

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
DECEMBER 4, 2006

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on December 4, 2006, at the hour of 7:30 p.m.

Mayor Mills called the meeting to order and presided.

The Pledge of Allegiance was repeated.

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

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

MINUTES: Councilor Griffin moved for acceptance of the minutes of the November 2, 2006, Pre-Council Meeting, and the November 6, 2006, Common Council Meeting. Councilor Satterly seconded the motion, and the motion passed *viva voce*.

COMMITTEE STANDING REPORTS:

STREET AND SANITATION: Councilor Satterly presented this report.

Thank you, Madam Mayor. On the November monthly highlights, the Street Commissioner and Sanitation Commissioner says, "Please notice the recycling income so far this year. We have passed the \$100,000 mark. Great job by the West Lafayette residents." Salisbury Street islands and planter boxes will be completed by December 14, 2006; that was before all the bad weather set in. Are they still going to do it?

Public Works Director Downey said yes.

Councilor Satterly said okay. Resurfacing is scheduled for the spring of 2007 for the Salisbury Project. The first layer of asphalt has been placed on the Tapawingo Extension, that's Tapawingo South. The normal yard waste schedule is still being run. If you place leaves in rigid containers, they will be picked up each week on your normal yard waste day. Soilmaker is accepting leaves from residents of West Lafayette at no charge, since the City does have a contract with them for yard waste disposal. As concerning the remaining leaf pickup schedule, Area E, December 4 through 6; Area F, December 11 through 13. If you want to know what those areas are, look at the flyer that's sent to each household by the City. The winter snow season is fast approaching. You want to remember that each citizen is responsible for removing snow from in front of their mailbox. Wait until your street is plowed before shoveling your driveway. When you do shovel your driveway, place the snow to the left side of it as you face your house, to prevent it from being plowed back into your driveway. Good advice. The Western Interceptor has started and the first change order is in already. The Bar Barry Lift Station will be re-bid; easements have been secured from Duke Energy and the property owner. On the Motor Vehicle Highway Fund activities, street sweeping for the month of November, 56 hours; 33 tons were collected through the street sweeping operation. Street painting, 52½ hours; they're trying to get the street paint markings down before the weather gets really bad. On the leaf collection the month of November, 540 tons of leaves were collected. And that completes the Street and Sanitation report.

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Mayor Mills said thank you. Mr. Downey told me this morning that we got our load of sewer pipe this morning delivered, so we will be laying the first pipe for the Western Interceptor in the ground next week, and that'll be the portion that starts through the golf course, so we're moving ahead with that project.

WASTEWATER TREATMENT UTILITY: Councilor Satterly presented this report.

Thank you, Madam Mayor. On the Wastewater Treatment Plant, total flow 257 million gallons; the average flow was 8.2 million gallons per day. Combined sewer overflow—that's the combined sewage that goes directly into the river—3.02 million gallons. The percent treated in the plant was 98.84%. The overflows occurred at Dehart Street, two events; Quincey Street, one event. As I said, the total overflow was 3.02 million gallons. That completes the report.

PUBLIC SAFETY: Councilor Keen presented this report.

Thank you, Madam Mayor. The month of November, the West Lafayette Fire Department has been promoting safety awareness in the home or fire safety awareness in the home, though several different things, by checking your smoke detectors and checking your fire extinguishers if you have them, and also looking into the idea of installing residential sprinklers. That is an option available, usually on newer homes. If you need any assistance with any of that, Brian Lancaster who is the Fire Inspector for West Lafayette would be happy to walk through your home with you and give you some ideas on where you can practice those kinds of safety. One of the things that we can practice is practicing EDITH, practicing Exit Drills In The Home. It's a significant help for families affected by fires. Those are just some ideas that the Chief thought we should offer to increase your awareness of fire safety in your home, since the winter months seem to bring out the fires for some reason. Also in the month of November, we have two new police officers who began on November 20, Troy Greene and James Spray. Congratulations to them. They'll be a welcome addition to the Police Department. I think that's going to complete my report for now.

PURDUE RELATIONS: Councilor Plomin presented this report.

Thank you, Madam Mayor. Well, it's the month of December, and we'll be wrapping up the semester here in a couple of weeks. I believe next week's "Dead Week," followed by finals week, followed by Christmas and Christmas break. Good luck to all the students as they prepare for their finals, and finish the semester on a high note. There's also an odd thing going on on campus right now that is of interest to a small number of students, in that there's a hunger strike that's in its 20th day on the Memorial Mall, to increase Purdue's sweatshop monitoring. I'd like to remind the hunger protestors that one of President Jischke's first acts as president of Purdue University was to sign on to the Workers' Rights Consortium, a sweatshop monitoring agency, and one of their sister organizations. Now, a decision is expected from the administration on Wednesday at around 12:30, and I got word today of a solidarity rally from 10:30 'til 12:30 on the Memorial Mall on Wednesday, in anticipation of the administration's response. A gentleman from the AFL-CIO will be there to speak. This is obviously some kind of an attempt from labor unions in a larger scale to use Purdue University students to smear the University's reputation. I believe Purdue is a highly reputable institution, and is very responsible in its procurement and its licensing practices. We've signed on to various sweatshop monitoring organizations in the past, and now to ask for more monitoring seems a little greedy in my opinion. I think

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everyone should be aware of the situation, and at least show your support or show your opposition by contacting the administration in one way or another. Thank you.

PARKS AND RECREATION: Councilor Hunt presented this report.

Thank you, Madam Mayor. The Pre-Thanksgiving Sagamore West Parkway Farmers' Market on November 22 was quite successful. It was very warm, as opposed to what it is now. I hope many of you went; it was very pleasant. The Riverside Skating Center opened for winter on November 24, the day after Thanksgiving. The 2006 prairie and savannah project in Celery Bog Nature Area and Trailhead Park was completed November 28. approximately 30 trees and shrubs were also planted in the nature area of Cumberland Park during November. The Purdue horticulture students have certainly helped with tree pruning. Morton Community Center and Lilly Nature Center will be closed December 23; Morton will reopen on January 2nd, and Lilly will reopen on January 3rd. The next Park Board meeting is December 18th at 4:30 in Morton in Room 108. In addition, I think you probably read in the paper recently that one of the trails, I believe it's Cattail Trail, will be disrupted by the digging for the Western Interceptor. So be aware that that will happen. That ends my report. Thank you, Madam Mayor.

Mayor Mills said if you're going to enjoy the skating rink, go early. On Friday night, we had so many people that we actually had to turn people away, because we were out of skates and out of room. So we're enjoying a great season, even though it's been very cold. We're glad to see that.

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

Thank you, Mayor. The Sagamore West banners are up, and they'll hang along 39 light poles along Sagamore West, from Nighthawk Drive to Win Hentschel Boulevard. The idea for the banners came from the Sagamore Parkway Task Force and SWABA, the Sagamore West Area Business Alliance. It's just neat to establish this area as a destination, as opposed to just some place to drive through, so we're excited about those banners going up. The Board of Works has opened the bids for the repairs on the Wabash Landing Garage, which I've talked with you about before. Things do keep happening up at the Research Park; three companies have qualified as finalists for the second annual IU Entrepreneurial Award of Distinction in the Innovation category—that's Griffin Analytical, Imaginistics, and QuadraSpec, so congratulations to these companies. Also, later in the agenda, I'll be making some nominations for our Council appointments to the Redevelopment Commission that expire at the end of this month.

PERSONNEL: Councilor O'Callaghan presented this report.

Thank you, Mayor. I'll just note that we are doing the final reading of Ordinance No. 34-06, which we discussed last month, and also note that the Board of Works approved the 2007 holiday schedule for personnel. I'm not sure that we have a copy of that, but that might be helpful for us to have that. Sometimes people ask us. And that's my report.

BUDGET AND FINANCE: No report.

REPORT OF APC REPRESENTATIVE: Councilor Griffin presented this report.

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We will act upon a recommendation that the APC made at a meeting in November tonight. No other report.

REPORTS OF SPECIAL COMMITTEES:

► Councilor O'Callaghan said thanks, Mayor. I might mention the West Lafayette Youth Council. They did do their charity run last month that we talked about. But the final numbers are in, and they raised \$1,420 for Habitat for Humanity, and they'll present that check to Habitat tomorrow night at University Inn. And then I'll also note that the Youth Council participated in Dickens of a Christmas on Saturday. They were inside Game Preserve this year, helping children make Christmas tree ornaments, and they didn't get quite the exposure that they did last year, when they were in between Panera and Borders, so at the meeting yesterday, they discussed trying to get back to the other area where they were last year.

Mayor Mills said they were probably warmer, though.

Councilor O'Callaghan said undoubtedly true. Thank you.

► Mayor Mills said Councilor O'Callaghan, do you want to do the appointments to the [Redevelopment] Commission?

Councilor O'Callaghan said thank you, Mayor. I nominate both Patsy Hoyer and Larry Oates; both of them are the current Council appointees, and both have graciously agreed to serve on the Redevelopment Commission again. So I think, as they are reappointments and everyone's familiar with their good work, I would just do that nomination from the floor. I'm happy to do them one at a time or both together, whatever is the Council's pleasure.

Councilor Griffin said I suggest that they be taken together.

