employees (Prepared by the City Attorney)

Mayor Mills said this is a resolution updating some of the personnel manual policies for the City, and [Human Resources Director] Diane Foster is here.

Human Resources Director Foster said I'll just tell you in the way of background and what you already know, over the last several years, we have been trying to try to amend policies in an effort to make them more consistent across the board for City employees, from department to department. May 2006 was the last revision, where there were numerous policies at that time that were revised. I mentioned at that time that the vacation policy would come at a later date, because it's frankly more than I wanted to—I knew it was going to be the big daddy of them all and was going to be more difficult, probably, to implement, take more time and everything. So primarily the reason for this revision to the manual is to adopt a new vacation policy, as well as there are two other policies, the Military Leave Act that was effective July of this year that needed to be incorporated and, of course, our own smoke-free workplace policy that we have been abiding by since July, but it's just now becoming part of the personnel manual. One thing I would actually like to change from what was originally submitted is on page 9, Section 21, Paid Sick Leave. I do not plan to revise this policy at this time. It may have some unintentional consequences and I will figure out, so we'll plan to keep it as—

Councilor O'Callaghan said and that's the part in red?

Human Resources Director Foster said correct. We'll just remove that.

Councilor O'Callaghan said other than there, do we have a definition someplace else? This just defines—do we have anyplace else where we define what immediate family member is?

Human Resources Director Foster said there are other policies in the manual that refer to immediate family that are spelled out with a definition like sick leave policy, bereavement, and so forth. This one needs some more thought before making an amendment, so we don't have any—what, in practice, is part of the hurrying, is the sick leave can be used for, for example, in a parent—

Councilor O'Callaghan said parent, sure.

Human Resources Director Foster said to take care of a parent, so it needs to, I think, be changed to include that—

Councilor O'Callaghan said whereas right now—

Human Resources Director Foster said whereas right now, it's not really...

Councilor O'Callaghan said but the definition in the bereavement policy, Diane [Human Resources Director Foster] includes a parent, because—

PRE-COUNCIL MINUTES, NOVEMBER 29, 2007, CONTINUED

Human Resources Director Foster said “immediate family” is a word that can be defined differently for different policies, and bereavement is far more reaching than “extended family” that I would want in the sick leave policy.

Councilor O'Callaghan said well then I guess I would just encourage you come up with something as soon as possible, because when you say “immediate family member,” then we want to have it defined.

Human Resources Director Foster said and that’s why I made an attempt to define it, because it was actually brought to my attention. I thought that was a very good point—

Councilor O'Callaghan said right.

Human Resources Director Foster said and then, like I say, the feedback I received from a number of employees was—

Councilor O'Callaghan said well “parent” is a very good example.

Human Resources Director Foster said right.

Councilor Hunt said as your workforce here becomes older and has parents and their the “sandwich generation,” you will need—

Human Resources Director Foster said well, Baby Boomers, you know, our parents all aging, it is a huge issue. We did a little benchmarking in the area, and the City of Lafayette and the County and Purdue do allow the use of sick leave for parents, people in custodial care, so I think definitely we do as well. But I just didn’t—

Councilor Hunt said I have another issue on the bereavement. It doesn’t say “in-laws.” I mean, an in-law dies, you have the same issues—you go off to Detroit or wherever—your parents are going to need— And I don’t see in this, unless “parent.” I wish you’d consider that also. If you need three days paid leave to go to your parents, you most likely need to go to your spouse’s parents also. If you’d think about that...

Human Resources Director Foster said you said a while ago that you couldn’t see it, unless I erred, it should be in here.

Councilor O'Callaghan said it says “parent,” but I doesn’t say “in-laws,” is what Ann [Councilor Hunt] was saying.

Councilor Hunt said it’s under 20.01.

Human Resources Director Foster said right. It says the employee’s parents, the employee’s spouse’s parent, which would be in-laws.

Councilor Hunt said oh, it does? Oh, I see it. I’m sorry. I didn’t see that before. Okay. I’m sorry. I missed that.

