

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
OCTOBER 4, 2010

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on October 1, 2010, at the hour of 6:30 p.m.

Mayor Dennis called the meeting to order and presided.

The Pledge of Allegiance was repeated.

Present: Bunder, Burch, Dietrich, Hoggatt, Hunt, Keen, and Thomas.

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, City Engineer Buck, Police Chief Dombkowski, Street Commissioner Downey, Fire Chief Drew, Human Resources Director Foster, WWTU Director Henderson, Parks Superintendent Payne, and Director of Development Poole.

MINUTES

Councilor Keen moved for acceptance of the minutes of the September 2, 2010, Pre-Council Meeting, and the September 7, 2010 (Amended), Common Council Meeting. Councilor Burch seconded the motion.

Clerk-Treasurer Rhodes called the roll call vote:

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Bunder	✓			
Burch	✓			
Dietrich	✓			
Hoggatt	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYES, 0 NAYS.

Mayor Dennis announced that the minutes of the September 2, 2010, Pre-Council Meeting, and the September 7, 2010 (Amended), Common Council Meeting were accepted unanimously.

REPORTS

Mayor Dennis stated that, breaking from tradition, because of the high attendance and the weighty agenda at this meeting, the committee standing reports, the financial report, and the legal report would be on file in the Clerk-Treasurer's Office and not discussed at this meeting. At the November meeting, the meeting will return to its normal format.

REPORT OF APC REPRESENTATIVE

Councilor Keen said that Ordinance No. 27-10 will be discussed later in the agenda.

PUBLIC RELATIONS

West Lafayette Community Beautification Award

Councilor Burch presented the Beautification Award to Brenda Jurich and Bob Larew of 729 Lagrange Street.

UNFINISHED BUSINESS

Ordinance No. 25-10 (AMENDED IUPAC Names) 2nd An Ordinance Prohibiting Certain Intoxicating Substances Within The City Of West Lafayette (Co-sponsored by Councilor Dietrich and Councilor Hoggatt)

Mayor Dennis read Ordinance No. 25-10 (AMENDED IUPAC Names) 2nd by title.

Councilor Keen moved that Ordinance No. 25-10 (AMENDED IUPAC Names) 2nd be passed on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis called on Dr. Cynthia Koh-Knox.

Dr. Koh-Knox (Clinical Associate Professor, Department of Pharmacy Practice at Purdue University who also teaches alternative medicines) provided information on K2/Spice-type substances. These substances fall into the area of dietary supplements, where there is no FDA regulation. Her concern is that these are natural herbal products laced with substances that have no guarantee of source of manufacturing or handling. Users will have intoxicating effects from the substances that have been laced on products that have unknown ingredients. Another issue is the use of these products is not just the abuse of one substance, but the misuse or abuse of other substances as well. Many emergency room reports are incomplete, as it is not known whether alcohol or other substances causes some of the effects. Banning these substances is a good first step, as is making accessibility of these products to young people more difficult. Unfortunately, these products are available online and, while online ordering requires verification that the buyer is at least 18 years old, there is no monitoring of online purchases. Some of the problems seen with these substances are very similar to marijuana, but there are also reports that use of these products with alcohol causes more severe adverse effects. There are currently programs in the County that help people who are in recovery from substance abuse that now recognize that K2/Spice-type products as violation of the terms of their recovery, if it is found in possession of a participant. Until these products are regulated by the FDA, restricting accessibility by young people and educating the public and substance abusers are the only steps.

Mayor Dennis asked if there are any tests for these substances. Dr. Koh-Knox said that there are urine drug screens that are available through Redwood, a company in California. Some correctional facilities use those tests. The urine drug screen costs about \$37.50. Witham Labs in Lebanon charges \$140.00. Some participants cannot pay for drug screenings. Purdue students who have unusual diagnoses possibly attributed to Spice, when asked, deny use of these substances. It is difficult to pinpoint the actual problems.