Councilor Hunt said are there other nominations?

Mayor Mills said okay. Any discussion or comments?

Councilor Hunt said are there other nominations?

Councilor Satterly said did you get a second?

Councilor Truitt said I'll second that.

Mayor Mills said thank you.

Councilor Truitt said if that was a motion.

Councilor O'Callaghan said I don't know if we consider it actually a motion or a nomination.

Councilor Truitt said Councilor, were you—?

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Councilor Griffin said yes, that's a motion.

Councilor O'Callaghan said okay.

Councilor Truitt said I'll second that motion.

Mayor Mills said is there—?

Councilor Truitt said can I just say, I think that it's a testament to have continuity, and I think that Patsy [Hoyer] and Larry [Oates] agreeing to serve again is a positive thing. I think having individuals involved in the community is what makes West Lafayette special, so I concur with another term. So thank you, Patsy, and I don't see Larry, but—

Councilor O'Callaghan said he thought he might be here tonight, but it is seven days a week at KitchenArt this time of year.

Mayor Mills said are there other nominations or do you want to have discussion before you vote?

There was no further discussion.

Councilor Griffin said I call the question.

Mayor Mills said all right. Will we do a roll call, or do just "all in favor?" Do we typically do—?

Clerk-Treasurer Rhodes said voice vote.

Mayor Mills said all right. All in favor of extending the terms for Patsy and Larry Oates for another year, please signify by saying "Aye."

The motion to extend the terms of Patsy Hoyer and Larry Oates on the Redevelopment Commission passed *viva voce*.

Mayor Mills said thank you, Patsy, for being here and for agreeing to serve again.

Councilor O'Callaghan said maybe we should clarify that it's Patsy Hoyer and Larry Oates—

Mayor Mills said sorry.

Councilor O'Callaghan said not Patsy and Larry Oates. Just for the minutes.

Mayor Mills said I'm sure Gail [Thayer-Copeland, Clerk-Treasurer's Administrative Assistant] would put it down correctly.

Councilor O'Callaghan said thank you, Gail.

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► Mayor Mills said all right, Public Relations. We have no—

Councilor Satterly said we have another appointment.

Mayor Mills said oh, I'm sorry, you're right. We have Council appointments to the Park Foundation also.

Councilor Satterly said Madam Mayor, I would like to nominate Linda Cohen for the Park Foundation Board. Linda presently serves on the Board. She is a past Councilor on the West Lafayette Council, and she has indicated she would like to continue to serve on the Park Foundation Board. And I so nominate Linda Cohen.

Mayor Mills said okay. Is there a second?

Councilor Keen said second.

Mayor Mills said okay, thank you. Any discussion?

There was no further discussion.

Mayor Mills said no? All right, all in favor of Linda Cohen on the Park Foundation Board, please signify by saying "Aye."

The motion to reappoint Linda Cohen to the Park Foundation Board passed *viva voce*.

Mayor Mills said all right. Thank you very much. We'll give our thanks to Linda.

PUBLIC RELATIONS:

Employee Service Anniversaries

Mayor Mills said there are no employee anniversaries in this month of December, surprisingly. But we do have the West Lafayette Community Beautification Award.

West Lafayette Community Beautification Award

Mayor Mills said Councilor Hunt.

Councilor Hunt said I get to present it this month. It's in my neighborhood association, so I appreciate that. The Northwestern Heights Neighborhood Association is the winner of the December 2006 West Lafayette Beautification Award for the ornamental signs that have been placed on utility poles at gateways to the neighborhood. These attractive signs—and I have a photo here—brand, which is the new phrase, brand the neighborhood or identify the names and the boundaries. We're just adjacent to the Purdue golf courses. The idea for the signs was developed and expanded by the members of the Northwestern Heights Neighborhood Association. Ruby Purdue was particularly important in the early development of this, and then Dale and Jane Stallard were actively involved in planning implementation of the phases. There has been a little bit of partial funding by the City for this project. These are our signs, and if Dale and the rest of the neighborhood association members would come forward, I will present this. Please, Dale and Jane, and the rest of

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you, if you like. Here's the certificate, right here, and here's the photo, and it will also be on the web page relatively soon; it takes a little while. There you are.

Mr. Dale Stallard said thank you for the recognition. We were pleased with the way our signs turned out. We'd like to do a couple more. Bev Shaw [Redevelopment and Neighborhood Planner] was very nice to work with, as was Denny [Steele, Traffic Technician/Foreman] with the Street Department. I want to thank both of them.

Mayor Mills said great, thank you.

Mr. Stallard said we still might do a couple more.

Mayor Mills said thank you all for being here.

FINANCIAL REPORT: Clerk-Treasurer Rhodes

Clerk-Treasurer Rhodes said you received the ledger account reports previously, and tonight the cash transaction report for November. There are only two pay periods left in the year, and I draw your attention once again to the personnel expenditures for the year in the General Fund, running 6.4% now ahead of last year. The other information I'd like to share is that the Tippecanoe County Auditor has advised us that the net assessed valuation has been certified for the 2007 tax rate, and that will be \$1 billion—this is the first time we've surpassed the \$1 billion dollar mark—

Councilor Truitt said we've cracked the barrier.

Clerk-Treasurer Rhodes said \$1,032,204,880. That's a \$39 million dollar increase from our last certified assessed valuation, which is about 4% higher. We expect the City tax rate will be virtually the same, if not slightly lower. However, there will be some adjustment of cumulative rates, I believe, to avoid a windfall to the City, based on the reassessment.

Councilor O'Callaghan said heaven forbid.

Clerk-Treasurer Rhodes said that is my report tonight.

UNFINISHED BUSINESS:

Ordinance No. 34-06 (Amended) An Ordinance To Amend Ordinance No. 19-06 Fixing The Biweekly Salaries Of Appointed Officers, Employees and Members Of The Police And Fire Departments Of The City Of West Lafayette, Indiana For The Year 2007 (Submitted by the Clerk-Treasurer) Councilor Griffin read Ordinance No. 34-06 (Amended) by title and moved that it be passed on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Satterly

Mayor Mills said the changes to this ordinance include changes to several personnel in the Clerk-Treasurer's Office, and also a few changes that were inadvertently not brought up to date during the transactions of the budget process. So they were already previously changed, but just through, basically, software glitches never were recorded. So those were added in, just making everything correct. We've discussed this last month, but are

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there any additional comments or questions? None from anyone?

There was no further discussion.

Ordinance No. 34-06 (Amended) passed on final reading, 7-0.

NEW BUSINESS:

Ordinance No. 35-06 An Ordinance To Amend The Zoning Ordinance Of Tippecanoe County, Indiana, To Rezone Certain Real Estate, From R1 To PDRS (The Villas at Stonebridge) (Submitted by the Area Plan Commission) Councilor Griffin read Ordinance No. 35-06 by title and moved that it be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Satterly.

Mayor Mills said thank you. Mr. Teder.

Mr. Teder said for the record, Dan Teder. I'm an attorney with Reiling Teder & Schrier. I represent the petitioner. The petitioner is Kalan Homes, both owners are present this evening—Alan White and Kim Thonn. They'd be happy to answer any questions. We also have the engineers from T-Bird here, Justin Frazier and Tim Balensiefer, and they'd answer any other technical questions that you might have. We're requesting a rezone from R1 to PDRS. This is on 36 acres. It's 23 fourplex buildings for 92 units, located on the east side of County Road 75 East, just east of Prophet's Ridge subdivision. We received a favorable report from Area Plan staff. We received a unanimous report from the Area Plan Commission for this rezoning request. As I indicated at Council caucus, I wanted to point out to you that this is a rezone from R1, which is residential. The maximum, we believe, could be on this for living units would be 108 in the R1 category. We would rezone this to PRDS, which is again residential, which will have only 92 units. So it's 16 less units than you could have had with the present zoning on it. The Area Plan Commission as well as petitioners believe that this is the better approach, rather than more entry-level single-family homes. We think the condominium for this area is appropriate, and we think it would be an excellent choice. Part of the reason for that is there is a lot more amenities with this than there would be in an R1. One of the primary ones is that the greenspace will be about 71% for this particular one. In that greenspace, we're going to have trails, picnic areas, woods, ponds, a clubhouse, and a pool. Also at caucus, I think I want to spend a minute or two talking about the PD process, so you realize how we got here. We started with a petition. We sent notices out to surrounding property owners, so they knew what was coming. We then filed the petition; that was with the consent of the owners. The owner in this case is Saddlebrook Development LLC; we entered into a contract with them, to purchase this property, subject to this rezoning. This is normally how that process goes. In the many that I've been involved in, there's normally a contract with the existing owner, as in this case. We then file a sketch plan, and that sketch plan is reviewed with Area Plan Commission. They make comments, they demand changes. We make those changes. We did that in this particular case. Once that's done, then we prepare and send a preliminary plan. That preliminary plan is sent to the appropriate school corporations. It's sent to all the departments of West Lafayette, and all the appropriate utilities that apply to this particular planned development. From that point on, we meet with Area Plan staff, we meet with the West Lafayette departments, we meet with those utilities, and, again, they review the preliminary plan, they make