Human Resources Director Foster said that’s okay.

PRE-COUNCIL MINUTES, NOVEMBER 29, 2007, CONTINUED

Councilor Hunt said then it says spouse's siblings, too. Okay.

Mayor Mills said other comments? Other questions for Diane [Human Resources Director Foster]?

Councilor Hunt said thank you, Diane.

Councilor Truitt said what's the accrual policy, in regard to if I worked here and I've been here five years and I had 15 days on January 1. How many days of vacation do I have? Do you accrue it all immediately? I mean, what's the definition of "accrual," according to this?

Human Resources Director Foster said according to what exists or the proposed new policy?

Councilor Truitt said currently right now. What's—?

Human Resources Director Foster said that's part of the problem and the reason for the new vacation policy. Currently there are several variations that make it extremely difficult for even employees who've been here for a long time to try to understand. You can accrue it on an anniversary, a calendar year, you can start using it up to six months, you may have to wait a year. There seems to be unwritten, super-secret policies of old that—

Councilor Truitt said we book our accrued vacation for all our employees and all our straight time right on the books of the City?

Human Resources Director Foster said the accrual is the thing—I don't want to say that nothing is consistent, because it's not that bad—but basically after five years, you are awarded an extra week. It just depends on whether you waited a year or waited six months as to when it's awarded. So it's, you know—

Councilor Truitt said but, like, if I'm eligible for 15 days of vacation, okay, is the carryover provision consistent across?

Human Resources Director Foster said yes.

Councilor Truitt said so I can carry up to five days of accrued, so I start the new year with five days, if I took no vacation the year before?

Human Resources Director Foster said right.

Councilor Truitt said okay, and then I start January 1 with the new schedule. Now am I accruing point-something a month through for those 15 days, or am I awarded the 15 days immediately on January 1?

Human Resources Director Foster said the new policy proposes that you would be awarded them on day one, January 1. The current policy has the .0385 accrual—

Councilor Truitt said right. And the logic of going to the full monte on day one is—?

Human Resources Director Foster said simplicity. Ease. It's much easier to plan ahead for something like that.

PRE-COUNCIL MINUTES, NOVEMBER 29, 2007, CONTINUED

Councilor O'Callaghan said and if somebody uses all of their vacation days and then leaves, then they owe some time?

Human Resources Director Foster said no. by waiting a full year before basically you are provided or awarded with any vacation—

Councilor Truitt said I would just caution us on this accrual thing. Having been through it on the wrong side of the equation by awarding it all on January 1, I know it's a lot simpler, but it also creates—

Mayor Mills said we don't have a lot of turnover here, though. We particularly don't have turnover. Look at the service anniversaries, where people work for the City for a long time. We don't have a problem with people, you know, getting their 15 days and then up and quitting.

Councilor Truitt said but as you know, though, I mean, we review these policies, so to have good— And that's what I thought, too. And then you get somebody that's been around for a long period, waits 'til January 1, and gets 20 days, and then— I hate to run down that path. It's just that I think it's a prudent thing to think about and not lose.

Clerk-Treasurer Rhodes said there are a couple departments with very high turnover.

Human Resources Director Foster said it's awarded on January 1 for the past year, basically, that you had to wait. You have to wait—

Councilor O'Callaghan said like retroactively.

Human Resources Director Foster said retroactively a full year before being allowed to use vacation. So that's why it's granted at the beginning. It's for the past year, basically, that you've—

Mayor Mills said that you've earned it.

Human Resources Director Foster said yes.

Councilor O'Callaghan said and it says that the vacation could be granted before it was completed, with approval, so if you work in the whole year and don't get your vacation days until January 1 after you've worked a whole year, there is approval to be able to take some before then.

Human Resources Director Foster said can you tell me where—?

Councilor O'Callaghan said I guess I'm on 17.01 on page 7, "Vacation is awarded on a calendar-year basis. At the discretion of the Mayor, department heads may be granted vacation before completion of a year's continuous service."

