

CITY OF WEST LAFAYETTE  
COMMON COUNCIL  
MINUTES  
DECEMBER 3, 2007

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on December 3, 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, McMullin, O'Callaghan, Satterly, and Truitt. Councilor Keen arrived at 7:53 p.m.

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

MINUTES: Councilor Griffin moved for acceptance of the minutes of the November 1, 2007, Pre-Council Meeting, and the November 5, 2007, Common Council Meeting. Councilor Satterly seconded the motion, and the motion passed *viva voce*.

Remarks from Mayor Mills

Mayor Mills said before we move tonight to Committee Standing Reports, I just want to take a moment. This will be my last Council meeting, and I just want to say "Thank you" to all the citizens for the opportunity to serve. It's been a great four years. I particularly want to say "Thank you" to the department heads. It's been a pleasure. They have worked so very, very hard. It's been a great joy for me, and I hope everyone in the City knows how hard they all work for each of you every day. They've done a tremendous amount of work in the last four years, and I just want to say "Thank you" to all of them.

COMMITTEE STANDING REPORTS:

STREET AND SANITATION: Councilor Satterly presented this report.

Thank you, Madam Mayor. On streets and sanitation, the final date for leaf pickup at the curb will be December 14 for all areas other than Area F, which I think is down around the campus, isn't it, David? Rake your leaves to the curb now, don't wait. That concludes the report.

WASTEWATER TREATMENT UTILITY: Councilor Satterly presented this report.

Thank you, Madam Mayor. The Western Interceptor construction project Phase II has begun. The Green Meadows Lift Station is scheduled to go out for bid this month. As far as the flow of sewage at the Treatment Plant, the total flow at the Treatment Plant was 239.37 million gallons during October, which is 86% of the design capacity. There was 4.15 inches of precipitation during the month of October, one of the reasons we had such high flow at the Plant. On the combined sewer overflow, there was a total of 8.65 million gallons. The total system flow was 248 million gallons. Percent treated at the Plant was 96.5%. There were overflows at the Wet Weather Facility of 8.56 million gallons; Dehart Street, 0.02 million gallons; Quincey Street, 0.07 million gallons. That completes the report.

PUBLIC SAFETY: In Councilor Keen's absence, there was no report.

PURDUE RELATIONS: No report.

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PARKS AND RECREATION: Councilor Hunt presented this report.

Thank you, Madam Mayor. I have good news, several good news items. The Riverside Skating Center opened the day after Thanksgiving. The first 10 days of that period, the attendance was up 12% from the record-breaking last year. Yesterday it was under water in the rain, but that happens. Also, the other good news is an \$811,000-plus grant was received from INDOT and the Federal Highway Administration. It was received this fall, and will fund a 1.06 mile Wabash Heritage Trail extension. The new trail will go from the sculpture there along North River Road into Happy Hollow Park, and connect to the Trolley Line Trail, so it's quite an improvement in connections. And it will make walking along North River Road much more comfortable and safe. Thank you to the Purdue Horticulture, Forestry and Natural Resources, and Alpha Phi Omega students who helped plant trees along State Street and Kalberer Road, and they also helped prune shrubs along Cumberland. Morton Center will be closed from December 22 through January 1, and Lilly Nature Center will be closed from December 24 through January 1. The next Park Board meeting will be December 17 at 4:30 at Morton Community Center. That concludes my report. Thank you.

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

Thank you, Mayor. The Redevelopment Commission met on November 19. They discussed the parking management agreement, but signing was postponed to a meeting today. I wasn't able to attend; I was testifying—

Mayor Mills said it was postponed.

Councilor O'Callaghan said oh, it was postponed. Okay. Then I won't mess with that too much, except to—I guess I will say that we do still want to encourage the community to use the garage, it's a great facility. And to say that the management has really made a turnaround there, and now had an income last year of \$23,000, and we really do appreciate that. I love seeing your smiling face when I use the garage all the time. They also discussed the pervious concrete sections that have been installed in Chauncey Square. I thought that's a really interesting aspect of that project. The idea is to have less flow to the river. So they'll be taking data on how that works, especially with the freeze-thaw this year. And PRF has done some pervious concrete as well, so we'll be able to access their data as well. But the main discussion was about an agreement with PRF regarding the Certified Technology Park, and to reserve that increment, the Certified Technology Park increment—which is the money that's captured there—to have that be pledged to a new Purdue Technology Center, Purdue Tech Center II. The Research Park is actually out of incubator space. Currently, there are 77 companies, 1,274 employees, and an annual payroll of \$65+ million. This incubator could add 26 to 30 more companies. The first incubator graduated 38 companies, with the incubation process. The most notable one that we talk oftentimes about is SSCI, which started in Sally Byrn's sewing room and now purchased their own building. The Technology Center would be built in three phases. Phase one would be 105,000 square feet and be built with green concepts, following the LEAD Principles, which is another exciting thing. It's in design phase now, and be ready the first of '09. The total project cost for phase one is \$14 million, and the Redevelopment Commission pledged the remaining CPT increment of \$4.5 million. That's a critical piece in the financing for this project, and just another great example of the partnership that benefits the economic development for the whole community. We also have economic development news of the two new hotels planned on Tapawingo Drive South, and we'll be talking more about that later. Just a few additional notes. The Indiana Economic Development Corporation will be holding a workshop Thursday at the current Purdue Technology Center for small business

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innovation research and small business technology transfer agreement programs. It's just a great thing to be happening in our community. Also had a grand opening last week for Flowers by Rustic Boutique in the Purdue West Shopping Center, and we're certainly excited to have some new businesses at the Center. And one last note, just received, that 11 Indiana communities have been chosen to participate in a Community Assessment Program, designed to improve tourism and economic development. And the Lafayette-West Lafayette Convention and Visitors Bureau is one of those organizations participating. So lots of exciting things happening in the area of development.

PERSONNEL: Councilor O'Callaghan presented this report.

Thank you, Mayor. We'll be talking about the personnel manual later in the agenda. The last revision was in May 2006, and just want to take this opportunity to thank [Human Resources Director] Diane Foster for all her good work on getting us to have this consistent personnel manual. And we'll discuss that later in the agenda.

BUDGET AND FINANCE: No report.

REPORT OF APC REPRESENTATIVE: Councilor Griffin presented this report.

Madam Mayor, we learned at the APC last meeting from the Director, that there's been significant funds that have been received both by Lafayette and West Lafayette to focus on and build upon the "Safe Routes to School." So this will be used in the upcoming year and I think will be a very favorable thing for our school kids.

REPORTS OF SPECIAL COMMITTEES:

► Councilor O'Callaghan said thank you, Mayor. The West Lafayette Youth Council has been busy. They did do their charity run on November 11. It was a very cold day, but I ran the whole course—no, walk-run. But anyway, they raised \$476 for Habitat. And then on this Saturday, they participated in Dickens of a Christmas and did Christmas holiday crafts in the space between Borders and Panera. And it was listed on a lot of the publicity about the Dickens of a Christmas, so they're a great group. They're working really hard and are going to meet again December 16.

PUBLIC RELATIONS:

Employee Service Anniversaries

Mayor Mills said we have just one service anniversary this month, Gregory Booth in the Fire Department celebrates 20 years. But I do want to take a moment to just talk a little bit about the Fire Department. We also have three members of our Department who are going to retire this year—Assistant Chief Dave Glover, Assistant Chief Larry Grant, and Captain Steve Fountain. Combined, they have 107 years with the City of West Lafayette, so an impressive number of years serving the citizens and serving our community. We're going to miss them a great deal. There'll be big changes in the Fire Department. We already have people in place who have been promoted to move into those positions. But I'd just like to take a minute to thank all three of them for the hard work, for the many years of service. I think we have a Fire Department in West Lafayette that we can truly be proud of. We have great response times, we have great first-responder service, and those three gentlemen are part of that great record of service. So thank you to all three of them.

Other

Councilor O'Callaghan said Mayor, I do have just one item of public relations. I would just like to congratulate Mayor Mills for receiving the Order of the Griffin at the last Community

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Partnership meeting. It's an honor that is not easily given, and it reflects the dedication and the service to the community that you have given us. And so, thank you very much.

Mayor Mills said thank you.

Councilor Griffin said that's an award from Purdue University.

Councilor O'Callaghan said from Purdue University.

Mayor Mills said it's a pleasure. We've had, I think, a great relationship with the University, and I know that will continue. But it's been a pleasure to work with all of those people at Purdue. So thanks very much.

### FINANCIAL REPORT:

Clerk-Treasurer Rhodes said you've received your ledger reports in your Council files, as well as the cash reports here tonight. I just wanted to make a couple of comments about the status of our budget. As we stand this year, we know we won't receive information about the 2008 budget until, I'm guessing, probably even February of next year. We have a couple of unfinished items that will be taken up by the incoming Council. One is the General Fund. We're expecting that there is going to be a cut based on the enrollment in our health insurance plan, as we previously discussed. And we're looking like we're going to have record reversions or under-expenditure of budgets this month. We are significantly under-expenditure compared to this time last year. That really is a tribute to the department heads, and I very much appreciate that, and I expect we may even have under-expenditures of budget in excess of 20% greater than last year, which will certainly be helpful as we enter the next budget year. The other item that is still unfinished will be the MVH budget. There we have a shortfall close to \$250,000. 80% or more of that will really be handled by reversions or under-expenditure of this year's budget, very likely. And the rest will be able to be handled through selective reductions next year in the '08 budget. So we should be fine, but it's going to be a somewhat delayed process. Thank you.

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)

Councilor Griffin read Ordinance No. 33-07 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 this is a rezone of the former Smitty's property. Mr. Gutwein.