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changes, they make comments, they insist on certain things. Those things were done. That preliminary plan consists of a survey, a topographical survey, a site plan, utilities, landscape plans—not only with the trees, but with the plants as well—building plans, and an entrance sign showing exactly what that's going to look like. So a lot of time and effort has been spent on this particular process. Then at that point, we also have a homeowners association that we establish, with covenants and restrictions that we submit to Area Plan Commission as well. When the unit is purchased, that homeowner then reviews those plans, they review the restrictions with the owners. They own an interior of a building, and they own 1/92 of the common area. The maintenance is all included in this homeowner assessment fee, and they are shown that, and we go through that with them. We estimate, as I indicated at caucus, that this fee is going to be approximately \$115 a month. That maintenance is going to include snow removal, mowing, pond treatment, insurance, utilities—which is common area utilities, a maintenance fee unless they want to do it themselves then the condominium fee could be less and a number of them have done that as well. There's a reserve for the roads. This does not include a common area real estate tax. We're estimating that might be \$15 per person per month. Again, we don't know what that is exactly, because it hasn't been assessed yet. That's a long process before we get to that point, as the Clerk-Treasurer obviously would tell you as well. We would also agree, as we indicated at caucus, that the trash will be picked up by the City of West Lafayette. What we had in that report was from Ravenswood, which is in Lafayette where that wasn't required. We realize that it is over here, and we will add that to it. The water and sewer for this project are public. The interior roads are private. The entrance road is 36 feet wide. The interior roads range in width from 22 feet to 30 feet. I checked on the specifications, because there was some question on this. There is no difference between the specifications, whether it be a public or a private, so what we're putting in is the same specifications that you would have for a public road—6 inches of asphalt, 12 inches of aggregate. The emergency entrance was another question that will be engineered, so that it would apply and be applicable to emergency vehicles. I talked to [City Engineer] Dave Buck. I notice he wasn't here earlier. He indicated that he would be involved in that and make sure that that would happen. The passing requirements were a concern as well, and those were made pursuant to the standards of County Road 75 East, and that was reviewed with Mr. [City Engineer] Buck, and that was reviewed with the Area Plan Commission as well. This project is like Camelback. I can think of nothing else in the City of West Lafayette that's probably applicable to it, so Camelback is another condominium planned development type unit, and that's what you're going to see here. Hopefully, I think it will be— obviously it will be newer—I think it will be perhaps somewhat more attractive. Nothing wrong with Camelback, but I think a newer one would be a little more attractive, perhaps. It is not like Lauren Lakes. It is not like Pawnee Woods. Even though those are planned developments, those are single-family units in those particular planned developments. This is strictly a condominium unit. We're part of the EPCON community. As I said, not EPCOT, so Disney World will not be coming. They're the second largest condominium developers in the United States. They do the plans, the designs, and really help the people get the maximum that they can. They get a greater buying power, so they're able to get better products. I think that's helpful to the people who end up buying these particular units. The clients are also building on the south side of Lafayette, and this is called Ravenswood at Hickory Ridge. It's just off of Concord Road. That started in June of '05. They built seven buildings, which is 28 units. I thought there were about 20 units sold. They indicate to me they think in the next month or so—

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there are 20 at this point, and they think they'll have about 25 sold at that time. The project, as I maybe said at caucus, caters to the baby boomers, my age group, some young professionals, but I think more people that are retiring or are looking to move out of their larger homes. So what they're doing is selling their larger homes, looking to have something that's managed for them, maintained for them, and a condominium seems to be what they like. They also seem to have enough money left over to buy a condominium in the south. So they've got a condominium that overlooks the Gulf of Mexico, and they have something on the Riviera of the Midwest here in West Lafayette, Indiana, as well. Prices for this, we see an average price of about \$190,000. I talked to Councilman Satterly before the meeting, and some of the prices were less, some were more. It again depends on whether you want oak or granite or maple, so those upgrades can cost a little more. We believe there's no objections from any of the surrounding property owners. The Chapmans own property to the north, a larger tract. They support our request. We are going to use all local contractors, all local subs, so it will be staying in the community. I would respectfully request your approval. I'll be happy to answer any questions. Thank you.

Mayor Mills said any questions for Mr. Teder or Mr. White? Councilor O'Callaghan.

Councilor O'Callaghan said thanks, Mayor. I really did appreciate all the discussion at Pre-Council. I think that really helped with some of the specifics, and you went over some of those that we talked about. I did have one question about the streets. I think Mr. White indicated that they might have some curbs, but that there was a question about that. Did we get that resolved, whether there are going to be curbs on those streets or not?

Mr. Teder said yes, there will be.

Councilor O'Callaghan said thank you. I did go down to Ravenswood and toured the model there, and got a copy of their newsletter with your pictures in there. That was very, very nice. Didn't get ahold of somebody that I know that lives there, to get to talk to here, but it's a very, very nice product. I could understand more about the internal streets with the four garages opening onto the driveway from actually seeing that. That was really helpful to see that. Thank you.

Mayor Mills said any other questions? Councilor Truitt.

Councilor Truitt said can I add just a few things? I echo that the property on the south side is also very well done, and I think one of the intriguing things to keep in mind here is it's already zoned R1, so that's important to keep in mind, and from a planned development standpoint, at least we know what's going to go in and we know what we're going to get. But I think also, it's another opportunity for us as a community to have a different type of housing alternative for a growing population, so I support this.

Mayor Mills said thank you. Other comments or questions?

Councilor Griffin said there's a question out there.

Mr. Robert Browning said when does the public get to speak?

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Mayor Mills said in just a minute.

Mr. Teder said thank you very much.

Mayor Mills said thank you, Mr. Teder. Councilor O'Callaghan.

Councilor O'Callaghan said thank you, Mayor. I guess I just wanted to reiterate the concern about the streets and about the homeowners association really understanding about their responsibility. We talked quite a bit about that, and I think just anything that you can do to make that contract as clear as possible, what the homeowner association will be responsible for, is very helpful. I'm glad to know about the widths and that they are to City standards, and have the curbs and things like that. I'm also appreciative of the density being actually less than R1, and the idea about having different types of housing available. I'm just a little bit hesitant for this to be a unanimous vote. I have talked to my other Councilors, and I believe this is a good project. I'm hesitant for it to be a unanimous vote, because of that very piece about what type of housing we need in the area. I remember when we approved the Tower of Ivory three years ago. I said that the thought was that we needed some empty nester or a young professional kind of housing. I thought that was the case, but we were going to have this comprehensive—the housing element of a comprehensive plan was going to be delivered any day at that point, and we were going to have that information in our hands. We were also going to have a report from the Area Plan staff on Wabash Township and growth out there. I understand that this is Tippecanoe Township and Wabash Township, but I'm frustrated as a policymaker not to have those kinds of information that I think is important for us to have on the current housing market and what kinds of housing we need. And so that is still my concern. I still think that we do indeed need to have some kind of housing task force, to look into the concern about the foreclosure rates in Indiana and in our area, to talk about the effects of housing on the inner core of neighborhoods. And so those are just some concerns I have with sending a message with another unanimous vote.

Councilor Satterly said sending a message to the Area Plan Commission.

Councilor O'Callaghan said exactly, to the Area Plan staff and to the County Council that supports the Area Plan staff. It may be that there's not sufficient staff to do the kinds of things that we expect of them, and so maybe it behooves us to go to the County Council and ask for more staff for Area Plan. I would be willing to do that, because I think there's more information we need to have as policymakers.

Mayor Mills said thank you. Other comments? Other questions?

Councilor Hunt said I have a question.

Mayor Mills said Councilor Hunt.

Councilor Hunt said next month, we'll have the public hearing. Is that right?

Mayor Mills said no, this is a rezone.

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Councilor Hunt said oh, okay. My concern is that recently there hasn't been—at least when I went there last Thursday or Wednesday, Thursday—there wasn't any sign that this was a rezone. I guess there was one before the Area Planning Commission?

Mayor Mills said Mr. Teder.

Mr. Teder said we posted the sign, as it was supposed to be done. I checked with the engineers who put the sign up, because I'm not real good with a hammer. I told them it may have fallen down or may have been stolen, so they went back and put a sign back up again.

Councilor Hunt said oh, so there has been one?

Mr. Teder said yes.

Councilor Hunt said oh, okay. I appreciate that.

Mr. Teder said and I went out tonight in the dark and the sign was up.

Councilor Hunt said thank you. I haven't been back since Thursday. Thank you very much. I appreciate that.

Mayor Mills said other questions or comments? All right. We can take citizen comments, if you'd like to make a comment, sir.