Human Resources Director Foster said that sentence, "At the discretion of the Mayor, department heads may be granted vacation before...."

Councilor Truitt said no other employees.

PRE-COUNCIL MINUTES, NOVEMBER 29, 2007, CONTINUED

Human Resources Director Foster said that specifically pertains to department heads and not other employees. The Mayor has the discretion.

Mayor Mills said and, trust me, they work more than 40 hours a week, so—

Human Resources Director Foster said and if a new department head is coming on board or whatever it's not that realistic to say we have to work an entire year before you are awarded vacation, and that's the discretion that is referred to in that sentence. It's not for other employees.

Councilor Truitt said so if I come to work on March 1 and I have no vacation for the first year, January 1 of the following, year, I'm awarded my 10 days of accrued. So I technically earned them, therefore accrued.

Human Resources Director Foster said if you came on March 1, you would have to work until the following March before you would earn any vacation, and then you would earn 10 days of vacation for the rest of the year, and then January, you'd have your 10 days.

Councilor Truitt said and so the next accrual period— Okay, I follow the logic there.

Mayor Mills said other questions for Diane [Human Resources Director Foster]?

Clerk-Treasurer Rhodes said Diane [Human Resources Director Foster], have you worked through how you're going to map employees into this system?

Human Resources Director Foster said no. This is the first step, to get the new policy done and hopefully approved and in place by January 1, for anyone that comes in. And thinking about what I anticipate and what makes the most sense for ease of employees and their current angst when you're messing with vacation or their pay, understandably so, there's some concern, is perhaps using next year, 2008, to—we will literally have to look at every employee on an individual basis, to see when they were hired and will work a way to convert everyone to the calendar year basis and give them notice by the following January.

Mayor Mills said we want to be fair to everyone all over the board.

Clerk-Treasurer Rhodes said I feel pretty strongly that needs to be spelled out as part of this problem. I don't see that as something that's developed *ad hoc* or after this policy. That is why we haven't had this policy. We've certainly discussed this off and on for several years, and the difficulty is doing the mapping. If you're ready now to move with the policy, we've got to have some thought as to how we're going to do the mapping. Not enact it and then figure out how to map. I think it's pretty important, in terms of running the payroll system. I think it has to be done.

Human Resources Director Foster said I appreciate what you're saying, Judy [Clerk-Treasurer Rhodes], I don't see this as any different than the last 30 years when people have made policies. And unfortunately what's happened with the vacation over the years, from what I can gather and why—

Mayor Mills said there is this mess.

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Human Resources Director Foster said we're in such a state is because, I mean, new policies came through and then, "Well, this group is grandfathered," and then something else was approved and then something else was grandfathered, so you have—you know, discretion was given and so that's why we're in the situation that we're in with the confusion, why the importance to go through and adopt a new policy. The conversion will happen. Everyone will get on the same page. It's just a process that, you know, I'm certainly looking forward to being back and it's something we want to think through pretty carefully, so employees are not feeling like they have had a takeaway. If I'm going to err, I want to err on the side of being a little generous and taking things away. And I feel personally that it's important for us to get the new policy adopted now and the rest we're already currently living with—

Mayor Mills said and since we accrue as we go forward, I mean, it's not going to affect people this year. They'll be changing before they get to the end of next year, so it'll be worked out for each person by the time you get to January of next year.

Councilor Truitt said where do we have these special policies in place? Is it department specific? Is it individuals? I mean, what do we—?

Human Resources Director Foster said most of the departments meet. Some, I have not seen them in writing, but—

Councilor O'Callaghan said it's just been the practice, more than the policy.

Human Resources Director Foster said yes.

Mayor Mills said we've talked about this before. That's the reason we rebound the whole manual, because we had different departments with different policies, and not just vacation. And it's impossible to manage that, particularly when we have only one HR person, when everybody's on a different page. It's way past time to have one policy for all employees, police and fire excepted.