Mr. Andrew Gutwein [Bennett Boehning & Clary, LLP] said I'm speaking on behalf of the petitioner, Northwestern, LLC. I have with me this evening Jack and Ed Nichols here, the principals of Northwestern, LLC. Everyone knows this really as the former Smitty's site on Northwestern Avenue. This evening I feel like I need to address two issues. First of all, the rezoning itself, and then secondly, the potential that I think will be discussed for a continuance of the hearing this evening. So I'd like to address both of those, if I could. I do have some diagrams I do think would be helpful through all of this. This diagram illustrates the site from an

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aerial perspective, but before we go to the site plan, I just wanted to explain this evening that we filed this rezoning simply to clean up the zoning on this site. If you do look at the aerial photo here with the hashing, the green area is what's currently zoned NB and the blue area is currently zoned R1. And that's primarily the parking lot for the Smitty's site, which, up until some time ago—10 years ago or so—it was legal to have parking in a different district than your business use. However, under today's ordinance, the parking is not allowed, except in the same zoning district. So in order to make this a conforming use, so to speak, we need to rezone the entire property to NB. The current use would be permitted, everyone refers to them as grandfather clauses which isn't exactly the legal term, but we'll go with that, since it's understandable. So we can continue to use the building as it is with the parking in a nonconforming use. However, it really hinders the redevelopment of the site. So, for instance, if someone's coming to look at the property and they would like to put a new building up there, they're really limited in their options. Because they can't put even parking in the R1 area, so it really essentially stops any redevelopment, short of fixing up the building that's there. And even that is extremely limited, because there's limitations on how much work you can do to the building, and once you've done too much work, then you can't continue with your nonconforming use either. So we're in a situation where the Nichols recognized that we need to go ahead and clean this up, so that when prospective users come to look at the site, there's one less hurdle in the way for them to move forward. Which brings us to tonight. When we originally filed this, there was not anyone looking at the site. Again, we just wanted to clean it up so that it would remove one of the obstacles. Since the filing of the rezoning, we have had some interest in the site, I'm happy to report. It's preliminary interest, so we can't go into detail about what it would be, but I can tell you that it would be a new structure there, it would not be a reuse of the existing structure. And this is absolutely necessary for them to move forward. The prospective users are in the process of determining whether or not they'd need any variances or anything like that, and that would be a whole separate hearing process. But we do know that anybody who reuses the site is going to need the zoning corrected, so that it's NB across the board. Now, if I could address the potential continuance. We've been contacted, several of us have been contacted by one of the neighbors Al Parker, and, while I appreciate him sharing his concern, I'm frustrated by the fact that he shared his concern three days ago, on Friday afternoon, after I had informed him of this three weeks ago. And while I didn't specifically connect with him by telephone because I couldn't find a phone number for him, I was able to contact by telephone some of his other neighbors and spoke with them, to make sure they understood the notice they had received and didn't have any concerns. He did receive notice. I mailed letters to him on November 8. The signs, of course, were posted on the property on November 11, which talked about the Area Plan Commission hearing, as well as tonight's meeting. Both of those dates are posted on the sign which is right next door to his home. Sallie Fahey [Executive Director, Area Plan Commission] has been kind enough to come over this evening, to make sure the Council understands. There potentially was some confusion about the date of the Area Plan Commission meeting; there was actually a meeting commenced on the normally-scheduled time, but it was then continued because of a lack of a quorum. But, again, Sallie Fahey's here to make sure that there's no misunderstanding about that process and how that worked. She also has some information about any communication that Al Parker might have with their office. Of course, the Area Plan Commission hearing was held—started on the 21<sup>st</sup>; again, it was concluded on the 28<sup>th</sup>. We, of course, attended the Area Plan Commission hearing, and no one was there to speak for or against, other than myself. Then, of course, just for a point of reference, the Area Plan Commission hearing was concluded on the 28<sup>th</sup>. On the 29<sup>th</sup>, the next day, we had the City Council caucus, and then on the following day, the Friday, then, Al Parker called me in the afternoon. And here we are on Monday. So the question was first posed to me this morning, "Would a 30-day continuance of this matter, would

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it interfere?" And my answer is, yes. I can't tell you for sure whether a sale is going to go through, because there are lots of other factors, but I can tell you that delaying this another month will absolutely affect the potential for this deal to close. Because when the prospective purchaser—they know our timeframe, they know the process, they know that things are lined up to get the rezoning done, so that they can decide what else, if anything, needs to be done. And, if I go back to them now tomorrow and say, "Well, we've got to wait another month because one of the neighbors was concerned about the setbacks and he wasn't able to be at the hearing," it's going to send a bad message to them. It's going to send them the message—they're out-of-town people looking, and it's going to send the message to them that things take a long time to get done here and you can't count on the schedules going through as planned.

Councilor Truitt said Andy [Mr. Gutwein] was this continuation discussion, was this a formal statement by someone? All I read was an email. Whoever is talking about this continuance, can someone, maybe Gil [Councilor Satterly] speak to what's going on a little bit?

Councilor Satterly said I had a telephone call from Al Parker. He left me a message. Then I also got an email from him, and he's asking for a tabling of this ordinance until the January meeting, so that he has time to talk with the owners of the property and probably with Mr. Gutwein, as to perhaps there's some arrangement that can be made, as far as where development might take place on the property. Because his house is immediately adjacent to the property.

Councilor Truitt said so did one of us ask, did you ask for this discussion of this continuance, or is this just somebody talking for Al Parker because he's out of town?

Mr. Gutwein said Councilman Hunt asked me this morning, because she was also contacted—

Councilor Truitt said I was contacted as well.

Mr. Gutwein said she asked me whether or not it would—

Councilor Truitt said impact. Okay.

Mr. Gutwein said impact us or would it be a big deal. So that's why I'm responding to this.

Councilor Truitt said okay. I was just kind of curious what the baseline—

Mr. Gutwein said there's no motion on the table.

Councilor Truitt said right.

Mayor Mills said can I just interject here. Can you—I think Mr. Parker's concerns, from what I've been told are how close to his property a potential building could be located.

Mr. Gutwein said yes.

Mayor Mills said I think you've shown us something here with your diagram. Can you address that, please?

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Mr. Gutwein said yes, absolutely. If you look at the diagram—if we get our bearings, we see Northwestern Avenue and Lindberg Road, and I think you can make out, there's the Smitty's store, the large building there, with the parking lot surrounding the store. And directly to the east, along Lindberg Road, is Mr. Parker's home. Between the Smitty's property and Mr. Parker's is a street, a public street that has not been improved, but it still remains as a public right-of-way.

Councilor Griffin said and it's a woods right now, Mr. Gutwein.

Mr. Gutwein said yes.

Councilor Griffin said it's a woods.

Mr. Gutwein said it's a woods, yes. You can also see then—so the dark blue hashes, you see, that goes to the center line of that platted street that doesn't exist, then you see the light green line, and that's actually the edge of the right-of-way. So the edge of the right-of-way that you see is—that's a 60-foot right-of-way. And from the green line to the red dotted line, the red dotted line represents the setback for any building that would be built on the property. And the green line to the red line is another 25 feet, because it's a setback from a public street. So we've got a total of 85 feet from the edge of Mr. Parker's property to the point at which a building could be constructed.

Mayor Mills said a total of 85 feet.

Mr. Gutwein said a total of 85 feet, yes.

Councilor Griffin said so, hypothetically, a building could be built up to the red line.

Mr. Gutwein said correct.

Councilor Griffin said but no use by a potential owner could go beyond the next light green line.

Mr. Gutwein said correct.

Councilor Griffin said and so, in fact, if he were to want to have some parking, he would not have parking there, because he cannot go beyond the green line, and even diagonal parking, there would neither be room for diagonal parking nor parallel parking alongside the building, because you would have room for neither between the red line and the green line, if the building were to be built up to there.

Mr. Gutwein said correct.

Mayor Mills said by "he," you mean the prospective—

Councilor Griffin said the prospective—whoever—the prospective user.

Mr. Gutwein said yes.

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Councilor Griffin said and so any use that a future owner of this—lessor or whatever—property would have, the future owner could go to the green line, could take down the trees, could do anything that they wanted to up to the green line, except build.

Mr. Gutwein said correct.

Councilor Griffin said and a building would have to be held back, and that would still leave 60 feet of wooded area, unless, of course, at some time in the future, the City were to decide to build a street, to improve the street through there. And then, of course, it would be no different than a person having a residential property and then a public thoroughfare and a—

Mr. Gutwein said commercial—

Councilor Griffin said a commercial—

Mr. Gutwein said across the street.

Councilor Griffin said neighborhood—

Mr. Gutwein said business across the street.

Councilor Griffin said neighborhood business across the street.

Mr. Gutwein said yes.

Councilor Griffin said thanks. I mean, this is all stuff that we go through in the APC, and so...

Mayor Mills said very good points.

Mr. Gutwein said thank you.

Mayor Mills said Councilor O'Callaghan.

Councilor O'Callaghan said and so, along those lines that Councilor Griffin was talking about, a potential user—he or she—would more likely not build the building all the way up to there, because they would more likely want to have some parking in their building and would like it to be the most aesthetically pleasing, which would be parking in the back, not parking in the front. So most likely parking would still be back there. Not required, but most likely.

Mr. Gutwein said that's likely, yes, very likely.

Councilor Truitt said how long has this been—? It was a sad day when it closed for me, but how long has it been empty?

Mr. Gutwein said it's been listed for sale since March of '05.

Councilor Truitt said okay, March of '05, and you already mentioned that there's been prospective individuals looking at it, but have had some problems with the zoning, as far as you've said it was a hindrance. Correct?

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Mr. Gutwein said yes. You know, it's a turnoff when someone's looking at the site and then they start to do their due diligence, and then they see this, you know, "What's this R1 that I'm buying?" You know, "I don't understand that." "Well, it doesn't matter, if you reuse the building." "Well, I don't want to reuse the building."