Mr. Robert Browning [104 Westview Circle] said I live in the Castle Ridge planned development, off Soldiers Home Road. I appear before you tonight to urge you to reject this request and send a strong message, to the Area Plan Commission and to the developers, that the City of West Lafayette will permit no more planned developments in the City limits that include private streets. I've lived in Castle Ridge for 20 years, in fact I was the second resident to buy a home there. I've lived in West Lafayette for 25 years, and am a political science professor at Purdue. Over the years, I've often used this example of this issue that's before you tonight, as a role of citizens and elected officials who represent the public interest when there are no citizens who are able to stand up and protect their interests. The streets in this planned development are not wide enough to be City streets. That's how it was reported in the paper, and if that's been corrected, it might change some things. But if you were to visit the site today, you'd see a cornfield or so. An ordinary citizen would ask, "What? Are their things not wide enough to put City streets in?" No, the answer is, we've always done it this way, and, secondly, the City streets cost more and will drive up the cost of the development and the initial cost of the homes. Translated, this means that we're making a short-term decision to have lower costs now and then later shift these costs to the homeowner, such as people like me who pay for snow removal, street repair, and lights, that our homeowners fees—long after the developer has left. Mr. Teder says, "Well, there weren't any objections from the neighbors." Well, nobody lives in this association, and I appreciate Councilor O'Callaghan asking about the associations and do they know the fees. My fee was \$50, okay? Very quickly went up. \$115? \$115? We pay \$175; most everybody around here is paying

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about \$200—for existing, right now, okay? So, in fact, I would ask Mayor Mills, I'd ask Mayor Margerum, I'd ask the Councilors, how many visitors have you had from Camelback or from Castle Ridge who say, "Will you take over our street?" And, as the Mayor said, was quoted in the paper the other day, "Well, we'll have to reject those." Well, why not make that decision now? So, as my neighbors would all—any of my neighbors, would prefer to right now in Castle Ridge, we're on a private street—they all would prefer to be on a public street. Why? Because we're fussing right now about how to do the repairs on the street out of our \$200 fee. Now, obviously, there are certain amenities—they cut our lawns, they do other snow repair, they repair the outside—but all those other fees have to come out of the homeowner's fee. So we have to do our own snow removal. We used to have to have Waste Management, now we have the City. I'm not sure exactly on the finances who's paying for what on there, but I know that our lights were put up privately. So the question is, when you look around and you go across the street and you see a City street. You come over, ours looks like a City street. Is it a City street? No. I think it's important for you as elected officials to take the long-term view, to think in the future. When the developers are gone and the citizens come forward and say, "Hm, I'm paying taxes. I look across the street at Prophet's Ridge and I see the snowplows coming through, but they don't come down my street, because we have to pay for it, and they're on a different schedule. Do the leaf blowers come through and pick up the leaves? Do all the services that we have? Why shouldn't that be, and treat all these neighborhoods the same?" What would it cost to make that decision? I may not know all the answers to this, but I just know that initially—and I brought in, I won't show it to you—we were supposed to be a whole group of fourplexes. The whole of Castle Ridge was supposed to be fourplexes. I've got the map. Later, the developer couldn't sell the fourplexes, couldn't sell the condos, and the people in my neighborhood say and the realtors will tell it, that that condo fee makes the house harder to sell. People say, "Why \$200 a month? \$175 a month? Should I buy that and still pay City taxes?" I mean, obviously there's a mix of things, so I just want to emphasize that I think it's important not just to wait 25 years for citizens to come back and say, "Why was this decision made now, when we didn't have a vote?" Meaning the people who live there. And we're depending upon all of you to represent them and say, "Is this the best interest, for the fire trucks to come through? We want the City services, but why shouldn't—?" Again, it has nothing to do with me, other than the fact that I might want to move there some day, because I like living in a condo. It's the only place I've ever lived. But the point is I'm just not sure that private streets make any sense in these kind of neighborhood projects. They'll make the argument this is going to be a little bit different, this is upscale. They're going to be very careful about what will be paid for now, versus what will have to be paid for by the condo association. You've got to put away the reserves; it's very taxing for these associations. People move in, they start to realize it, they have to take the responsibility, and you all are making that decision now for that. So that's my comments.

Mayor Mills said thank you. Mr. Teder, do you want to make any comments?

Mr. Teder said I notice one person comes to object; there's a lot of people that have condominiums. But I think he goes to choices. You know, when you come to the community or when you're looking to purchase a living unit, you can move down to the Renaissance, which is a condominium unit; you can move to Hills and Dales and have a lawn and have your own flowers and your own trees and put in what you want, where you

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want; or you can make the choice and say, "No, I would rather live in a condominium, I would rather have somebody else do that, and I'm happy to pay for those services. I don't know much about his development; it was done a long time ago. But the standards today for condominium developments in Lafayette, West Lafayette all, again, go through our planned development process. Believe me, they run us through the mill with what we need to do down there. I think we also show to those individual homeowners, when they come in, the cost of the various things, as I indicated at caucus, I at one time lived in Lafayette in a condominium over there, and we had all the amenities and we paid for all those amenities. Our cost was about \$125 a month, and it included a road reserve, and there was plenty of money set aside for that road reserve. However, in the first 10 years, if people don't choose to do that, and sometimes they don't because they don't want to pay any more money, they want to pay as minimal amount as they can, then that road reserve can come back to bite you 10 or 15 years down the road. If you establish the road reserve in the beginning, you don't have that problem. I've seen the newer condominiums, just like the one I was in, that had a road reserve and plenty of money set aside for that purpose. I'd be happy to answer any other questions.

Councilor Plomin said I have one.

Mayor Mills said Councilor Plomin.

Mr. Teder said yes.

Councilor Plomin said how are these fees communicated to the potential homeowners?

Mr. Teder said when you buy a condominium unit, I received a copy when I bought mine on the other side of town, a copy of the covenants. They went through the costs that I would have to pay. Obviously, I'm a lawyer and I knew this, but that was what they do to show you what those costs would be. They indicated to you what that monthly fee would be, what was set aside for this, and then the homeowners themselves are the ones, when the developer's gone, we hired a person to manage it for us, because no one in the group wanted to do that themselves, to send out the monthly statements, to hire the mower, to hire the snow blower person, the leaf raker, and all those type of people that would have to come in and do that. We didn't want to do that, so we hired a person to come in and do that for us. But all those things were explained, and I saw no complaints the condominium complex I was in.

Councilor Plomin said but how will these fees, then, be communicated to potential homeowners?

Mr. Teder said in the same way. Because they're part of this EPCON community, as well, they probably have higher standards than the individual developer that comes in, that perhaps does it for a group of people. They are required to go through all those things with those people, so those people know ahead of time what their fees are, what their costs are, they know the road's private, they know they're going to have to set aside a reserve. All those things are put in there.

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Councilor Plomin said so what assurances do they have against bait and switch, where the price goes up a couple years down the road?

Mr. Teder said well the price is always going to go up. Real estate taxes go up. Everything goes up.

Councilor Plomin said is that clearly communicated and—?

Mr. Teder said yes. I mean, you have a fee there and obviously it's a yearly contract that you do with the various people that are going to clean and mow and rake and put the extra flowers or extra trees or things in that you might want in that particular complex, and every year you go out for bids, just like the City does for their streets and fuel and all that. So, unfortunately, we do have an inflationary society, so those rates do seem to go up. And, yes, over time, they will continue to go up.

Councilor Plomin said sure, and a reasonable person would expect it to go up, but outside of normal parameters, I mean, it's up to the condominium association to plan and budget for those expenses down the road.

Mr. Teder said and that condominium association is made up of all the homeowners in the condominiums, so they're all aware of that, in my opinion. I've gone from that now back to a house where I'm raking leaves and I'm mulching and I'm getting in shape, and I love that, but I spend a great deal more money on my own house than I would in a condominium, so I had to give up that for something else.

Councilor Plomin said how do these rank amateurs plan and budget for road resurfacing? I wouldn't know how to do that, and I don't think a lot of people would, unless they're trained engineers.

Mr. Teder said not necessarily. I mean, I think people, I know on the one on Happy Hollow, somebody mentioned Tower of Ivory, the units been sold over there, and you go through each step, talk about the mowing, snow removal all that, also talk about the road, that it is private, the road will last for 15 or 20 years, here's what it's going to cost in that period of time to repair that road, and here's how much needs to be set aside in that period of time.

Councilor Plomin said okay.

Mr. Teder said okay? Yes, Mrs. [Councilor] Hunt.

Councilor Hunt said in one of the other planned developments that we heard, the developers talked about setting up a mentoring program as they transferred the management of the planned development when everything had been sold, when they transferred it from the developers to the homeowners, the actual homeowners. There was sort of some counseling and some leadership. Is that anything that could be planned or has been done?

Mr. Teder said sure. I'll let Alan [Mr. White] answer that.

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Mr. White said I think one thing you need to know is the reason that we bought into the franchise, I kind of compare it—everybody says, “Well, you’re already in the building development business, why do you need the franchise?” —well, this is one of the reasons. We have the same complexities to address with the dollar amounts that you have concerns with, and we’re new at this. So what we’ve done is we’ve —I always say everybody knows how to cook a hamburger, but there’s a reason you buy a Wendy’s franchise, okay? And that’s what we’ve done, we’ve got a company that’s got 29 years experience of putting condominium developments together, and one of the main things we learned from them right away is us, as the developers, we have never been the management company. From day one and from our first homeowner, we’ve had a management company in place, so that the developers are separate from the homeowners. We do have a position on the homeowners association as board members right now, but once our project reaches 75% completion, we the developers go off of that association and it’s fully controlled by five board members that have volunteered to serve, that may have some experience with real estate dealings, or at least have experience with our communities. Those five board members meet with the management company every year to set the budget, and it’s voted on by the homeowners association on a yearly basis.

Councilor Hunt said so there’s some mentoring and guidance to make the transition also?

Mr. White said we’ve started from day one with the management company in place, yes.

Mayor Mills said other questions?