Human Resources Director Foster said and it's also, you know, the smaller aspects of the policy, where some departments are required to take a number of days at a time and other departments are able to take them in quarter-hour increments. Whenever employees from department to department, unless there's a legitimate need and requirement to do it that way, feel that, "Well, if I'm in this department, I'm not being treated fairly, because somebody else is able to do something else." And that goes along with the policies I've changed over the years, over time. And there's a sense of creating an unfair environment for employees when we have different rules for different departments.

Councilor Truitt said do we ever, Dave [City Engineer Buck]—just to put Dave on the spot on this—but as far as recruiting new individuals to come on board, if we have a policy that we're going to add—and maybe it's always been there—but freshen for me—that you don't get vacation until you complete one full year of continuous service. Does that ever—?

City Engineer Buck said that's pretty common.

Mayor Mills said that's pretty common across.

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Councilor Truitt said I've never, ever—

Mayor Mills said you go to Purdue, it's like that.

Councilor Truitt said I've never seen that in my entire life. So I was just kind of curious. I mean, that would be a show-stopper for most of the people—

Human Resources Director Foster said Randy [Councilor Truitt], I consider the same thing. You know, we're all competing for good talent and everything, is this going to really prevent us from hiring somebody good. The one year is pretty standard. I think with the personal days, the number of holidays, and the ability to earn comp time for all employees, in this particular environment, it's not as big an issue as it might be for some other organizations. There's still plenty of time people can take off.

Mayor Mills said other questions for Diane [Human Resources Director Foster]? I would like to say that Diane has spent a tremendous amount of time on this. She's just gone through enrollment for all the employees for healthcare, and she's been here way, way too many evenings when I go home at 6 o'clock she's still in there working.

Councilor O'Callaghan said thank you, Diane.

Mayor Mills said she's done a great job for the City and for the employees. Thank you, Diane.

Councilor Hunt said thank you very much.

There was no further discussion.

Resolution No. 34-07 A Resolution Requesting The Transfer Of Funds [Mayor, Clerk-Treasurer, City Court, City Hall, Police Department, Fire Department, Sanitation Department, Police Merit Commission, City Services, Development Department, Motor Vehicle Highway Fund, Economic Development Income Tax Fund, Cumulative Capital Development Fund] (Prepared by the Clerk-Treasurer)

Mayor Mills said this is a resolution for a transfer of funds. You will notice there are many transfers of funds. It's the end of the year. You have, in your packet, the original resolution. This is the proposed amended resolution. We filed one on Monday, not having all the numbers for the legal pulled together, and so what you see as the amended is the changes for the legal budget. So, start at the beginning, General Fund and my budget, transferring \$1,600 from Consulting and \$700 in Contract Services to Information Printing and Public Relations. I'm doing a final newsletter, and, as always, we do an employee appreciation lunch, and even though I'm pretty sure I have enough money in there for the employee appreciation lunch in PR, I'm putting a little more, just to make sure. I'm also, I think, as you know, on my way to France, and I'm taking a few—

Councilor O'Callaghan said gifts.

Mayor Mills said gifts for the occasion, so I wanted to make sure I had enough money in there to do that. In the Clerk-Treasurer's budget, from Dependent Insurance, Legal Services, and Instruction, \$3,400 total, into Office Supplies, Insurance, and Licenses, Permits & Fees. In City Court, from Office Supplies, \$110 to Licenses, Permits & Fees. City Hall, from Gas, \$3,900, to