Mayor Mills said and I can say the City's had discussions several times with the realtors about prospective tenants, and we've always run into that same issue.

Councilor Truitt said I think it's—I mean personally, I think it's a positive step.

Councilor O'Callaghan said one thing I asked a Pre-Council was, for tonight, if we could have just a little bit of information about what kind of efforts have been made to secure a buyer for this spot. I know that the Department of Development has done some efforts, and I'm sure your client has made some efforts. So just some discussion of that, I think, would be very appropriate now.

Mr. Gutwein said do you want to address this, Josh [Director of Development Andrew].

Councilor Truitt said no more than five minutes, though, Josh [Director of Development Andrew].

Director of Development Andrew said we've had several inquiries, primarily from realtors about the property, and I think with a rezone you will have a definite—somebody locating there. I think it's going to be somebody that you'll like and be very satisfied with.

Councilor O'Callaghan said and you have done some marketing of the place. That's the kind of thing I was talking about.

Director of Development Andrew said yes. We've shopped it, as they say in the business.

Councilor O'Callaghan said thank you.

Mayor Mills said and, again, for a prospective buyer to come in and have to go through the whole rezone process before they begin is just, you know, one more roadblock for them. To have it all rezoned, the same zoning, before a buyer comes in just makes our chances of moving that property as a City much greater. Other questions for Mr. Gutwein?

Mr. Gutwein said would it be helpful to hear from Sallie Fahey [Executive Director, Area Plan Commission], just to make sure everyone understands—?

Councilor O'Callaghan said how people got noticed of the continuance.

Mr. Gutwein said yes.

Mayor Mills said please.

Ms. Sallie Fahey [Executive Director, Area Plan Commission] said as you know, the Plan Commission's regular meeting was the night before Thanksgiving, and we were quite certain that there would not be a quorum. And so by prearrangement, the Planning Commission agreed that they would hold their meeting the next Wednesday, on the 28<sup>th</sup>. So that we maintained our normal schedule of notices to the newspaper, petitioners, notices to property owners, we kept

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the initially advertised meeting date on the 21<sup>st</sup>. All legal ads say, at the bottom, that the meeting may be continued from time to time as is necessary. So on the 21<sup>st</sup>, our Recording Secretary, myself, and Tim Shriner, a member of the Plan Commission, appeared at the regular time for the Plan Commission meeting. About eight people came on other cases. One was Planned Development and one was a Minor Subdivision. We spent about an half an hour with those citizens, mostly explaining about their cases and how to access information on our website, so we were there for about an half an hour. They were the only people who appeared to be interested in any of the cases. The meeting was then continued for lack of a quorum, and then the regular meeting held on the 28<sup>th</sup>. My staff made every effort to contact people they knew, they had known ahead of time were interested in the case, about the fact that there would not be a hearing on the 21<sup>st</sup>, but on the 28<sup>th</sup>. I can't tell you specifically if Mr. Parker was told that, but he was in the office on the 12<sup>th</sup> of November and then phoned to talk to the staff member who reviewed the case on the 14<sup>th</sup>. I have to believe that, at some point in one of those conversations, there was a discussion that the meeting would be continued to the 28<sup>th</sup>.

Councilor Griffin said was he at the meeting on the 21<sup>st</sup>?

Ms. Fahey said he was not there on the 21<sup>st</sup>, and, as far as I know, he was not in the audience on the 28<sup>th</sup>, but certainly did not speak if he was.

Councilor Griffin said he wasn't there on the 28<sup>th</sup>.

Ms. Fahey said okay.

Mayor Mills said thank you very much.

Clerk-Treasurer Rhodes said I just want to say something, because this process did—while you're up here, Sallie [Ms. Fahey]—this process was a little unusual that, in fact, the ordinance was filed prior to final action by the APC, because of the fact that the Council Agenda Day, because of the holiday, was moved to Monday, the 26<sup>th</sup>. The agenda was not even legally required to be finalized, actually, for two business days. So this was a very compressed holiday period in which mostly governments don't conduct major policy or major decisions, and they know most people are involved with the holidays. And our schedule was unusual. I just wanted to make sure that that was also disclosed. Mr. Parker has made a request that the letter he sent to the Council be read or read into the record, and I'd like to ask the Council of their pleasure of this.

Councilor Griffin said that's fine. Go ahead.

Clerk-Treasurer Rhodes said would you wish the letter to be read aloud, or did you wish to have it read into the record, just inserted into the record?

Councilor Hunt said Clerk-Treasurer, I don't think I got the letter, so if you don't mind, I would like it read.

Clerk-Treasurer Rhodes said would a Council member wish to read it, or do you wish me to read it? It was addressed to the Council members.

Councilor Satterly said read it aloud.

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Clerk-Treasurer Rhodes said go ahead and read the letter. Okay. This was from an email dated November 30:

“To be read at the West Lafayette City Council meeting on December 3, 2007.”

And this letter, I understand, was sent to all City Council members—

Councilor O'Callaghan said by email,

Councilor Hunt said oh, okay, by email.

Councilor O'Callaghan said and I think Councilor Hunt received the email. It was just the phrase “letter” is what threw her.

Clerk-Treasurer Rhodes said okay, sorry.

“My name is Al Parker. I am the past President of the West Lafayette City Council, and I wish to address some issues with Ordinance 33-07, the Smitty's Supermarket rezoning. Unfortunately, at this time, I am traveling outside of the State. I have lived at 1015 Lindberg Road for the last 50 years, and my family has raised three generations in this house. My property is right next to Smitty's parking lot. When we first bought our house, the large woods that was on the land in question was zoned R1, and we expected to see single-family housing as neighbors. The previous owners of the Smitty's Supermarket bought the two R1 lots, cut down all the trees, and put up a parking lot. The neighborhood protested, but it was legal at that time. Although loss of the woods to parking lot pavement is not preferred, at least the R1 zoning prevented any commercial structures being built any closer to our well-established neighborhood. For over 40 years, the two R1 lots kept a large buffer between business and homes. This ordinance, if passed, removes that safety net. Changing the two R1 lots to NB means that, where there is now parking lot, large commercial structures could be built. This would have a great negative impact on our land value and the quality of life in our neighborhood. Having said that, we understand the need to improve the land, work out the zoning issues, and find a good business neighbor. However, many of us were not notified that the zoning hearing was changed from November 21 to November 28. As a result, instead of rising against Ordinance 33-07, I respectfully request that the City Council table this ordinance for one month. This will give us, the long-time members of our neighborhood, an opportunity to meet with City officials, the store owners, realtors, and seek a solution that would both protect our established neighborhood and still allow the land in question to be commercially attractive. Thank you for your time. Al Parker”

Mayor Mills said thank you. Let me stop here and ask if there are any other members of the neighborhood who are here tonight, who would like an opportunity to say anything about this rezone. Is there anyone else here who would like to address this rezone? Okay. Other discussion or comments? Councilor O'Callaghan.

Councilor O'Callaghan said thank you, Mayor. I certainly wouldn't have any problem postponing this and told Al [Mr. Parker] when I talked to him that I would consider it. The only think that

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would keep me from wanting to postpone would be if it would jeopardize in any way the sale of the property, because we've worked so hard to make this property move. And there really isn't, although Mr. Parker thinks that they could come to some resolution, come to some win-win situation, there really isn't any way to customize the zoning, because this is an NB. It's not a Planned Development. So it really wouldn't change anything in this month. The only thing that would happen would be some more education, and maybe could understand that the 85 feet from his western property line without any variances, and just feel more comfortable with it. And so, for that reason, I would be very happy to postpone it, to allow him that month to feel more comfortable about it, especially if there was not any potential of jeopardizing a sale. But hearing that there is the potential—and we're certainly not going to hold your client's feet to the fire that this deal is going to go through. I'm not comfortable postponing it, because of that reason.

Mayor Mills said okay. Other comments?

Councilor Hunt said I have a few. As Mr. Gutwein said, I went to a Bach Chorale fundraiser Friday, and when I got home about 10:30, I had a phone message from Mr. Parker. I called him, then he emailed me and I offered to meet with him over the weekend, but he said it would be difficult to get the neighbors together. And I understand the awkwardness of the schedule. But I certainly—the neighbors in my district, on the other side of Northwestern, are very eager to something done in that spot. I walked around the parking lot and looked at the grassy area and the trees. And as you know, I do like trees and grass—grass being green grass. The front of Smitty's is very shabby, there's very little landscaping, if any, and it's my understanding that the 84 feet is quite a pretty wide distance. And also, if I understand the area where the road is theoretically platted, it's very grassy and with trees. Although if there were no negative impact but delaying it, I would be willing to delay it, but people in my district very much want something done at that Smitty's site. So I guess I'd, with some mixed feelings, I'd probably rather not postpone it.

Mayor Mills said other comments from the Council.

Councilor Griffin said 60 feet is wider than many lawns in my area of the town. And so there's a minimum of 60 feet that we know is going to be protected. Unless, and this could happen regardless of what zoning decision or Planned Development decision, the City could, at some time in the future, decide to put a street through there. So, you know, that would take away all of those woods. I would not like to be known, on my last meeting in this City Council, to be one of the ones who delayed the sale that we've all been waiting for for quite a few years and perhaps lost an opportunity. I hear Mr. Parker's concerns, but I think that he's going to be left with still a pretty significant buffer there. And I think we've already discussed the fact that this building, just from the practical standpoint of either allowing delivery trucks to get around that east side of whatever building was—I think there's still going to be a fair amount of buffer there. I would not be in favor of delaying it.

Mayor Mills said thank you, Councilor Griffin. Other comments?