Mr. Teder said yes, Gil [Councilor Satterly].

Councilor Satterly said each homeowner is sent a bill each year—

Mr. Teder said each month.

Councilor Satterly said or each month.

Mr. Teder said yes.

Councilor Satterly said what if the homeowner decides not to pay it? Then how do you force the homeowner to pay it?

Mr. Teder said well, you send them a letter and ask them nicely to pay. If they don’t, you can file a lien against their property, you can go and file a lawsuit and pursue a judgment and collect it like you do any other nonpayment of any other debt.

Councilor Satterly said this is in the agreement that the homeowner signs when they—

Mr. Teder said it’s in the covenants and restrictions. In fact, I think it’s in every covenant and restriction that’s filed in Tippecanoe County—anywhere, but—

Councilor Satterly said this allows you then to place a lien on property?

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Mr. Teder said yes.

Mayor Mills said Mr. Molnar, any question? Comment?

Mr. George Molnar [906 Princess Drive] said I have a question and then a comment. \$115, 92 units, roughly \$127,000 a year. That doesn't seem like a lot of money to cover the expenses that you mentioned. I'm not disputing, but, anyway— The first question, though, is, until they're all sold, is the developer, the builder going to, in a sense, make up the difference? Let's say, for the first year, there's only 20 units sold or 30 units sold. The expenses will certainly still be substantial, but there will only be those members of the homeowners association who have actually purchased, so I just wondered if the developer plans on making up the difference between the \$127,000 and what is actually paid. And then my comment. I've had quite a bit of experience with roads, cartways. I don't know anything about this development, but I would strongly suggest that, if this is any variance, special exception, conditional use, or whatever, that it be rejected. Five years, 10 years from now, there's going to be a fire truck, a police vehicle, an emergency vehicle that's going to have difficulty with a narrow road. When that happens, one of the residents of that development is going to have a lawsuit; the developer won't exist any more. Who they're going to sue is the City Council. I strongly suggest that, regardless of—again, I don't know the exact dimensions, whether it's 32 or whatever—but people have variances, they have subdivision land development ordinances for a reason. And I realize that the burden of proof and the standard of review for a variance is different than other things, but I strongly suggest that there be no, in a sense, narrowing of the roads. It's only going to be trouble. Thank you.

Mayor Mills said and just for clarification, these roads meet our standards for emergency vehicles, fire trucks, trash trucks, and everything. Mr. White.

Mr. White said any shortfall on our south side project right now, that is the way that we run any shortfall for maintenance or upkeep on the pool, etc., that's not met by the number of homeowners, we make up the difference. And I'm ready to stop doing that any time anybody wants to move in out there. Tim [Balensiefer] from T-Bird, how much narrower are private roads—? We've already determined that they're as thick as a public street. Are we one foot or two feet narrower?

Mr. Tim Balensiefer said they're twenty—

Mayor Mills said please speak at the—

Mr. White said I'm sorry. I'm just trying to determine how much narrower they might be.

Mr. Balensiefer said the roads themselves are 22 feet wide. Your typical road width would be 30 feet back-to-back. We're still working on a final section, to make sure we get some width, and part of the reasoning—and I think if you look at the layout in the packet, there's really just two sections of road that are narrower. The rest of them are 30 feet or wider. Part of that is by design, from a speed standpoint. A wider road will really increase speed and allow people to drive a little faster. When you have a narrower width, it forces people

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to somewhat slow down. And the way this laid out, I mean, like I said, two short stretches of road that really are the narrower sections.

Mayor Mills said thank you.

Mr. White said I only ask that because, again, we have proven that I believe we do meet requirements for fire and emergency. It's by no means something we don't want to do. As far as cost goes, I think if we were looking at cost savings, it wouldn't be in a street width of five or six feet; it would be less land, higher density, which we are trying to get away from. I think Councilwoman O'Callaghan is correct, that we do need some controls, and the market somewhat dictates that, and we feel like the density that we're putting in there we could obviously fit more on this land. We just don't feel the market would support more, and so we feel like spreading this out and making a little bit more appealing development and less density is a new direction to go, and it is costing us more money to do this, but we feel like it's the right thing to do. Thank you.

Councilor Satterly said you're not allowing parking on the street?

Mr. White said oh, yes, thank you. That was the other point of the narrow streets. We do not allow parking on the streets, which, you know, is the reason for a little bit less width needed than a City street.

Mayor Mills said Mr. [Public Works Director] Downey, New Chauncey, 24 feet wide? 26 feet wide? What are the streets in the older part of town?

Public Works Director Downey said 24, I think.

Mayor Mills said I think 24, too.

Councilor Satterly said and you allow parking on your streets.

Mayor Mills said and we have parking, we have a lot of parking. Mr. Teder.

Mr. Teder said I guess I'd like to ask Mr. Bauman for his comment on the City being sued. The gentleman made a comment that we're opening ourselves to lawsuits—

City Attorney Bauman said this would probably be covered by one of the immunities of the Indiana Tort Claims Act, but I think the other point is, factually, the layout of the streets and the width and the parking or lack thereof has been pretty carefully reviewed by the City Engineer. Not only the City Engineer, but also the Police and Fire Chiefs and the Street Department are checkpoint agencies that do review these plans as part of the process.

Mr. Teder said thank you, Mr. [City Attorney] Bauman. The only other comment I have, what I gave you was an estimate of \$115; what that exactly will be, I can't tell you, because they haven't started construction yet. And it's West Lafayette, so the taxes and a lot of things are different, but in Ravenswood that they did on the other side of town, the expenses there—their management, legal, leasing, electricity, trash, security, snow,

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mowing, grounds, pond, common area maintenance, and then the replacement reserve funding as well, insurance—I think everything is covered in that. And I think they do a pretty good job of making sure that those things are in there, because it's important for everyone. So, thank you.

Mayor Mills said the taxes will be about the same, Mr. Teder, because it's not in the West Lafayette School Corporation.

Mr. Teder said thank you, Madam Mayor.

Mayor Mills said all right. Other questions or comments? Councilor Hunt.

Councilor Hunt said I drove through Ravenswood yesterday, at Hickory Ridge, that's the name, and those big wide loops in the streets, rather than cul-de-sacs made it easier to drive, and that was kind of reassuring, as far as trash trucks turning and fire trucks.

Mayor Mills said Mr. [Councilor] Truitt.

Councilor Truitt said one more comment, just to get the confirmation. They're built when they're bought, correct? I mean, we're not building, you're not going and building—

Councilor Satterly said spec houses.

Councilor Truitt said can you just—?

Mr. Teder said we're not building 92 units. It's a fourplex, so I think in Ravenswood it's a good example. They put up seven units, seven buildings so far, that relates to 28 units; they've sold 20 of those, and they think they've got three or four more sold. They're going to be putting up another building shortly, because they have one unit in there already presold. So that's kind of how it goes. No, we're not going to put up 92 units and wait for them to come. That will not happen.

Councilor Truitt said so the market—another opportunity for the market to dictate.

Mr. Teder said yes, the market's definitely going to dictate what we want. Another comment that they mentioned earlier, they had 60 inquiries already, from people wanting to buy over here in these particular units.

Councilor Truitt said one question on the homeowners association. Is that an EPCON-governed homeowners association, or is that a farm out to an Omni-type organization, from a management standpoint?

Mr. White said it's Link Management here in Lafayette.

Councilor Truitt said okay.

Mr. Teder said it's Link in Lafayette, right. No, it's not Omni or some of the bigger ones. Normally, they don't even look at something this size, so it's more of a local.

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There was no further discussion.

Mayor Mills said thank you. Ready for the vote? All right. Call the roll, please.

The roll call vote:

AYE	NAY
Griffin	O'Callaghan
Hunt	
Keen	
Plomin	
Satterly	
Truitt	

Ordinance No. 35-06 passed on first and only reading, 6-1.

Ordinance No. 36-06 An Ordinance To Clarify The West Lafayette City Code Concerning The Payment Of Costs For Cases Adjudicated In City Court (Prepared by the City Attorney) Councilor Griffin read Ordinance No. 36-06 by title and moved that it be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Satterly.

Mayor Mills said all right. Mr. Bauman, would you like to talk to us about this ordinance, please.

City Attorney Bauman said well, I think I set forth everything in the ordinance. I was contacted by the City Judge concerning a clarification of the issue of the costs and the fine, and upon review of the State statutes and consultation with the Director of the Indiana Municipal Lawyers Association Jodie Woods, their advice was that the cost should be payable, in addition to the fine, on cases that are filed in the City Court. And so we've added it to the general provision, clarifying that. We've also added a provision clarifying an issue with regard to whether there's a requirement of complaints in order to enable more proactive community policing. I think [Police] Chief Marvin can speak to that issue.

Mayor Mills said all right, thank you. Are there questions for Mr. Bauman? Comments? Councilor O'Callaghan.

Councilor O'Callaghan said I guess one. I just appreciate the fact that our police can be proactive, if they see a violation of the noise ordinance and go ahead and handle that, even if they don't have a complaint. And I guess I think Clerk-Treasurer Rhodes might have some information about the costs, the court costs that are reflected in this.