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Postage and to Electricity. In the Police Department from Clothing/Uniform Allowance and Salaries – Part Time into Pensions. In the Fire Department, Salaries – Overtime, Clothing/Uniform Allowance and Repair Parts & Equipment into Pensions and Oil. In Sanitation, from Personnel Insurance, Information Printing, Gas, Water, and Repair Services to Dependent Insurance, Fuel—as you all know, the cost of gasoline has risen again, and Tires & Tubes. For Police Merit Commission, from Salaries – Full Time and Legal Services into Physical Exams, Written Exams, and Contract Services. In City Services, from Electricity to Water, and in the Development Department, from Travel to Telephone. Those are all in the General Fund, for a total of \$47,174.38. In Motor Vehicle Highway, Salaries – Part-Time, Insurance, Dependent Insurance, PERF, FICA/MED, EMP SEC, and Computer Services for a total of \$20,600 into Salaries - Full-Time, Fuel, and Tires & Tubes. And then in Economic Development Income Tax, from Consulting, \$130,000 and Road Improvements, \$10,000, into Legal Services and Sidewalks/Curbs/Parking Improvements. In CCD, \$3,000 from Contract Services into Repair Parts & Equipment. So questions about any of those?

Councilor Satterly said do we need to amend it first?

Mayor Mills said we will need an amendment, yes.

Councilor O'Callaghan said I move to amend Resolution No. 34-07 by substitution.

Councilor Satterly said second.

Mayor Mills said all in favor of the amendment by substitution, please signify by saying AYE.

There not being a clear voice vote, the roll call vote was requested.

The roll call vote:

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

Clerk-Treasurer Rhodes said 3 AYES, 3 NAYs. It's a tie. The Presiding Officer in this case may vote, if the Presiding Officer wishes to break the tie.

Mayor Mills said well, I will. I will vote AYE.

Clerk-Treasurer Rhodes said the vote then is 4 AYES, 3 NAYs, and the amendment by substitution passes.

Mayor Mills said any questions?

Councilor Truitt said from my standpoint, my NAY vote is more from a point of view that I would just like to have more time to talk about the legal side of this. Again, I don't know if this is the time to do it or not.

Mayor Mills said this is the work session. What are the concerns?

Councilor Truitt said well, I'm just kind of—will this be it, this \$130,000?

Mayor Mills said for the whole year?

Councilor Truitt said I mean, will this clean up whatever we're working on, or do we have more?

Mayor Mills said this will clean up to this point.

Councilor Keen said does that include fees from other areas besides Mr. [City Attorney] Bauman's office?

Mayor Mills said it includes the Ice Miller bills.

Director of Development Andrew said Jan [Mayor Mills], do you want me to pass out this—

Mayor Mills said yes. What Josh [Director of Development Andrew] has is detail.

Director of Development Andrew said this is the estimate that we made. We compiled the current bills, which we received Tuesday, final bills, and then we've asked for estimates of work up to the end of November, because December will be paid in January.

Councilor Truitt said and then, Josh [Director of Development Andrew], as far as December is concerned—

Director of Development Andrew said it'll be in January.

Councilor Truitt said okay, but as far as what we have to look forward to, if you want to call it that?

Director of Development Andrew said we have \$131,000 budgeted for next year in Legal, so we're hoping that covers.

Councilor Truitt said but are we going to suck all that up early in the year?

Director of Development Andrew said I don't think so.

Councilor Truitt said okay.

Director of Development Andrew said I think we should be done, hopefully— Do you want to talk about that, or pending cases?

City Attorney Bauman said Taylor Flannery [attorney with Gambbs Mucker & Bauman] completed and submitted the proposed findings and brief in the Liu and Huang cases today. The proposed findings and brief was previously submitted in the Weida case. Previously both of those cases, the judge found that both of those landlords had submitted incorrect information on their Occupancy Affidavits and already fined them \$1,000 each for that. The only significant item that remains that will be next year will be the hearing on fines for the Bowden case. That should be a fairly small part of the overall work for that case, because the judge has already heard findings in that case relative to the request for an injunction, finding that the property was over-occupied. That was the case that originally came through the standard renewal inspection, when the

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property owner had taken the furnace out and then refused to put a furnace back in the property.

Councilor Truitt said what do you think, from a learning standpoint—what are we gaining? This is a question. I mean, what are we gaining, from a City perspective of spending \$225,000?

City Attorney Bauman said the answer is that we typically go a period of about six to ten years between some hard-heads thinking they can beat the system.

Councilor Truitt said right.