Councilor Thomas asked Dr. Koh-Knox whether these substances are on the FDA's radar screen, since they are not FDA-regulated. Dr. Koh-Knox answered that she was not certain, but that the National Association of Drug Court Professionals is quite involved, as are other national associations. There are several countries that have banned these products, and there are

several U.S. states working to ban them. The internet accessibility makes it difficult to control these.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Bunder	✓			
Burch	✓			
Dietrich	✓			
Hoggatt	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYES, 0 NAYS.

Mayor Dennis announced that Ordinance No. 25-10 (AMENDED IUPAC Names) 2nd passed unanimously on final reading.

ORDER OF BUSINESS

Mayor Dennis requested that the Council move Ordinance No. 15-10 to later in the agenda. Councilor Dietrich so moved, and Councilor Hunt seconded the motion. The motion passed unanimously by voice vote.

Ordinance No. 14-10 An Ordinance Providing For Payment Of Fire Hydrant Rental Costs By Indiana American Water Company Ratepayers (Sponsored by Mayor Dennis) WITHDRAWN by action of the Council at the September 30, 2010, Pre-Council meeting.

Mayor Dennis announced that Ordinance No. 14-10 was withdrawn.

NEW BUSINESS

Ordinance No. 26-10 An Ordinance Amending The Procedures Of The City Of West Lafayette Human Relations Commission (Submitted by West Lafayette Human Relations Commission; Sponsored by Mayor Dennis and Councilor Hunt)

Mayor Dennis read Ordinance No. 26-10 by title.

Councilor Keen moved that Ordinance No. 26-10 be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis explained that his prior work experience gave him the understanding that empowerment of citizens to make complaints should be enabled by government. When a government takes something from one individual but not from another, catastrophe can result. In this case, it is clear that the procedures of the Human Relations Commission need to be amended, with the understanding that this action will empower people to file complaints, if they feel the need to do so.

Mr. Charlie Shook, Chairman of the West Lafayette Human Relations Commission, reported

that there are two items of business, the first of which is the amendment to the Human Relations Commission procedures. He asked members of the Human Relations Commission who were present to stand. There are three changes to the procedures, two of which are housekeeping, and the third is significant. The third item permits the Human Relations Commission to move the offering of voluntary mediation by a professional mediator earlier in the complaint process. Mediation may be offered as an alternative to the complainant and the respondent, after it is determined that the grievance has been properly filed. If both parties agree to nonbinding mediation, the HRC will provide a professional mediator at the expense of the parties. The community has several well-prepared mediators who offer their services at attractive fees for matters such as this. If the parties agree to mediation, they begin the process of working with one another to explain their frustration and response before an HRC formal investigation. If mediation does not successfully resolve the issue, HRC will then initiate its formal procedures and determine if there is finding of fact and recommend and approve, if appropriate, binding adjudication. The other two items are that the HRC would like to meet in locations outside City Hall, when appropriate, and that the HRC could meet outside the prescribed hours of 9:00 a.m. to 8:00 p.m. There are occasions when HRC meetings last longer than 8:00 p.m. Changing the specific times to "reasonable times" eliminates concern of ending meetings abruptly.

Mayor Dennis asked if the HRC would maintain a list of mediators. Mr. Shook responded that the HRC would create a listing. Human Relations Commission Attorney Tom Logan is assisting with this item.

Councilor Dietrich asked whether the \$300 penalty would be earmarked for the Commission. City Attorney Burns stated that any penalty received would go to the General Fund, with the Council having the authority to earmark it through the budgeting process.

Councilor Burch asked Mr. Shook whether the Human Relations Commission meeting minutes for the May 18, 2010, have been approved. Mr. Shook answered that the HRC met in August and approved the May 18, 2010, meeting minutes. Councilor Burch said that she was not aware of any notification that a meeting was held. Mr. Shook responded that both meetings were posted appropriately through the Mayor's Office, and the press was notified. The minutes were not on the website, and that is in error, which will be corrected promptly. Councilor Burch asked for clarification on what the document titled, "Moving West Lafayette Forward: Why Inclusion and Opportunity are Essential to our Future (8/31/10 revision)," is, whether it is an amendment to the ordinance. Mr. Shook responded that it was not, and asked Mayor Dennis whether he should address Resolution No. 11-10 at this time. The Mayor and Councilor Burch responded affirmatively.