Councilor McMullin said and there's no compromise between the two options here? It's either we rezone it exactly as NB or—

Councilor Griffin said it could go to a great deal more expense to be a Planned Development, but it would be—and perhaps a potential client might want to do that. But it would be a significant delay in time and a significantly greater expense. And, you know, if they felt that

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there were plusses for that, but we have no idea, no way of knowing that they would want to do that. And so, zoned as it is, there's not too much area for grey areas.

Mayor Mills said it's filed now as a Neighborhood Business rezone, and that's how we have to vote on it.

Councilor McMullin said and waiting a month is going to lose clients?

Mayor Mills said well, that's the suggestion from Mr. Gutwein.

Councilor McMullin said what are the possibilities of what could be built here if—I guess my thing is I don't have a problem with waiting a month. I don't think a month is a long time to hear someone's concerns if they've been living here all this time, 50 years. It would delay it that much? I mean, would a month be that big of a—?

Mayor Mills said Mr. Gutwein, want to respond to that?

Mr. Gutwein said I certainly can't tell you, you know, if this passes, it's going to close, and if it doesn't, then it's all over, but it clearly has the potential. It's a greater likelihood that delaying it 30 days will cause it to not go through than having it continue down the path smoothly. It sends a message that it's going to be very difficult for anybody to reuse the site, if you continue it.

Councilor Griffin said I call the question.

Councilor Satterly said Mayor.

Mayor Mills said Councilor Satterly, I move we table Ordinance No. 33-07 until the January meeting of the Council.

Mayor Mills said is there a second?

Councilor McMullin said I'll second it.

Mayor Mills said all right, we have a motion to table the ordinance. Further discussion?

Councilor Keen said can I ask one question before further discussion, Mr. Gutwein. On your drawing, one of the things—I certainly understand Mr. Parker's concerns here. I did have one question. I came in late and I apologize if you may have already covered this. The curb cuts that are in existence now, what is the likelihood they would stay there under a new development, or would they change, would they be eliminated, or do we know?

Mr. Gutwein said I really can't answer that right now. I would suspect that there would be an attempt to reuse or potentially an attempt to cut off some of them. There's three along Northwestern, and if I—

Councilor Keen said I was looking more at the ones along Lindberg Road—

Mr. Gutwein said oh.

Councilor Keen said my thinking being that, if the curb cut that is furthest to the east remains,

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the likelihood of building any kind of a building there would be much less, just from a practical sense, in that they'd still want to be able to use that area for parking. I mean, that's why I was really asking the question, because I don't know—I agree, I think that Mr. Parker has some valid concerns here, but, again, I also think that, as other members of the Council have said, I think that this is a project that we've all been waiting for, to see something happen there, and I don't want to unnecessarily delay that either. But, in the same point, I want to be responsive to citizen concerns. And that's why I was asking the question about the curb cut.

Mayor Mills said okay, is there other discussion about the motion to table? Councilor Hunt.

Councilor Hunt said what's the possibility of having a special meeting in two weeks? I don't know when Mr. Parker will be back. Is that something that's just not done? I mean, I truly don't know the answer to that.

Mayor Mills said you could call a special meeting. You're talking about, you know, right before Christmas.

Councilor Truitt said Andy [Mr. Gutwein], I was just going to ask, can you go through the timeline again? Because if a normal process takes X amount of time and we shrunk it down to a very small window and he didn't have time, but what Sallie [Ms. Fahey] was just going through, with dates and so on seems to be adequate.

Mr. Gutwein said this was an absolutely normal timeline. There was no reduction in time whatsoever, with the exception of the timing of the completion of the Area Plan Commission meeting to tonight.

Councilor Truitt said right.

Mr. Gutwein said okay. Neither of which Mr. Parker chose to attend. He was first notified by certified mail that went out on November 8. The signs were posted right next door to him on November 11 that talked about the Area Plan Commission meeting and also specified tonight's meeting date, right on the sign. And he visited—Sallie Fahey shared with us that he visited with the Area Plan Commission on November 12, and then again spoke with them via telephone on November 14. He chose not to attend the Area Plan Commission meetings, not to communicate with myself or my clients until Friday afternoon. And has now asked for a continuance. With all due respect, I feel like it would be more appropriate if there had been some dialogue started earlier and we legitimately couldn't reach a conclusion. But that's not the case here.

Mayor Mills said all right. Councilor O'Callaghan.

Councilor O'Callaghan said just to reiterate that even with all that notice, if a month would make a difference to him, then I might also be willing to do it. But he's not going to be able to change the outcome with discussion in this month's time. Because it's not going to change—you can't change the setbacks without making it a different kind of zoning—

Mayor Mills said it's still going to be an NB rezone.

Councilor O'Callaghan said it's still going to be an NB rezone, so there isn't anything that can change. But even so, I would gladly give him the month to discuss it, if it wasn't going to have

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the possibility of negatively impacting the sale.

Mayor Mills said all right. Thank you. We have a motion to table this ordinance until January. We have a motion and a second. Let's have a roll call vote on this.

The roll call vote:

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

The motion to postpone consideration of Ordinance No. 33-07 until January failed, 2-5.

Mayor Mills said all right. Are you ready for the question?

Councilors responded by voice affirmatively; there were no dissenting voices.

There was no further discussion.

Ordinance No. 33-07 passed on first and only reading, 7-0.

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)

Councilor Griffin read Resolution No. 32-07 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 now, Mr. Bumbleburg, it's your turn.

Mr. Joseph Bumbleburg [Ball Eggleston law firm] said as much as I might like to claim that fame, it would be unfair to do so. I represent the petitioners in this matter, and if I might just take one element, if you will call it, personal privilege, I'm getting old enough, I believe, to be able to do that once in a while. And I look at that wall over there, and it's been my pleasure to practice before this body now, Mayor Mills, before four Mayors of the City of West Lafayette.

Mayor Mills said it's pretty impressive, Mr. Bumbleburg.

Mr. Bumbleburg said well, no it isn't, really. It just means that I'm a survivor, although I could tell you some funny stories about the things that Mayor Dienhart told me in these public meetings many years ago. But I make that comment only to say that I have some small experience with appearing before this body, and the last four years have been pleasurable for me and my clients to appear here. The conduct of your department heads in dealing with our negotiations has always been excellent, and our reception before this body has always been good. I know that occasionally some of the members and I have disputed the facts, but we've done so in a way, I think, that has left us all still friends, and all in the best interests of your City. So, on behalf of myself and my clients, I thank you and your people for the last four years of good experience.

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Mayor Mills said thank you.

Mr. Bumbleburg said that leads me, then, to talk about this abatement that we have requested here. This request was approved at the Economic Development Commission on last Monday, after some considerable discussion. The petitioner here desires to build on this site a hotel complex on Tapawingo. You should the pictures that I left with you the other day, but for the people in the audience, if you could look at this lovely aerial photograph, you would see that the area which we are talking about is an area just to the inboard side of the intersection of the new Tapawingo Drive and State Street. It is roughly behind the new filling station that was built on State Street, across State Street from Wabash Landing, in that particular general area. The area is currently open. The area has not been developed. It has been and still is a gateway to the City of West Lafayette. As I indicated the other day, I watch and see this area from my office window, and I have this vision now, after I've seen what Mr. Curtis wants to do here, that the vista that I will see from office window would be pretty nice. It would be a nice gateway for your City. The next slide is an architect's drawing—and these are always subject to some change and modification, but it gives you a picture of where these two hotels would build together, greenspace, their parking, and how they would be situated generally on the site. This is a picture of the typical kind of surrounding—this is in Arizona—and this is kind of like what the project would look like for the vista. This is a six-story complex. It would provide 151 rooms under the SpringHill brand, and 110 under the Fairfield brand. They're both Marriott. This is a \$31 million investment in this community. We seek this abatement because what we know is that this area has, for many years, been subject to filling by construction fill. The fill is simply bad and is not the kind of fill that you could put this kind of building on. And so we have to dig that fill out and replace it. We have to dig down in some areas 25 feet, haul it away, bring in new fill and property compacted, so that the structures will stand on it in an engineeringly safe way. The cost of doing that is about \$1.6 million. If you do not grant an abatement here, then what you have, in effect, said is that the fill is okay to build on for something less than what we would like to do here—shorter buildings, smaller buildings, buildings that would not be as lovely on the skyline. These buildings and this project will give 50 to 60 new jobs, a payroll of about \$1.3 million to the community. The abatement we're seeking is for 10 years. The numbers that have been shown to us and that we've worked out indicate that it is a fiscally responsible thing for the City of West Lafayette to do, to assist in this particular abatement. The owner Mr. Shen is here. He can comment, if you have questions with regard to the fill and how that happened. Other members of my team are here, and they can answer any questions you might have. But this evening we would respectfully request your approval on this reading. Thank you.

Mayor Mills said thank you. Questions from the Council? Everyone had their questions answered on Thursday.

Councilor McMullin said just for the record—

Mayor Mills said Councilor McMullin.

Councilor McMullin said what are the prospects of getting the palm trees?

Councilor Hunt said for one season, they'd be okay.

Mr. Bumbleburg said you know, on any other night when it wasn't in balance, I might say something. And this group—you don't know me well enough to do that to me. The fact of the

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matter is, we raised this question, and I did it the other day. The palm trees that you see there are not going to show up in West Lafayette.

Councilor Hunt said and as a gardener, I might add they wouldn't last long if they did.

Councilor Truitt said Joe [Mr. Bumbleburg], can you just answer one quick question? When you look at the first Whereas, up there where you're talking about the definition of what qualifies for an abatement, can you just connect the dots for me? I see the real estate improvements and rehabilitation property taxes, but then it goes through to talk about things that fall within the economic revitalization area. And was just kind of curious how this project falls within that?