City Attorney Bauman said and after that, people go, “Oh, yes, I remember what happened to him,” and people cooperate with the code office and we don’t have any— We have cases, but typically when they come up, the people go, “Okay, yes, I want to settle. How much will it cost me?” And then we typically have settlements for the enforcement costs and consent decree. The first fine, which gets forgiven typically over a five-year period. And, like I say—

Director of Development Andrew said we prefer not to go to court.

City Attorney Bauman said yes, typically it’s been sort of a six to ten year period between people who think that somehow they’re immune from the law, and then people get the idea that, “Yes, okay.” And so I would assume that, if these cases are followed through and completed, then we’ll again have a period where people realize that, “Yes, that’s the rule. It does apply to everybody.”

Director of Development Andrew said yes, Randy [Councilor Truitt], we will have money coming in.

City Attorney Bauman said yes. And I’ll try to get some of that information together for you for Monday night.

Director of Development Andrew said and we’ve made estimates, as you can see on there for November. And we’ve also included the Development.

Councilor Truitt said and the money coming in is defined as awards, summary judge findings?

City Attorney Bauman said yes, fines.

Councilor Truitt said fines. And are they big numbers, or are they—?

City Attorney Bauman said they vary. Some of them are the \$1,000 for submitting the incorrect information, some of them are substantially larger, where the \$200 a day for overoccupancy.

Councilor Truitt said do we have \$250,000 worth of income?

City Attorney Bauman said probably not that much.

Councilor Truitt said okay.

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City Attorney Bauman said but one of the things that does happen as a result of this, these same people try it again—

Councilor Truitt said right.

City Attorney Bauman said then the fine will be \$1,000 a day as a second case.

Mayor Mills said and the alternative is we have ordinances on the books that we just ignore, we don't enforce. And we don't protect our neighborhoods. That's the alternative.

Director of Development Andrew said it's a safety issue.

City Attorney Bauman said yes, and the safety issue, for example, in one of these cases where we had the overoccupancy, we had not only three, but we had four and five, and the fifth person was in the basement with no second means of egress. If there had been a fire, that would have turned into a fatality. And, as I said before, the last time we had a hard-head that we ended up going all the way and litigating and even to appeal, it was actually the same situation. We had the over-occupant in that case was also in a basement.

Director of Development Andrew said that was 10 years ago.

Councilor Hunt said was the safety in that one case where there was no furnace, were they using space heaters or—?

City Attorney Bauman said they were using space heaters and it's a miracle that we didn't end up with a fire, either through something on them or an electrical overload.

Councilor Hunt said and also, is the challenge to the smoking ordinance in these legal fees? I mean, not in the last couple months—

City Attorney Bauman said not in the code, no.

Councilor Hunt said but in the yearly. Okay.

City Attorney Bauman said yes, it was this year.

Councilor Hunt said but it's the year.

City Attorney Bauman said but that's all done.

Councilor Hunt said in 2007 legal fees included the challenge to the smoking ordinance.

City Attorney Bauman said yes.

Councilor Hunt said okay.

Councilor Keen said has there been any change to the philosophy, I guess, of simply issuing court notices to people as to their notice to their violation? Because I talked to many of these different people, and they claim that their first notice, their first warning, I guess—or not warning, but their first notice from the City was simply that they got a notice to appear in court. I guess

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that's where I have the large part of difficulty with this whole thing, is I can't help but sit here and think that we could have avoided all these legal fees, or a vast majority of them, if we had simply sat down and talked with these people and given them some kind of notice as to what was going on, and that they were actually in violation. Because several people even got up at Council meetings and said, "I had no idea."

City Attorney Bauman said okay, I can address that. In the Bowden case, there was a reinspection which found that the furnace had been removed—

Councilor Keen said okay, well let me—

City Attorney Bauman said you want to ask the question, let me answer it.

Councilor Keen said okay, but I don't think we need to get into all the nitty-gritty details of each one of the cases—

City Attorney Bauman said but you've asked, and I've got to answer it.