Clerk-Treasurer Rhodes said yes. Following Pre-Council, we had a brief discussion, and I said I would bring those costs tonight. There are actually 14 separate fees assessed as part of entering the judicial system. They amount to \$112.50. That's separate from any City fine. It's the cost of entering the judicial system of the State of Indiana, of which, of course, the City Court is a part. Of the \$112.50 in court costs, there are, as I said, 14 of those. The City retains \$29.50; the rest are disbursed to the State and County

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governments. The City, of course, would also retain the City fine. City ordinances specify either a particular fine or a range of fines. In the amendment the City Attorney has prepared, you can see, in fact, there is some wording here that the fine be “not less than \$100 or more than \$300,” where there is no otherwise specified or specific penalty. The clarification is that that fine, the \$100 to \$300, would be in addition to the imposition of the \$112.50 fine. So I wanted you to understand that, because many of you probably haven’t been in the court system for some time, whatever, and the number of fees has certainly increased in the last several years.

Councilor O’Callaghan said thank you.

Mayor Mills said thank you. Are there questions or comments?

Councilor Plomin said I have a question.

Mayor Mills said Councilor Plomin.

Councilor Plomin said I noticed that there’s two modifications, and the first is additional State costs provided by State statute, and the other is allowing for no complaints, but, “unless specifically provided by this code, there shall be no requirement of a complaint before the issuance of a citation by any officer under this code.” Can the Chief—and I see you’re here—can you comment on why this is necessary?

Police Chief Marvin said yes. There were varying opinions regarding whether or not an officer could actually act on their own and go ahead and cite somebody for violation of the City noise ordinance without having a complaint first. So we’re wanting to clean that up.

Councilor Plomin said this doesn’t say anything about the noise ordinance, though.

Police Chief Marvin said well, that’s one of the ordinances that we’re concerned about; that’s one of the City ordinances.

Councilor Plomin said this would affect all City ordinances.

Police Chief Marvin said yes, it would.

Councilor Plomin said and so, why not just change the noise ordinance?

Police Chief Marvin said well, I think we’re wanting to make it clear that if there were other conflicts, we wanted to make it clear to everybody that the officers can act on the City ordinances on their own, without having to have a complaint first.

Councilor O’Callaghan said that’s the proactive part that he was talking about.

Police Chief Marvin said yes.

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

Councilor Plomin said yes, I mean, he put it very nicely, “proactive policing.” When I was student, I didn’t want any noise ordinance violations to come my way, even if my neighbors were okay with the amount of noise that was coming out of my apartment.

Councilor Griffin said well, Madam—

Mayor Mills said Councilor Griffin.

Councilor Griffin said folks who are in the homeowners associations, here’s a very good reason, is that what you get is a lot of report from permanent residents and obviously much of the time there’s no proof that there was a cause and effect relationship, but what many long-time residents feel is that there is a connection between them reporting noise violations and other violations like that and subsequent vandalism to their property. And so this is a way, to some extent, to perhaps protect the long-term residents. I mean, it’s a real, real problem down—I suspect it is in Hills and Dales, yes? Real problem in New Chauncey, significant problem in Hills and Dales, and I suspect that there’s probably hardly any part of our City that is not impacted to some extent. I mean, there are long-term residents who have noisy parties, can you believe that? Well, there are. And so it’s supposed to really have nothing to do long-term and short-term, but that is, in fact, what many long-term residents report. They experience that, and so as to help make it so that, for everyone, our neighborhoods are a more pleasant, safe place to live.

Mayor Mills said and I want to add something that part of our intent here is to allow our police officers to be very proactive, to be able to stop when they see a party starting to develop, and, you know, really saying to the homeowners, tenants, whoever it is, that there’s a situation developing. They want to know that if they stop, if they end up citing, that that’s going to carry some weight when that person comes to court to pay the fine. Before, if they acted proactively, often no fine was levied. And so it ties our hands in having good control in the neighborhoods on a busy weekend, if the students or the homeowner knows that they’re going to come to court and there’s going to be no fine, because it was a proactive action and not based on a complaint.

Councilor Keen said Madam Mayor. I wanted to ask the Chief, with this ordinance written the way it is, this would not actually obligate an officer to issue a citation; it would still be up to the officer’s discretion?

Police Chief Marvin said that is correct. As with any other violation—traffic law and everything else—they still have discretionary powers. Absolutely.

Mayor Mills said any other questions or comments?

Councilor Griffin said I think this is really, really important for our neighborhoods to—the quality of our housing stock and upkeep of housing stock and that kind of thing, there is, in general—and there are some great examples of people who don’t live in a house, own the house, don’t live in it, but put significant money into it for upkeep. But, in general, it can be said that people who own and live in a house tend to do much more to keep that housing stock at a quality level. We need to do things, in my opinion, we need to do things to help favor that, and this is one of many steps that can and need to be done.

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Mayor Mills said other comments?

Councilor Hunt said I'd like to make one.

Mayor Mills said Councilor Hunt.

Councilor Hunt said there was a neighborhood association meeting that Councilor Griffin chaired, because he the president of the organization if I am correct, at Morton several months ago, and they were talking about complaints. There were lots of people that lived in the neighborhood there, and many of them like very much being in a mixed neighborhood, where there are students, but they were bothered at 2:00 a.m. with the noise, and they were very hesitant to call, because they truly felt, as Councilor Griffin said, that it would be found out who complained, and they would feel some retribution. In fact, they even went so far as saying, "Well, do we have to report our address?" And the discussion was no, you can report the address of the neighborhood association, which is a post office box, if I remember right. And so, I mean, the balance of the people concerned about the noise and other situations and the fact that they liked living with students, if there was some cooperation. It was heartening to me to see that they're proud of living in a student and a homeowner's own area; it was very pleasant. And if this would help make that a more comfortable living situation and a little more cooperation between both the groups, I think it sounds like a good idea.

Mayor Mills said comment?

Councilor Plomin said yes. Councilors Hunt and Griffin bring up very important points that I hadn't thought of, which was this retribution factor. I'd never thought to take revenge on my neighbor for calling me in on a noise violation. I would never even think that that would be a possibility, and you're right, it is, now that you mention it, it sounds like something that happens quite often.

Councilor Griffin said we have places for you in our neighborhood, Matt [Councilor Plomin].

Councilor Plomin said I've always lived in an apartment. I've always had neighbors that were other students, other young people who weren't necessarily bothered if I was considerate, and I never really thought that it should be up to a police officer driving by who suspected that there might be going on, when there may or may not be. But I see now how this doesn't necessarily require, it just loosens the hands of the officer to use his or her discretion—

Mayor Mills said to do his job. Any other comments?

There was no further discussion.

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

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

Ordinance No. 36-06 passed on first reading, 7-0.

Clerk-Treasurer Rhodes said my question is, is there any desire to suspend the rules and have both readings tonight? I haven't been approached by anyone, but raising the question—

Councilor Griffin said I move to suspend the rules to consider Ordinance No. 36-06 on final reading at this time. The motion was seconded by Councilor Satterly.

Mayor Mills said all right. We have a motion and a second to suspend the rules and read Ordinance No. 36-06 again for final vote tonight. Councilor Plomin.

Councilor Plomin said can we discuss the motion?

Mayor Mills said certainly.

Councilor Plomin said why is it necessary to do this at this time?

Councilor Truitt said why not?

Councilor Griffin said it's not necessary; I think it's a good idea.

Mayor Mills said the Clerk-Treasurer said she hasn't had a request.

Councilor Truitt said I mean, what's going to change between now and then? Let's be proactive again.

Councilor O'Callaghan said that way, we'll be ready for the first of the year. So the first of the year, all the things will be the same.

Clerk-Treasurer Rhodes said I would like to say one thing, addressing the part related to the application of a cost prescribed by State law is that there has been a long-standing problem, in terms of our fine schedule. And for one, I would like to see that squared away and in effect to start the new year. That's not to say it couldn't occur at a January vote, but in another week, most of the students will be leaving town, to some extent, and this is probably the best time to have any kind of a comment, and we haven't received any word yet from anyone with a concern.

Councilor Plomin said fair enough.

Councilor Hunt said but if we read it again next time, will we have a public hearing?

Councilor Griffin said no.

Clerk-Treasurer Rhodes said no.

Councilor Hunt said okay, sorry. I get confused.

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

Clerk-Treasurer Rhodes said Mr. Bauman, I do have one question. Would publication of this ordinance be required before it was effective?

City Attorney Bauman said I would think so. It's—

Clerk-Treasurer Rhodes said it could be done, if we pass it tonight, it would be done in time to be effective in January, and that would be of value.

Mayor Mills said other comments? Other thoughts?

Councilor Plomin said I was just thinking that I haven't had much time to contemplate the ramifications of changing the first part, but since I won't be here next month, I'll be on vacation, I'd like to be here for the second reading. So I suppose we should do this tonight.

Mayor Mills said all right. We have a motion and second to have the final vote tonight—

Councilor O'Callaghan said to suspend the rules.

Councilor Satterly said to suspend the rules.

Mayor Mills said all in favor? Opposed?

The vote to suspend the rules and consider Ordinance No. 36-06 on second and final reading passed by voice vote.

Mayor Mills said all right. Councilor Griffin.

Councilor Griffin said Madam Mayor, the ordinance is now on the table for second reading. I move for passage and the vote be by roll call. The motion was seconded by Councilor Satterly.