Mr. Bumbleburg said well, I think you have to look at each one of those things as separate. I think they each stand on their own. And in this case, we are talking about a real estate improvement. Just plain and simple, we are going to dig out and re-do, and that is a classic real estate improvement. And so I think each one of these may stand on their own.

Councilor Truitt said okay. Can I just keep going on a couple other citizen-based comments?

Mr. Bumbleburg said okay.

Councilor Truitt said the other one is, can you talk about the possible precedent that might be set by allowing an abatement for this type of activity, when we're not done this in the past? The Mayor talked about how this was read into the minutes before and it was just—I would appreciate it if you would just address that.

Mr. Bumbleburg said my only reaction is that to not do this because of precedent, in fact, denies the fact that this board or your successors will all have an independent judgment about any other petition that might come before. I don't know of any abatements that I've seen, either here or on the other side of the river, that have anything like this magnitude of taking a very unusual piece of ground and doing what we're going to do to it, to make it a useful piece of ground.

Councilor Truitt said and it's safe to say—Mr. Shen talked a little bit about this, as we move away from the targeted area, we will not have to revisit this type of abatement, as this project continues down the road?

Mr. Bumbleburg said of course, we have no idea what's going to happen to the west of us, but what Mr. Shen said to you was that, as this ground moves toward the South River Road, the depth of the fill and everything becomes less and less, because of the slope. I think that's what he said. Is that correct, John [Mr. Shen]?

Mr. Shen said yes.

Councilor Keen said Madam Mayor.

Mayor Mills said yes, Councilor Keen.

Councilor Keen said I just want to make two comments. First of all, I said this at Pre-Council, but I've seen a number of abatements in my tenure on the Council, and of all the abatements I've seen prior to this one, I think this project most closely fits the description of an economic revitalization area more closely than any of the other ones that I've seen. And for the people at

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home, I just wanted to remind them that this is not an abatement of all property taxes. This is only a partial abatement, and, I believe, that we talked in Pre-Council, that only about \$3,000 will be paid this year in taxes on that property as it is. And by the end of the second year, we will have over \$22,000 paid in taxes on that same property, with this improvement. And by year 10, there'll be almost \$500,000 being paid on that property. So the net result is there will be more taxes being paid than there are being abated, and I want people to understand that point.

Councilor Griffin said and, in fact, cumulatively, \$2.3 million.

Councilor Keen said exactly.

Councilor Griffin said over those 10 years will be paid.

Councilor Keen said and in 10 years, we would only have \$30,000 otherwise.

Mayor Mills said I will also remind people that we will have a confirming resolution in January, so this will come up again in January.

Councilor Satterly said with public hearing.

Mayor Mills said with public hearing. So there will be other opportunities. Other questions or discussion?

Councilor Hunt said I have a couple of comments.

Mayor Mills said okay, Councilor Hunt.

Councilor Hunt said I wish we could do better on this negotiation. But I've talked to a couple of land business owners in the Wabash Landing area, and one of them is very pleased, and he told me that it's essentially win-win situation, because the hotel will bring more business in for all the local. I talked to another businessman that wasn't so happy, because the comment we hear now and then is, "Well, I built my business without abatement." So those kind of balance each other, and those were just two, so that's not a large sample. But the fact that we would get \$3,000 on this unusable land certainly makes it extremely attractive to me, and the fact that year two we get seven times the taxes we'll get now. So we're not losing anything.

Mayor Mills said Councilor Keen.

Councilor Keen said one of the things I was thinking about over the weekend, in talking with some other people about this project. Can you tell me, Mr. Bumbleburg, is there anything in the plan about crossing 26 to get to the Wabash Landing shopping area? That was a concern, once this area gets developed, there's going to be people wanting to go over and across State Street to get into Wabash Landing, and I didn't know if you had any kind or had thought about some type of pedestrian way to get across there?

Mr. Bumbleburg said there's currently nothing in the works. I haven't had conversations.

Councilor Keen said okay.

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Mayor Mills said Mr. Buck. Question: Aren't there pedestrian signals at those intersections already?

City Engineer Buck said yes.

Mayor Mills said there are currently pedestrian signals, and an island.

Councilor Keen said right. I just didn't know if they were going to add anything else, you know, underpass, overpass, that sort of thing.

Mayor Mills said there are good pedestrian signals which was more than we have in many other State crossings in the community. Other comments?

Councilor Griffin said I think it's very clear that monetarily the City and the citizenry are going to be well ahead financially by doing this.

There was no further discussion.

Mayor Mills said all right, we'll call the roll, please.

Resolution No. 32-07 passed on first and only reading, 7-0.

Mayor Mills said okay, and I will just add again for people who are listening or people who are here, there will be a confirming resolution in January and a public hearing. So there will be opportunity for comment then.

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)

Councilor Griffin read Resolution No. 33-07 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 we have been working for some time to update our City personnel policies, and to put all of our City employees on the same playing field, to make our policies consistent throughout every department. And this is another step in that direction. We have the Director of Human Resources here with us tonight, Diane Foster. Diane, do you just want to give us a little bit of overview, please.

Human Resources Director Foster said what everyone's been waiting for, the exciting personnel manual. The primary reason for this revision to the personnel manual is because of the vacation policy. Our current policy allow for it to be administered in several different ways, and we have a lot of variations concerning certain aspects of the policy from department to department, even variations within the same department. I feel that it's important that we adopt a policy for all civilian employees, so everyone's on the same page and there's less confusion and more sense of fairness. In addition to the vacation policy, the State of Indiana adopted a new law July 1, the Military Family Leave Act, which provides unpaid leave to family members for military personnel on active duty. And then our smoke-free workplace policy will become a part of the official personnel manual. We have been, of course, abiding by it since July 1, when it the ordinance was implemented, and I'm pleased to report that we've had several employees that have worked very hard on quitting to smoke and have been successful. I know it's an

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ongoing process, but we're happy about that. I have felt and still feel that it's important to implement the policy first and then transition our employees to where we are all on the same page, after the policy has been adopted. We did a similar conversion with the personal day policy. We had anniversary and calendar date. We went to strictly calendar, and then we found a way to convert everyone, so everyone was on the calendar date, although that's a simpler policy to do than the vacation policy. I have a tentative plan on how to accomplish this, but, again, feel that it would be important to have the new policy adopted before the transition. I'll answer any questions.

Mayor Mills said questions?

Councilor Griffin said Diane [Human Resources Director Foster], will you just briefly—the MFLA, is that basically the same number of required hours of service? Is the structure somewhat similar to FMLA or are there not similarities with FMLA, in terms of how many hours a person has to have in in a rolling year and that sort of thing?

Human Resources Director Foster said there are similarities, definitely, to the FMLA, the Family Medical Leave Act policy. There are certain requirements that you have to fulfill before being eligible for this. I think, personally, it's a good idea. We've only had one employee that I'm aware of whose family would be able to benefit from it in the past, so I don't think it's going to be a widely-used policy, at least hopefully not.

Councilor Griffin said okay, thank you.

Mayor Mills said questions for Diane?

Councilor Keen said can you talk just a little bit—you said a moment ago that you felt like the policy needed to be in place before the transition was in effect. Can you walk us through your ideas on how this would look, as far as transitioning? You said you had a couple ideas about it, and I—

Human Resources Director Foster said I do. And, of course, the policy went out to employees, and the feedback I received was not so much comments about the proposed policy, as much as the transition. And, you know, people are concerned about, you know, "Am I going to lose," you know, "some vacation?" And it has to do with the accrual after the fifth year, I think, more than anything. And, as I believe I'm proposing, a vacation policy that is fairly simple and will be easy to administer, and for everyone to understand. I would like to keep the transition the same way, and would suggest that, beginning with the implementation of the policy in January, that, however many days or weeks an individual would normally have during the 2008 calendar year, they would be granted the same number of days on January to use for the full year. And then everyone would be on the same page. I have a printout of—there may be—I think that's the simplest way to do it. There will be some situations where we'll look at them on an individual basis, probably less than 25 within the whole City that we'll want to take a look at and see if something a little different needs to be done.

Councilor Satterly said so what you're saying that nobody will lose days in this transition.

Human Resources Director Foster said no. That's—

Councilor Satterly said some will lose days that they've accrued?

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Human Resources Director Foster said no, it's not my intent for anyone to lose any days whatsoever.

Councilor O'Callaghan said so the answer to your question was yes. She was saying, no, nobody will lose days.

Human Resources Director Foster said correct. Thank you, Patti [Councilor O'Callaghan]. And the timing for this is that, with the policy being proposed, is on a calendar year, effective January 1, is a logical time to have it in place, so anyone hired after that point can go by the new policy, and we're already on the calendar year.

Mayor Mills said and I would like to interrupt here for a second and say I think I can assure all of you—certainly I've assured the employees—that Diane [Human Resources Director Foster] is not going to put into place anything that's not fair. She does an excellent job at human resources. She has years and years of experience handling just these kinds of thorny issues, and I guess—I don't think it's necessary for us to discuss the details of a policy that will be implemented tonight, but I'm confident in saying that, you know, we are not going to do anything that's going to be derogatory to any employee. That's, you know—she is great at her job.

Councilor Truitt said and I agree. I agree with that statement, and I think that, from a standpoint—and I talked with her just a little bit before the meeting, after a good game of email tag, if that's even coined yet. But if not, I get it. What my concern is is that when we have a budget that's 81% personnel and we're dealing with something here that is very important to the employees, when we're dealing with something that is a huge tool to attract people and retain people, I think, I express my concern that we might need a little more time to review this. Diane [Human Resources Director Foster] made the statement that this will be a big help for the Clerk-Treasurer's office, to help with tracking, and I think that that goes back to a discussion that we had at the Pre-Council in regard to a lot of departments have their own little program and their own little vacation policies. Is that correct? Kind of?

Human Resources Director Foster said kind of.