Resolution No. 11-10 A Resolution To Reaffirm Action Taken By The West Lafayette Human Relations Commission (Submitted by West Lafayette Human Relations Commission; Sponsored by Mayor Dennis and Councilor Hunt)

Mayor Dennis read Resolution No. 11-10 by title.

Councilor Keen moved that Resolution No. 11-10 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mr. Shook provided background on the creation of the West Lafayette Human Relations Commission, noting that it was founded in 1968 because of empowering legislation of the Indiana Civil Rights Law. The purpose was to ensure that fair and equal treatment is offered to all citizens of West Lafayette, and to minimize or eliminate discrimination based on race, color,

creed, religion, ancestry, national origin, sex, disability, age, marital status, or status with regard to public assistance. These goals are reached through activities the Commission is empowered to do, including receiving, investigating, and issuing binding adjudication for complaints alleging discrimination in protected classes. Sexual orientation, gender identity, gender expression, and military status were not included within the protected classes. The empowering legislation from the State was not broad enough to include sexual orientation, so in 1993, West Lafayette expanded the reach of the Human Relations ordinance to include sexual orientation. Mr. Shook read a portion of that resolution which states that, "...citizens of West Lafayette should be free from intolerance, discrimination, and fear." The policy was to promote understanding, and investigate and conciliate complaints, in order to prevent prejudice, intolerance, and discrimination based on sexual orientation. The difference between the ordinance and the resolution is the resolution does not allow the Commission to issue binding adjudication involving sexual orientation matters. It offers conciliatory services. West Lafayette is an inclusive City, committed to fostering a community that recognizes the worth of every person, promotes tolerance and understanding, and respects the rights of individuals to be free from discrimination without regard to gender, the gender to which they are naturally born, the gender to which they express, or military service. The resolution does not offer any special rights or additional rights, but instead offers the same rights to all citizens. In 2001, Governor O'Bannon signed a policy which prohibited discrimination based on sexual orientation by State employees. In 2004, Governor Kernan expanded the policy to include gender identity, and in 2005, Governor Daniel included transgendered individuals. The Human Relations Commission is requesting a City policy regarding anti-discrimination similar to that which the State government has for its employees. The resolution expands the reach of what was passed in 1993 and will include gender identity, gender expression, and veterans of military service.

Mr. Shook addressed the question Councilor Burch had raised, noting that the document titled, "Moving West Lafayette Forward: Why Inclusion and Opportunity are Essential to our Future (8/31/10 revision)," is intended to provide background information on gender identity and gender expression, not to amend or expand the resolution.

Councilor Keen asked for clarification that the resolution does not allow binding adjudication but only conciliation. Mr. Shook answered that it was a true statement. Councilor Keen restated that any action by the Human Relations Commission based on the resolution would be nonbinding. Mr. Shook said that was correct, and added that the same was true for sexual orientation.

Councilor Burch reported that she had provided the Council, Mayor Dennis, City Attorney Burns, and the public with documents to address the "Moving West Lafayette Forward: Why Inclusion and Opportunity are Essential to our Future (8/31/10 revision)" document. Councilor Burch reported that she felt that the validity of the data mentioned in the article is questionable. In the first section, "Understanding Gender Identity," there is terminology that has no clinical or universal acceptance. Councilor Burch said that the individuals that the Human Relations Commission is asking the Council to protect legally are suffering from a clinical condition called Gender Identity Disorder. In no way should this be considered judgmental or intended to cause distress. The criteria for diagnosis in children, adolescents, and adults have been published and generally accepted by clinicians. According to *Diagnostic and Statistical Manual of Mental Disorders*, Fourth Edition (American Psychiatric Association), Gender Identity Disorder (GID) also includes transsexualism, which is an extreme form of this disorder. Councilor Burch continued that there is no clinical definition of transgender, because it is an umbrella term covering a large number of sexual disorders, including individuals with physical abnormalities. The statement that medical research supports the notion that GID is associated with brain