Mayor Mills said all right. Any further discussion? All right, will you call the roll, please.

Councilor Griffin said we have a—

Ms. Mary Cook [329 West State Street] said is there any citizen comments?

Mayor Mills said we can, certainly. Anybody would like to come and make a comment?

Ms. Cook said I didn't go to Pre-Council for a change. Just to clarify, I understand trying to recover the court costs and the fine changes. But most of the discussion about this ordinance has been on noise and housing. But this ordinance affects every single ordinance, correct?

City Attorney Bauman said there are no changes in any fines. It would make it clear that the State-mandated court costs has to be paid. The fine in this section is still the same as

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

it was, although, frankly, most violations have a particular fine specified for them and don't come under this.

Ms. Cook said no, I understand. It seems that the point of this is to make sure that the City gets money for whatever problems— my question's not about the financial part.

City Attorney Bauman said okay.

Ms. Cook said I understand that's really the purpose of the ordinance, right, to make sure that things get paid and things—

Clerk-Treasurer Rhodes said it's really to make sure it conforms with the judicial requirements of the State. However, if a citation is issued and the party pays at the ordinance violation bureau, traffic court—some of these can be paid at the ordinance violation bureau—no court costs are assessed. And, of course, if you appear in court and are found not guilty, there are no court costs assessed.

Ms. Cook said so I understand that. But the comments that Chief Marvin made were to the fact that this now puts no complaint has to be made. The change is all the ordinances over the City now, any policeman at any time can say, "Well, I wonder what's in that bag." No one's complained about it. Is this some loosening up of police officer's—

City Attorney Bauman said it doesn't change any of the search and seizure rules.

Ms. Cook said that's what the discussion was about it being easier for— That's what I was trying to get clarification on; I wasn't here on Thursday.

Mayor Mills said and, really, we weren't clear about that. What has happened in the past, this doesn't change anything. We've had officers in the past go out, proactively make a noise citation—we're just using noise, because that's how we're the most affected by this—write a noise citation, and then it will come to court, and there was a difference of opinion between the judge and the officer on whether a complaint was actually necessary in our ordinance for them to be able to issue a citation. And so she would dismiss it often, because she thought the ordinance said a complaint was necessary. And so we're clarifying that language, so that she—I mean, she was just trying to follow the letter of the law, so we're making the change.

Ms. Cook said that's what, in the discussion, I was missing.

Mayor Mills said I can understand that.

Clerk-Treasurer Rhodes said I'd like to read a list of some of the ordinance violations that are on our schedule: a bicycle violation; open container violation; City negligent driving; violation of animal ordinance; noise ordinance; violation, as we've discussed, open burning; violation of City solicitation code.

Ms. Cook said bungee jumping.

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

Clerk-Treasurer Rhodes said bungee jumping. That's from our Council days. Yes, bungee jumping.

Mayor Mills said thank you for the question. Anyone else? Mr. Molnar, will you come to the microphone.

Mr. Molnar said I guess I'm more confused after hearing the past couple of minutes—

Mayor Mills said sorry.

Mr. Molnar said no, I guess the antecedent of this code refers to the entire West Lafayette code?

Mayor Mills said yes.

Mr. Molnar said so we're saying whenever in this code, we mean in the entire West Lafayette code?

Mayor Mills said that's correct.

Mr. Molnar said I don't see why it's necessary to have this sentence in here when, in fact, if there is a violation of any of the code, isn't it the police officer's obligation, duty, responsibility, whatever you want to call it to, in a sense, issue a citation? Why does there have to be a complaint? If there is a code that says, "You shouldn't walk on this sidewalk Tuesday mornings," and somebody's walking on the sidewalk Tuesday morning, there shouldn't have to be a complaint by, in a sense, a non-official citizen. Alternatively, the police officer, as far as I know, doesn't give up, in a sense, their citizenship, their humanity. I mean, why can't they file the complaint and file the citation? So I'm confused. I don't know what this is really trying to do.

Mayor Mills said Mr. Bauman.

Councilor O'Callaghan said we thought, too, that—

City Attorney Bauman said I don't think that I can argue with your point on that. I agree with you.

Councilor O'Callaghan said but the judge had a different interpretation.

Councilor Griffin said we agree with you. The point is that it's not the way it's been handled, and so this is necessary to clarify.

Mr. Molnar said I don't know who needs the clarification. If we're all agreeing—

Councilor Keen said the City Judge.

Councilor Truitt said the City Judge.

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

Councilor Satterly said the City Judge does.

Mr. Molnar said fine, thank you.

Mayor Mills said okay. Other comments? Questions?

Councilor Hunt said I'm a little uncomfortable doing this. I see the tidiness of doing it now, so the start of the year it's official, but I'm uncomfortable rushing through this when very few people knew about it. I mean, I'm certainly in favor of it. It's the rushing through in the second reading that now I'd rather not do that.

Councilor Satterly said she didn't vote against the suspension of rules.

Councilor Keen said we already voted to suspend the rules—

Councilor Hunt said well, I know I voted, but that was the procedural thing, but I just think there are disadvantages to passing it on the second time. But what happens if we don't pass it, will it come back next month? I mean, as the second reading?

Councilor Griffin said no.

Councilor Hunt said it won't come back next month?

Councilor Satterly said if we turn it down now, it doesn't come back.

Councilor Truitt said unless you change—

Ms. Cook said that's not true.

Councilor Truitt said Mary's on her game today.

Councilor O'Callaghan said or unless you change— No, it would just have to be first reading again, Ann [Councilor Hunt].

Mayor Mills said is that an editorial comment?

Councilor Plomin said before we call the question, can I just say one thing. As a responsible citizen, I think this is a good thing. But as a representative of my constituents, I think I need to vote against it. Thank you.

There was no further discussion.

Mayor Mills said all right. Call the role, please.

The roll call vote:

AYE	NAY
Griffin	Plomin
Hunt	

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

Keen
O'Callaghan
Satterly
Truitt

Ordinance No. 36-06 passed on final reading, 6-1.

Resolution No. 30-06 (Amended) A Resolution Requesting The Transfer Of Funds (Engineering, Fire, Police Merit Commission, Development, MVH, CCD, Fire Pension) (Prepared by the Clerk-Treasurer) Councilor Griffin read Resolution No. 30-06 (Amended) by title and moved that it be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Satterly.

Mayor Mills said all right. We have a motion and a second. We have—

Councilor Griffin said yes, Madam Mayor, I also would amend by substitution what is before us. I believe that there are some differences in what was discussed in Pre-Council—

Mayor Mills said yes, there are.

Councilor Griffin said and that is reflects the addition of City Hall, Office Supplies to Postage, and City Services, Electricity to Water. So I'm placing a motion for an amendment by substitution. The motion was seconded by Councilor O'Callaghan.

Mayor Mills said all right, thank you. We have a motion and a second to replace this by substitution a newly amended version of this resolution. Please, I know that you all received an email from the Clerk-Treasurer, but make sure you see these differences.

Councilor Griffin said they're in bold.

Mayor Mills said they are in bold. All right. Sorry. We have a motion for substitution. All in favor?

The vote to amend Resolution No. 30-06 (Amended) by substitution pass by voice vote.

Mayor Mills said all right. Are there questions about any of these transfers? I'll go through them briefly. In the General Fund, in Engineering Department, we have \$2,600 in Contract Services and Salaries that are transferred to Gasoline, Telephone, Instruction, and Furniture & Fixtures; City Hall, from Office Supplies, \$950.00 to Postage; in the Fire Department, from Repair Services and Contract Services, \$3,500.00 to Tires & Tubes and Memberships, Subscriptions, & Dues; from the Police Merit Commission Legal Services, \$2,100.00 to Salaries – Full Time; from City Services, Electricity \$35.45 to Water; in the Development Department, from Repair Services, \$58.00 to Tires & Tubes. That makes the total in the General Fund of \$9,243.45. And in Motor Vehicle Highway Fund, from Salaries \$7,500.00 to Other Equipment; in the Cum Cap Development Fund, Repairs – Buildings and Structures \$2,272.94 moved to Contract Services; and in the Fire Pension

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

Fund, from Contract Service \$35.62 to Travel. Are there any questions about any of these transfers? Or any comments?

There was no further discussion.

The roll call vote:

AYE	NAY
Griffin	Plomin
Hunt	
Keen	
O'Callaghan	
Satterly	
Truitt	

Resolution No. 30-06 (Amended) passed on first and only reading, 6-1.

COMMUNICATIONS:

Mayor Mills said are there any communications tonight? Councilor O'Callaghan.

Councilor O'Callaghan said Mayor, I'll just say this one. I brought this article for Mr. Oates, thinking that he was going to be here when we voted on his renomination for the Redevelopment Commission. It's his kids displaying the gingerbread houses the Friday after Thanksgiving on Ravinia Road. I just think it goes to the talk that we were having about neighborhoods and how important it is to have a neighborhood that people feel comfortable in. And in the three hours that the kids put this out to be judged, 50 neighbors walked by and judged. And so, I just think that's a neat testament to our neighborhoods.

Mayor Mills said thank you. Any thing else? Councilor Griffin?