Councilor Truitt said and that this is also a housekeeping opportunity to clean that up. So I see the merits of making a change. I just would like to see a little bit more discussion on the fiscal side of what this means to the City, and if we can provide that type of impact analysis or information, then that would be fantastic—

Councilor Keen said that was going to be my next question.

Councilor Satterly said we're not changing the number of days they accrue. Aren't we just changing—

Mayor Mills said we're putting everybody on the same calendar.

Councilor Satterly said on the same calendar.

Mayor Mills said that's all we're doing. We're putting everyone on the same calendar.

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Councilor Keen said but has there been any kind of a fiscal impact study done, as far as how this will impact the fiscal responsibility of the City?

Human Resources Director Foster said not formally, other than that I expect it to be very, very minimal, if any impact at all. The primary goal is get everyone on the same page, in terms of anniversary *versus* calendar, accrue it at six months, wait a year, and then give a lump sum amount. I did not change the five- and 12-year part in the policy, where you accrue at the next higher level, to get that additional week. That is still the same. So employees will not be getting or earning vacation sooner, as a result of the new adopted policy. So I think the financial impact would be minimal.

Councilor Satterly said and this is for civilian employees only? Not police or fire.

Human Resources Director Foster said correct.

Councilor Truitt said Judy [Clerk-Treasurer Rhodes], do you—

Mayor Mills said which is the majority of our personnel expenses.

Councilor Truitt said can I ask for the Clerk-Treasurer to have any comments on this?

Clerk-Treasurer Rhodes said well, this is compensation. And the Human Resources Director knows, we've really struggled with different deals for different folks. This Council adopted a vacation policy several years ago, but it wasn't applied consistently, and that was not our decision. I am concerned about the 25 employees or however many there are whose compensation is going to be determined through negotiation between you [Human Resources Director Foster] and the employee, I'm not sure what. It's an untenable position for payroll. I personally would like to have seen worked through the process of mapping people to the new system. This has been an outstanding issue for over a year and a half. It's the main reason why we cannot streamline some of the payroll processes. But part of the problem is the mapping may result in additional compensation. It all depends on how the mapping is done. And, frankly, I haven't had time to study it, sit down with the Human Resources Director. My concern is we had a situation in the City once with compensation that dealt with clothing allowance, and employees would go in and negotiate directly with the Mayor before your [Mayor Mills'] term. And it was a very confusing situation. And so, for my part, if there is going to be—and the policy is adopted, I would strongly suggest there needs to be a lot of structure in terms of the mapping, and it not be a process in which individuals go in and negotiate. We simply cannot pass an audit like that, because, frankly, the Council has to authorize the compensation. I am concerned we get in the situation where we won't have a framework for the negotiations and justification of why somebody gets more compensation than another. And I'm sure Diane's [Human Resources Director Foster is] aware of all those situations, because they've been a topic of discussion between us for several years. I will express my concerns at this time and say this will not be a simple process, without a very carefully structured mapping. And I'm not hearing that that's done yet. And so, if it's going to be done, I see by December 31, we don't have a great deal of time to get something documented that we can refer to.

Mayor Mills said let me— Can I make a comment first? We discussed this briefly in Pre-Council. People accrue vacation in the year prior to when they are given it, so people will accrue vacation during this next year and will realize it the following year. We have plenty of time during the coming year for all of these 20 or 25 cases to be worked out. It is not going to

COMMON COUNCIL MEETING MINUTES, DECEMBER 3, 2007, CONTINUED

be a process of negotiation. That's why we are going to a consistent personnel policy. Because we've had negotiation in the past, and that's what we're moving away from. And I will reiterate that Diane Foster [Human Resources Director] is the professional in this area of human resources, has dealt with these types of policies for more than a dozen years, and is more than qualified to work out the few cases that there are between now and the time next year that those individual employees come up for their anniversary date or discussion. I would urge you not to wait on this, to go ahead and put the policy in place, so that we can act on it next year.

Councilor Satterly said you can't work out the mapping until you have a policy in place.

Mayor Mills said right.

Human Resources Director Foster said well, that's my feeling. And to me, I think it makes a lot of good sense to have new policy adopted and then we work on how we're going to get there for our existing employees. You know, I want to move forward but, you know, I don't want to—I want to be quick but not hurried. If the policy is adopted and the Council feels uncomfortable with how we transition in concern, if we have that in place by the first of the year and that's too quickly, we can certainly, you know, take more time, and take the following year to transition everyone for the following calendar year. I mean, we have options how to do that, and I would never presume that employees are going to have their input and be making special deals with me. We want to treat everyone as uniformly and fairly as possible in this process.

Councilor Truitt said maybe the Personnel Committee can spend time between now and the end of the year working on the mapping discussion? That might be a good strategy.

Human Resources Director Foster said sure. And as I have told any employees who have, you know, have been concerned, again, the primary response is, "What's going to happen?" "What's the transition?" And I am open to, you know, their suggestions and input. It's not anything I'm going to do in a vacuum and not let anyone know about or, you know, have approval process or anything. It's too important. But I just feel that the adoption of the policy and then that occurring is the right way to do it.

Councilor Truitt said do you have a list of these—I hate to coin them "The 25"—but do you have a list of the 25? I'll talk to you later.

Human Resources Director Foster said if there are more questions on the vacation policy, I'll answer them, but I also wanted to mention, for the record, the only amendment to what I've given you that I'm proposing is on the sick leave policy. At this time, we are not asking for a revision to that policy.

Clerk-Treasurer Rhodes said could you clarify? Did the Board of Works approve the personnel policy without the revision to the sick leave policy, or did they already approve it?

Human Resources Director Foster said the Board of Works has approved the revised personnel manual with the revision to the—

Clerk-Treasurer Rhodes said they've approved a revision to the sick leave policy?

Human Resources Director Foster said yes.

COMMON COUNCIL MEETING MINUTES, DECEMBER 3, 2007, CONTINUED

Clerk-Treasurer Rhodes said but you're asking the Council tonight to not concur with the Board of Works in that regard?

Human Resources Director Foster said I guess I am. I don't know. Because of the timing when Board of Works was meeting prior to the Council, it's a very, very small one sentence revision that was placed in the sick leave policy—

Mayor Mills said but the Board of Works can go back and then—

Human Resources Director Foster said yes.

Clerk-Treasurer Rhodes said could you, for the record, provide the detail or describe exactly what's going to be stricken from the document that's here, so that an amendment can be made, if desired.

Councilor O'Callaghan said it was just the definition of immediate family.

Clerk-Treasurer Rhodes said could you give the reference?

Human Resources Director Foster said I have to find the—

Councilor Truitt said it's 21.01, removing, "An immediate family member is defined as spouse, child or step-child, for purposes of the sick leave policy."

Human Resources Director Foster said right.

Councilor Truitt said page 9. Is that right?

Human Resources Director Foster said correct.

Mayor Mills said all right, other questions or discussion?

Councilor O'Callaghan said just thanks again to Diane [Human Resources Director Foster] for her hard work.

Mayor Mills said I will take this time publicly to say—I said this on Thursday, but we have one human resources person for the City of West Lafayette, Diane. We have 200 employees. She handles all of these personnel issues. She handles all of our health insurance planning and working and dealing with the insurance carriers. She does a fabulous job for us. We are very, very lucky to have her. And every now and then, employees actually tell her that, that they appreciate how hard she's worked for them. Thank you, Diane. All right, others?

Councilor Truitt said if we're going to call the question, I just want again to be on the record that I am going to support this resolution, with the assumption that we're going to spend the time between now and the end of the year going through the mapping and going through the implementation side of this policy. So as long as that—of course, after you vote, it's kind of difficult, but that is how my vote is to be construed.

Mayor Mills said all right. Anything else?

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There was no further discussion.

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

Clerk-Treasurer Rhodes said Madam Mayor, does it—I'm uncertain whether there is a desire by the Council to amend the personnel policy as requested by the Human Resources Director, to strike out the revision in Section 21.01, which is now present in the document that is referenced in the resolution.

Mayor Mills said Councilor Griffin, want to make a—

Councilor Griffin said is there a motion on the floor?

Councilor O'Callaghan said I move we amend by—we could even amend by substitution—the personnel manual with that one reference removed.

Clerk-Treasurer Rhodes said there isn't a document to substitute. I believe it might be helpful if the amendment was to simply strike the underlined section and—

Councilor Satterly said I'll move that. I move we strike the statement, "An immediate family member is defined as spouse, child or step-child, for purposes of the sick leave policy." That's in 21.01, policy on Paid Sick Leave, page 9.

Councilor Griffin said second.

Mayor Mills said all right, we have a motion and a second to strike one sentence in 21.01, under Paid Sick Leave policy. All in favor of that amendment?

The voice vote to strike the underlined sentence in 21.01 passed by voice vote.

Councilor Satterly said I call the question.

Resolution No. 33-07 (Amended) passed on first and only reading, 7-0.

Resolution No. 34-07 (AMENDED) 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)

Councilor Griffin read Resolution No. 34-07 (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.

Councilor Hunt said I have an amendment. The Police Merit Commission has added some, so I move to amend the resolution to increase the transfer in the Police Merit Commission by an additional \$1,000. And that's on page 2 of 4, under Police Merit Commission.

Mayor Mills said all right, we have a motion to amend Resolution No. 34-07 (Amended). Did we have a second?

COMMON COUNCIL MEETING MINUTES, DECEMBER 3, 2007, CONTINUED

Councilor Satterly said I'll second it.

Mayor Mills said all right. And as Councilor Hunt told you, that is on page 2 of 4, an increase of \$1,000.

Councilor Satterly said from where to where?

Mayor Mills said it looks like it's from Salaries-Full Time to Contract Services.

Councilor Satterly said Legal.