Councilor Keen said the philosophy is what I'm after here. What are we doing as far as the way we notify people? That's my concern.

City Attorney Bauman said and that's what I'm trying to answer. In these cases—

Mayor Mills said let Bob [City Attorney Bauman] answer the question.

City Attorney Bauman said in the Bowden case, when they did the routine reinspection, they found that the furnace had been taken out. I think they may have initially assumed that they were simply replacing it. But then the property owner informed the code people that no, he didn't intend to replace the furnace. That's how that case got started. After the rental certificate was not renewed because of that, then the City also discovered that the property was over-occupied and that a business was being operated out of the residential zoning. In the Wong case, the landlord had submitted an Occupancy Affidavit containing incorrect information, listing as a tenant a person who did not live there, who the landlord had already released and paid the deposit back, and failed to list a person who did live there. In the Weida case, the four that went to court, code asked the Weidas for an updated Occupancy Affidavit. Under the terms of the ordinance and the language of the Occupancy Affidavit, they are supposed to go and ascertain who are the occupants, and have personal knowledge of that, and this is a tool that code uses to let people know that a concern has been raised with the code department about this property. In that case, the Weidas submitted an Affidavit which listed a person who had never lived at the property and failed to list several people who did live at the property. As a result of that incorrect information being submitted on that Affidavit, that case was referred for enforcement.

Mayor Mills said how many landlords, roughly, do we have in the City, Josh [Director of Development Andrew]?

Director of Development Andrew said hundreds. We have hundreds of housing units.

Mayor Mills said we have hundreds of people that go through this process every year, that know the rules. It's not a mystery to those business owners. They know what the rules of the code are.

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Councilor Keen said I understand that they know the rules. In fact, you know, take the Weidas for instance. They've been a landlord in the community for 35 years.

Councilor McMullin said what is a mystery—

Councilor Keen said why, all of a sudden, did they—? You know, it just doesn't make any sense to me that, all of a sudden, here we are, we're—you know, they wind up in court over something that they know perfectly well what's going on with it, and, you know, it's not a mystery to them how this whole program works. It's just that they weren't notified. They don't know what's going on.

Mayor Mills said they were notified.

Councilor Keen said they weren't.

Mayor Mills said they were.

[overtalking]

City Attorney Bauman said well, the judge has made a finding that they submitted incorrect information on the Affidavit.

Councilor O'Callaghan said and I guess just in summary that the notification was a request for an updated Affidavit. And they did get that, because they submitted that. It was supposed to be an updated Affidavit, but it was not, so they did receive that notice. There's no question about that. They received that notice, because they acted on it. They acted on it improperly, but they acted on it.

Mayor Mills said so they certainly were informed.

Councilor O'Callaghan said they received it. Obviously received it, because they acted on it. Mayor, on the back, under CCD, there's parts used for repairs to the building. Which building? Does that refer to City Hall? Which building is that?

Mayor Mills said that's you, Dave [City Engineer Buck].

Councilor O'Callaghan said the very back page. Is it to City Hall?

Mayor Mills said I don't know what that is, to tell you the truth.

City Engineer Buck said I'll have to look into it. Honestly, I can't answer that right now.

Mayor Mills said oh, wait, I think this the Police Building.

City Engineer Buck said yes, this is the Police Building.

Mayor Mills said it's the Police Building, I remember now.

City Engineer Buck said I believe it's batteries for the generator.

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Mayor Mills said it is.

Councilor O'Callaghan said thank you.

City Engineer Buck said "to avoid a shortfall in an account" doesn't tell you much.

Mayor Mills said but it is the Police Building.

City Engineer Buck said yes, it is.

Mayor Mills said other questions?

Councilor Satterly said will this take two readings?

Mayor Mills said it's just a transfer.

There was no further discussion.

ADJOURNMENT:

There being no further business at this time, Councilor Truitt moved for adjournment. Motion was seconded by Councilor McMullin and passed by voice vote, the time being 5:38 p.m.