Councilor Griffin said Madam Mayor, an appropriate point here in our discussion, to ask for a little clarification from the [Police] Chief on the history, going back quite a few years, I think, and I think particularly on the noise ordinance that, although this may have recently come to a head, I think that it's been quite some time in the City of West Lafayette that there were certain things that required. Is that—? Can you—? Is this the appropriate place to communicate about this, Mayor? Is that fine?

Police Chief Marvin said again, it has varied, depending on the ordinance and the parties involved and differing views, as far as whether or not it was appropriate for officers to be the sole complainant on various violations. And again, the noise ordinance is obviously the most prevalent one that we're dealing with here, but it would be applicable to all of the ordinance violations that we deal with.

Councilor Griffin said okay.

Mayor Mills said thank you, Chief. Any other comments from the Council?

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

There was no further discussion.

CITIZEN COMMENTS:

Mayor Mills said citizen comments? Mr. Molnar.

Mr. Molnar said good evening. I would just like to know if there's been any progress with regard to having the owners of animals responsible for the actions of their animals, and what I can do to try and get the West Lafayette Council to take some action on this. Has there been any progress? Actually, has there been any action? Any discussion?

Mayor Mills said there's been quite a bit of discussion.

Mr. Molnar said okay.

Mayor Mills said we actually have looked at the dangerous dog ordinance that, I think, Indianapolis just put forward. There are several communities—

Mr. Molnar said is there anything that I can do? I mean, meet with somebody, provide information. I'm not an attorney, okay, but I know enough about looking things up and finding things. I just don't want it to fade into the sunset. I'm sorry, I will not let it fade. Okay? So if there's something that I can do individually, collectively, at one of the Pre-Council meetings, whatever.

Ms. Cook said are any particular Councilors sponsoring the ordinance? George [Mr. Molnar] might not know how the Council works.

Mayor Mills said no one has—

Mr. Molnar said she's correct; I don't.

Mayor Mills said no one has done anything yet.

Ms. Cook said is anyone interested?

Councilor Griffin said I'm interested in this, and what I'm aware of is, like so many things that we look at that look like great ideas, and I think this is a great idea, but when we get into it, we find that, of course, there's always those unintended consequences. But, yes, I'm interested in this. I'm interested from the standpoint of learning more and learning if, where other cities have had it, what have they found—especially where it's been in effect for more than six months, where it's been effective and really been able to be tested.

Mr. Molnar said fine.

Councilor Griffin said has the city felt, "Yes, we've had it, we've used it, we've applied it, it's been positive." And I'm interested in that.

Mr. Molnar said okay, fine.

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

Councilor Satterly said was there not a proposed ordinance at one time concerning vicious dogs?

City Attorney Bauman said there was—

Councilor Satterly said and then it got dropped.

City Attorney Bauman said there was some research and there wasn't very strong interest at that time. There are some communities—Indianapolis is just doing it now—but I think there are some other communities that have had it in effect, ordinances for a longer period of time. One I know is Denver, Colorado, and I think there have been some other communities.

Councilor Griffin said Mr. Molnar, are you aware of any communities that have had one for a few years?

Mr. Molnar said the state of Tennessee enacted an ordinance in 2001, and amended it in 2004, with the primary purpose of the amendment to increase the dollar amount. It went from \$2,000 to, in a sense, I'm not saying unlimited, but with regard to the liability of the owner. And the various cities within Tennessee have followed that and take it. And obviously San Francisco, as I mentioned, the case out there a couple of years ago, the Diane Whipple case was—

Councilor Griffin said I did read the Indianapolis ordinance, and I'm not sure— Who did that come from? Did that come from you?

Clerk-Treasurer Rhodes said it came from me.

Councilor Griffin said and I imagined, from the wording of that ordinance, I imagined my golden retriever in the yard, possibly being construed as being a vicious dog, as I read the wording of that ordinance. Now, some people would look at my golden retriever and its behavior in my yard, and possibly think it was a vicious dog. But that's the thing that I think we need to be careful with in crafting, in looking at how we would craft the wording of this, so that it served the purposed that we wanted and did not end up making it so that someone could cause an owner to pay out something, just because their neighbor didn't like their dog or their cat or their fish or—

Mr. Molnar said I agree this is not easy, and I don't want to take up everybody's time here. It's not easy because—

Councilor Griffin said we've been here long after this before, Mr. Molnar.

Mr. Molnar said if you too broad, then you're attempting to solve all the world's problems—

Councilor Griffin said right.

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

Mr. Molnar said and you're not going to get anything done. If you go too narrow, then the interpretation of that, you will effectively have to have two people who are licensed pit bull fighters before they're, in fact, guilty of anything.

Councilor Griffin said right, yes.

Mr. Molnar said and I'm certainly not trying to be capricious and have your average dog—as I mentioned, every time I speak to everybody collectively and individually, my intention is not to harm or punish the dogs.

Councilor Griffin said right.

Mr. Molnar said my intention is to have the owner of any animal—

Councilor Griffin said responsible.

Mr. Molnar said be held responsible.

Councilor Griffin said yes.

Mr. Molnar said so, again, I will offer— How do you like to get information? Email? You want it on a CD? You want me to print it out? I mean, what do—?

Councilor Griffin said email it to me.

Mr. Molnar said fine, okay. Will do. Thank you very much.

Councilor Hunt said well, is that what you want to do or do you want to set up a small meeting so we can start that way?

Mr. Molnar said that would be fine. As I said, I can help in several ways.

Councilor Griffin said is the President speaking here?

Councilor Hunt said yes, as the President of the Council, I think that might be a good way to start it seems.

Mr. Molnar said fine.

Councilor Hunt said if we have more than two of us, do we have to make it a public meeting?

Mayor Mills said yes, you have to advertise it.

Councilor Hunt said so—

Clerk-Treasurer Rhodes said is this going to be a meeting of the Ordinance Committee—

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

Mr. Molnar said is it more than two?

Clerk-Treasurer Rhodes said or of the Council as a whole?

Mr. Molnar said is that the Sunshine or Open Meeting—?

City Attorney Bauman said if it's a committee—

Clerk-Treasurer Rhodes said it's a committee—

City Attorney Bauman said it's not a big deal to post a notice.

Councilor Hunt said no, it's not. It's—

Mayor Mills said it's not a big deal at all.

Councilor O'Callaghan said it should be public.

Councilor Hunt said okay.

Councilor Griffin said I'm going to suggest—

Councilor Hunt said the Ordinance Committee?

Councilor Griffin said not because I don't believe this is important, but I'm going to suggest that we use the month of December to gather information—

Mr. Molnar said fine, I understand.

Councilor Griffin said and then we would try to set a time for mid-January to get together.

Mayor Mills said that's fine. We can talk about a date—

Councilor Griffin said this is ordinance business, so—

Mayor Mills said let us know and we'll advertise it.

Councilor Griffin said yes.

Councilor Hunt said okay, and you have our emails, so—

Mr. Molnar said yes, okay. I will—

Councilor Hunt said so we'll do some data gathering and communicating, and then shoot for the middle of January 2007.

Mr. Molnar said I promise you by Christmas, you will be experts on this.

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

Councilor Hunt said and we'll post in 48 hours before.

Mr. Molnar said thank you. Thank you very much.

Councilor O'Callaghan said Mr. Molnar, could I ask one question, too, Mr. Molnar?

Mr. Molnar said sure, I'm sorry.

Councilor O'Callaghan said Councilor Hunt was trying to arrange a meeting for us to come to visit your place, and I think she's waiting for an answer from you.

Councilor Hunt said I don't know. Somehow, I answered by the 13th, and—

Mr. Molnar said no, I apologize. We've been having some trouble with Insight, as our email. I'm sorry, I shouldn't say that. We've been having some trouble with our internet provider.

Councilor O'Callaghan said these guys are very good, we love to have them here.

Mr. Molnar said Comcast.

Councilor O'Callaghan said but just to clarify, we are interested in responding to that.

Mr. Molnar said as soon as I remove my foot.

Councilor O'Callaghan said okay.

Councilor Plomin said I would also like to mention that it's an interesting function of this Council and this City that anybody can put an ordinance on the agenda. And so, even if our response is inadequate, you can then, before ordinance day, submit in the Clerk-Treasurer's Office an ordinance that would get a number and an agenda spot.

Councilor Satterly said is that true?

Clerk-Treasurer Rhodes said yes, it is.

Mayor Mills said Mr. Haynes.

Mr. Sam Haynes [713 Avondale] said don't we have a leash law?

Mayor Mills said yes, sir, we do.

Mr. Haynes said was this dog unleashed?

Mr. Molnar said I'll give you the 10-second version. The dogs got out of our neighbor's property, came onto our property, unleashed and unlicensed, killed one of our cats, and severely injured another.

COMMON COUNCIL MEETING MINUTES, DECEMBER 4, 2006, CONTINUED

Mr. Haynes said I've been here when you've—

Mr. Molnar said right, right. But, unfortunately, the law only refers to the administrative violation of not having a license and not having them on a leash. The results, the implications of what the dogs did, is not covered by any State or local law.

Mr. Haynes said that's all I had to say.

Mayor Mills said thank you. Anyone else, citizen 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 Griffin and passed *viva voce*, the time being 9:10 p.m.

Respectfully submitted,

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