Clerk-Treasurer Rhodes said the amendment is to increase the amount which is going to be transferred from Legal Services from \$1,625 to \$2,625, with that placed into the Contract Services.

Councilor Griffin said from \$1,000 to \$2,000.

Mayor Mills said all right, we have an amendment and a second. All in favor, please signify by saying AYE.

The vote to amend Resolution No. 34-07 (Amended) passed *viva voce*.

Mayor Mills said let us go through this briefly. These are transfer of funds, common at the end of the year. In the General Fund, from the Mayor's Consulting and Contract Services to Information Printing and Public Relations, \$2,300; in the Clerk-Treasurer's Office, from Dependent Insurance, Legal Services, and Instruction to Office Supplies, Insurance, and Licenses, Permits & Fees, \$3,400; in City Court, from Office Supplies to Licenses, Permits & Fees, \$110; in City Hall, from Gas to Postage and Electricity, \$3,900; in the Police Department, from Clothing/Uniform Allowance and Salaries – Part-Time to 1977 Pensions, \$19,883.77; in the Fire Department from Salaries-Overtime, from Clothing/Uniform Allowance, and Repair Parts & Equipment, \$4,905.61, to 1977 Pensions and Oil; in the Sanitation Department, from Personnel Insurance, Information Printing, Gas, Water, and Repair Services to Dependent Insurance, Fuel, and Tires and Tubes, \$8,550; in the Police Merit Commission, from Salaries – Full Time and Legal Services to Physical Exams, Written Exams, and Contract Services, \$3,625; in City Services, from Electricity to Water, \$1,300; in the Development Department, from Travel to Telephone, \$200; for a total in the General Fund of \$48,174.38. In Motor Vehicle Highway, from Salaries – Part-time, Personnel Insurance, Dependent Insurance, PERF, FICA/MED, EMP SEC, and Computer Services, to Salaries-Full Time, Fuel, and Tires and Tubes, in the amount of \$20,600. And in Economic Development Income Tax Fund, from Consulting and Road Improvements, to Legal Services and Sidewalks/Curbs/Parking Improvements, \$140,000. In Cum Cap Development, from Contract Services to Repair Parts & Equipment, \$3,000. The grand total of these transfers is \$210,774.38. Are there questions or discussion? Anything from the Council?

Councilor Keen said Madam Mayor, could I make a motion? I would like to move to vote on the Development EDIT transfer separately from all the rest of these items.

Councilor Satterly said was that tried at the Pre-Council meeting?

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Mayor Mills said no motion was made at the Pre-Council. Councilor Keen has made a motion to vote on the EDIT transfer separately from the rest of the transfer.

Councilor McMullin said I'll second it.

Mayor Mills said all right, you have a motion and a second to remove the EDIT transfer from this and vote on that separately.

Councilor Keen said my reason—

Mayor Mills said before we open for discussion, I would just like to make a couple comments about this and remind all of you that the transfers are a day-to-day act of doing business in the City to pay bills that have already been accrued. This is not a philosophical discussion of any of these transfers or any of the programs that these transfers are supporting. It should be a simple approval to pay for professional services that have already been rendered. You know, we have a bond rating in the City because we pay our bills and do business in a professional way, and I would request that you—if you have a philosophical difference with some of the programs that these transfers are supporting, that you take your legislative prerogative and change those programs, rather than try to prevent us from paying bills that are due the City.

Councilor Keen said my reasoning for wanting to consider this is because there's quite a bit of information in the legal invoices that have been submitted that we'd like to have an opportunity to review those before we consider the final approval on those being paid. It's not that I don't want them to be paid, I mean, if they're valid and accurate, then I believe the City has an obligation to pay them. But I would like to have an opportunity to review them, and I have not as yet had that opportunity.

Mayor Mills said well, and I will again say, Mr. [Councilor] Keen, that these bills have already been reviewed by the appropriate department heads, which is their job to do, and they have all signed off on the bills. Once they are approved by the department heads, the job is done. You are certainly welcome to look over all of those bills, but I don't see how you can address whether or not each of those billings is appropriate. The department head can do that, because it's the work that they've asked to be done on the department's behalf. And on the citizens' behalf.

Councilor Keen said well, we do have the responsibility of oversight here, and I believe that if the Council would choose to do that, then I think we should have that opportunity to do so.

Mayor Mills said all right. Is there other discussion? Other comments?

Councilor Griffin said I call the question on the amendment.

Mayor Mills said all right, we have an— Councilor O'Callaghan.

Councilor O'Callaghan said I guess just before I vote on this, I just want to reiterate that the last time this request was made, we certainly did abide by that request and had full discussion about the specifics about code enforcement and the citizens spoke very clearly. And the Council also spoke very clearly, in a majority that was not a partisan majority, to approve the transfer. And so I think that we vetted this carefully. Last month we even had a specific resolution that

COMMON COUNCIL MEETING MINUTES, DECEMBER 3, 2007, CONTINUED

supported code enforcement, and that's not just when it's easy, but when it's hard as well. So this time I'm not going to be voting to separate the resolution.

Councilor Truitt said and if I could just add, I think that, talking about citizen input, the number of emails and phone conversations that I've had with individuals on this topic—I'm not going to say it equaled the smoking ban, but it was pretty high—in regard to the amount of money that was being spent. I did request from Mr. Bauman's office the copy of the bills. He was not able to provide that, due to other workload, which was fine, and I did pick up these bills from the Clerk-Treasurer's—

Clerk-Treasurer Rhodes said I want to make a correction, to make sure you understand clearly, you received copies of bills that have been filed with our office. And so most of the transfer here is for bills that have not yet been filed. I'm not certain that they have been filed with Development. I understand some of them may be estimates.

Councilor Truitt said right, so regardless what I'm doing as part of my process is I'm going to be going through these bills and so I'm not in a position yet to vote for the transfer of this amount of money. Sorry.

There was no further discussion.

Mayor Mills said all right, we have a motion and a second on the floor to remove the EDIT bills from this resolution and address those separately. Will you call the roll, please.

The roll call vote:

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

The motion to separate the EDIT transfers from the consideration of the remainder of the resolution failed, 3-4.

Mayor Mills said all right, is there further discussion about any of these transfers?

Councilor McMullin said sure. What happens if we don't transfer the money? Well, since we can't vote on Legal Services separately.

Mayor Mills said so we'll have outstanding bills in each of these departments that won't be paid.

Councilor McMullin said but we're not going to have the opportunity to go back and review and make sure that we've accountable before we vote on this?

Councilor Hunt said may I make a comment.

Mayor Mills said Councilor Hunt.

Councilor Hunt said this is extremely disappointing that this vote is happening. We voted last month—I think we were trying to be good partners—the Legal Department has to submit their

## COMMON COUNCIL MEETING MINUTES, DECEMBER 3, 2007, CONTINUED

bills every month. Now we get their bill and we say we want to look over it. I don't recall looking over bills before. I think we could bring up a variety of legal decisions that have sort of reinforced some of our actions. Like I say, this is extremely disappointing to me. And we have bills to pay. It's the end of the month. The Council is changing, and I think we should pay our bills.

Mayor Mills said other comments? Well, I want to—I wasn't going to use this, but I want to read you a little bit of email I received today. This is from Taylor Flannery [attorney with Gambs Mucker & Bauman], and Taylor has been the attorney who has been the lead attorney on the code enforcement cases. I certainly won't read the whole email to you, but I think this is appropriate now. This is what she says:

“Since I am the one who billed the majority of hours in all of these code enforcement cases, I'm offended by comments from people who do not have knowledge in these cases or who have chosen to disregard it. Every entry of time was needed or useful to the City, and contributed to the ultimate success we have achieved. I have always tried to get the result needed, with as little time and money spent as possible; that is my ethical obligation. Each of these 12 code cases was treated the same. Nine settled quickly, which is my goal in every case, with people taking responsibility for their mistakes and agreeing to injunctive relief. The American legal system allows everyone to have their day in court. The results in the cases thus far show that the City was entitled to and did receive 100% of what it has asked for. This shows that these cases were not pursued haphazardly or with disregard for the actual facts. There's an attitude that the code enforcement program should not be enforced as written, because it is wrong for varying reasons and/or policies are ill-advised. However, my job and that of City officials was to enforce the code as it currently exists.”

Mayor Mills said and I will again remind you that, if you have a problem with the code enforcement program, that is your legislative right to change, but we, as City officials, and you as Council people, have a responsibility to the people of the City to enforce those codes. You can't selectively choose to enforce ones you agree with, and refuse to enforce ones you disagree with. The law is the law. The ordinances are meant to be enforced. If you have a problem with the ordinances, you need to change the ordinance, not choose not to transfer the money. These are charges that the City has accrued in good faith by professionals who have provided the service to the City. And, again, this is not the way to go about making changes to the code. That's a legislative matter that the Council should take up in January. Any other comments?

Councilor Griffin said and as a representative of the area, of the City that is closest and most impacted by these, it is very concerning to me and very concerning to the citizens of my district. And I certainly hope that all of the Councilors who will be in office next year, including my replacement, I hope that everyone will keep in mind that what affects one part of the City has a ripple effect to the rest of the City. And I certainly hope this is not a harbinger to significant changes to the code that we have that is currently there to protect the citizens and protect our neighborhoods and to conserve our neighborhoods.

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Mayor Mills said I will just draw your attention to something I put on all your places tonight. This is a newsletter that I receive that was started by the past president of the National League of Cities James Hunt, and it's called *Amazing Cities Newsletter*. This was the August 2007 newsletter, and I just put for you the front page, but the lead story was "Six Ways to Destroy a Neighborhood." The very first item listed was relax code enforcement. I hope you'll take the time to read that.

Councilor Keen said can I just say that I think that the whole point of this whole thing, I mean, you guys keep talking about, you know, not doing code enforcement and we're against code enforcement and all this kind of stuff. That's just not it. I mean, you guys just totally missed the point on that. That is not where I'm coming from. I absolutely endorse code enforcement. I absolutely think we have to do it. My concern is with the philosophical way in which the codes are enforced, and the cost that it costs the City. That's my concern. I have an oversight responsibility here, and that's what I'm trying to improve on.

Councilor Truitt said and I would probably echo the same thing, is that I'm disappointed myself. Being part of my business is enforcing codes in other types of situations, code enforcement is vital to neighborhoods. I've always been an advocate of code enforcement. I am sorry that you're interpreting my statements as being that I'm not supportive of code enforcement. What my dilemma is at this point right now, since this was not split out—not that I was going to vote against it because I'm being selective—is I know we have an obligation and, Mr. [City Attorney] Bauman, correct me if I'm wrong, but we have—these are charges that have been incurred and we're obligated to pay. Correct?

City Attorney Bauman said yes.

Councilor Truitt said so therefore we're paying the bill.

Councilor Keen said what happens if we don't pay the bill. I mean, just for record, what happens if we don't pay the bill?

City Attorney Bauman said well, what's happened in the previous years is that it's been paid out of the budget from the following year.

Councilor Truitt said but at the end of the day, I mean, we're going to pay—

Councilor Keen said right, I mean, at the end of the day, if it's a valid invoice then we have to pay it.

City Attorney Bauman said and let me point out, I would expect the City to recover a significant amount. I asked Taylor [Flannery] to review the three cases today, and she totaled up the potential recovery of fines in those three cases. We tried to settle these cases, but the people wanted to fight to the very end, but the potential total recovery is \$192,904.

Councilor Truitt said and I'm sorry, I don't know how—I assume that Taylor Flannery is TSF on your billing?

City Attorney Bauman said yes.

## COMMON COUNCIL MEETING MINUTES, DECEMBER 3, 2007, CONTINUED

Councilor Truitt said she is the majority biller, so that's an accurate statement there. I would appreciate it if you would communicate with her, if anything stemming from her email communication is derived from statements that I have made in regard to questioning. My statement is not on questioning the bills, because, at the end of the day, the procedure is in place, the code is in place, and we hire you to do a job in that regard. But I was really hoping that we could split it, but I think the challenge now is that if it's not split, I'm not too excited holding up other things at the same time.

Mayor Mills said Councilor O'Callaghan.

Councilor O'Callaghan said I'll just say that I'm very glad to hear support for the code enforcement program. And when we have a year that's more like more normal years where we do not have people fighting this, then I will look forward to your support. But I'm going to support it when it's hard, even so.

Councilor Truitt said well, and I will also say that I, too, also hope that the newly-elected individuals, as well as those that are staying on spend the necessary time to look at this situation, go to the root cause, figure out what went wrong, if anything did go wrong, and make sure that we don't have to go through something like this again from a financial standpoint, if it's avoidable. If it's not avoidable, then we continue down the path we went down. But we'll never know until we look into it further.

Councilor Griffin said I've certainly looked at quite a bit of the evidence, and I think that the uncontrollable part of it is how certain landlords handle their business. And I think that, you know, when there's a lot of evidence—and I'm trying to be nice about it—but there is significant detail that, if one wishes to look into, that I think it says that this is not the City's fault, that there was wrongdoing, and I think that the City would have dropped the ball if it had not stood up to this and pursued it.

Councilor Satterly said one point should be emphasized, I think, as the attorney in her email said, that there were 12 cases. Nine of them were settled before they went to court. Three of them, the bulk of this money that we're having to spend, went to three cases.

Mayor Mills said which is the normal, as you've heard in past meetings, that we haven't had this situation in 10 years. And about every 10 years, we have a landlord or two who think they don't have to play by the rules and are not willing to settle. And then we incur costs. But, again, we have ordinances that are on the books that must be enforced or there isn't much point in having them. And we can't selectively choose to enforce what we want. You either change the ordinance or you're ineffective as a government. All right, will you call the roll, please.

Councilor McMullin said I have one more comment. For the record, I think it's been misrepresented as landlords are the only ones dragged into this. Lawsuits are also involving students as well.

City Attorney Bauman said that's correct, and in cases where the students are guilty of wrongdoing, and I will say that in those cases like the landlords in the other nine cases, they said, "Yes, you're right. I did wrong." And they entered into settlements.

Councilor McMullin said I just wanted to state that.

COMMON COUNCIL MEETING MINUTES, DECEMBER 3, 2007, CONTINUED

There was no further discussion.

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

The roll call vote:

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

Resolution No. 34-07 (AMENDED) passed on first and only reading, 5-2.

COMMUNICATIONS:

► Councilor Hunt said several of us have some. As many of you know, there are several Councilors retiring at the end of this month, and the ones that are coming back would like to honor them with some certificates. And we're going to take turns presenting these. It's been a pleasure to work with these people that all work very hard, and each person brings their own point of view, and I think we usually get along quite well. I'm going to present the first two. It's my pleasure to present to [Councilor] Ross McMullin, "In grateful recognition of your service to our City" this certificate. Even though it's been short, I think you've done a very fine job. Your attendance has been great, and you certainly bring a student's point of view.

Councilor McMullin said thank you.

Councilor Hunt said congratulations. And then also I'm going to present one to [Councilor] Patti O'Callaghan, who, as all of you know, has worked very hard. And this says, "In grateful recognition of eight years of dedicated service to our City in many ways." And I want to present it to you, Patti [Councilor O'Callaghan].

Councilor O'Callaghan said thank you.

Mayor Mills said I will that it's actually been more than eight, because Patti [Councilor O'Callaghan]—

Councilor Satterly said ten, isn't it Patti?

Councilor O'Callaghan said a little bit more. I fulfilled Cheryl Braille's term.

Mayor Mills said Patti [Councilor O'Callaghan] filled a vacated seat the first years that she was on the Council.

Councilor Keen said I have a certificate here also. I'm going to present to Councilor Satterly for his eight years of grateful service. You have done an outstanding job, and I certainly appreciate it. It's been a joy sitting next to you.

Councilor Satterly said thank you, Gerry [Councilor Keen].

## COMMON COUNCIL MEETING MINUTES, DECEMBER 3, 2007, CONTINUED

Councilor Truitt said I wonder who the last one is? It's with great pleasure that I recognize the good doctor [Councilor] Griffin. I think a little ad lib. I've very much enjoyed the time, as many individuals have. I've been very appreciative and very grateful for Carl's [Councilor Griffin's] approach, his communication skills. The time that he took to also serve as our Area Plan representative is worth a round of applause on its own, but, you know, he's a busy gentleman, as we all are, but for him to take the time to also do that in addition to his Council responsibilities, I think that I can say that, on behalf of the City, we're all very thankful. I'd like to present this "Certificate of Distinguished Service to [Councilor] Dr. Carl Griffin, in grateful recognition of your dedicated and outstanding service to our City."

Mayor Mills said I will just take a moment to thank each and every one of you. It has been a pleasure working with you. It's a big job to run for Council and be elected and listen to the constituents and try to do what you think is right for the City, and you certainly do it for virtually no pay. You put in a lot of hours and we all appreciate it very much. So thank all of you for a great job.

Councilor Truitt said Madam Mayor, I'd like to thank you also, on behalf of—I can't say my district, but from an at-large perspective and from [Councilor] Randy Truitt, thank you for your time and your service. I appreciate that as well.

Mayor Mills said thanks.

### CITIZEN COMMENTS:

► Mr. Sam Haynes [713 Avondale] said I thank you, Mayor. You've been very patient with me. I appreciate that. It appears to me, and my thoughts are that probably nothing can change, but it seems to me like the department heads are running this City, and the City Council has very little control over it. Am I correct?

Mayor Mills said the department heads certainly are responsible for the day-to-day, but the City Council can meet with department heads at any time, and do talk to them with questions and concerns, so they can certainly be as involved they want to be.

Mr. Haynes said I sense that one of our Councilpersons attempted to get some control over department heads, and that seemed to be turned away. But, anyhow, that's my thought. I'd like to see the elected officials run the City and the department heads answer to the Council.

Councilor Griffin said Madam Mayor.

Mayor Mills said Councilor Griffin.

Councilor Satterly said that's not the way it works.

Mr. Haynes said thank you very much.

Councilor Griffin said Judy [Clerk-Treasurer Rhodes], can you clarify for me how poorly the department heads did this year in saving money. If you'd restate what you did at the beginning about the reversions and these—actually, you don't need to, but what I heard was that these department heads have done quite a bit in saving money and—

Clerk-Treasurer Rhodes said I would say their behavior in the last three weeks has been—

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Councilor Griffin said it's been a lot better, hasn't it? Boy, they're working for their jobs.

Clerk-Treasurer Rhodes said has been exemplary.

Councilor O'Callaghan said Mayor, may I make a comment?

Mayor Mills said Councilor O'Callaghan.

Councilor O'Callaghan said Mr. Haynes, I just wanted to clarify a little bit that our role is a legislative role. We are the policy-making body, and the department heads do implement the policy. And so we certainly do have a lot of control, and we direct them what to do. One example that I'll say, because I'm awfully proud of it and spend an awful lot of time, is working on that smoking ordinance and authoring that and shepherding that through. That was setting policy. And every one of those department heads, whether they like it or not, have to follow that policy, because that's something that the City Council said they had to do.

Mr. Haynes said well, that was my opinion, and I'm sticking with it.

Mayor Mills said thank you. Anyone else comment?

There was no further discussion.

ADJOURNMENT:

There being no further business at this time, Councilor Truitt moved for adjournment. Motion was seconded by Councilor Keen and passed by voice vote, the time being 8:30 p.m.