structures which develop in response to certain gene-steering embryonic development is untrue. She added that it is an egregious distortion of studies carried out by a group in The Netherlands. A problem is that the transgender brains examined were from people who had their testes removed and were taking male hormone-blocking medications. An additional problem is that, even if the findings can be validated, we do not know whether the cause of GID or the result of GID is being examined. She said that the sex hormones administered to adults can affect brain structure. While genetics, prenatal hormone exposure, the character of the parents' emotional bond, the relationship that each parent has with the child—whether the child has been reared by just one parent—may play a role, but at present, the cause of GID is something of a mystery. Councilor Burch stated that the section titled, "What This Amendment Won't Do," is fine, but it is pure guesswork. She asked that specific exemptions be placed in the ordinance. True numbers of the incidents of GID are difficult to obtain. If the claims of advocacy groups are ignored, the percentage of men and women with GID is 0.011%. Other estimates are as low as 0.002%. Assuming the higher percentage, then, for a West Lafayette population of approximately 65,000, which includes the students, we would expect seven people with Gender Identity Disorder. The arguments for giving special protection to people with a diagnosable mental disorder are similar to an alcoholic claiming special protection because their alcoholism is "who they are," or a schizophrenic who firmly believes he is the President of the United States and demands to be treated as such, or Napoleon Bonaparte and asks to be treated as such. Councilor Burch continued her remarks, noting that legislation protecting persons with GID will require that normal, biological females must give priority use of restrooms, showers, and locker rooms to males who claim they are female. Women have reasonable expectations that their facilities will be shared with others of the same sex. When they encounter someone who doesn't fit these expectations, they may become confused, afraid, or even angry. Further, they have lost a fundamental right to privacy. Sufferers from GID need to be made aware of this, and receive sensitivity and behavior training. She stated that she was not discussing sexual assault. Where women have been distressed or otherwise emotionally disturbed by the presence of GID in their facilities, it would be nice for the Human Relations Commission to have an explicit policy stating that they will investigate such cases. Councilor Burch commented on Section 24.02 of the ordinance, where the definitions are listed. The definition of "Discriminate" which states, "or which otherwise adversely affects any person who is a member of a class protected by this title," is overly broad and permissibly vague. She stated that this phrase appears in similar ordinances in other communities, but in application, the language can mean almost anything. It could be unconstitutionally applied to restrict speech and conduct that merely causes offense or hurt feelings. She asked what exactly is being prohibited. The U.S. Supreme Court has recognized the First Amendment Overbreadth Doctrine and has consistently held that statutes punishing speech or conduct solely on the grounds that they are unseemly or offensive are unconstitutionally overbroad. Councilor Burch asked the Human Relations Commission to consider their definition of "disability," for the Commission to revise that as well. "Disability" means with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of such impairment or being regarded as having such impairment. Councilor Burch asked Mr. Shook how many cases have been brought before the Human Relations Commission during its lifetime. Mr. Shook responded that he did not know the answer. Councilor Burch asked how many cases have involved Gender Identity Disorder. Mr. Shook answered there have been no cases, as the HRC is not in a position to invite those.

Mr. Shook responded to Councilor Burch's comments. With regard to the definition of "discrimination," the definition refers specifically to the categories to which he had earlier referred, which are included in the Indiana Civil Rights laws—race, color, creed, religion, ancestry, national origin, sex, disability, age, marital status, or status with regard to public

assistance. He suggested that the Commission would be happy to consider further defining “disability” within the scope that they are permitted within the Civil Rights laws. With regard to the amendment for the public washrooms, Mr. Shook stated that the Commission is not asking for an amendment to the resolution at this time. If the Council desires the Commission to reconsider the resolution, they will do that, but the presentation now is without that caveat. With regard to the reference to mental disorders, schizophrenia, things such as that, Councilor Burch described behaviors that can sometimes manifest from that condition, and those behaviors, if manifested in the wrong place, in the wrong method, could affect employment, could affect compliance with the law, and that would not be covered by this. The pure existence of being schizophrenic is not reason for discrimination. Mr. Shook acknowledged that he is not familiar with the scientific research done in The Netherlands, so he would not respond to that. He also further stated that he could not respond to the statistical numbers that Councilor Burch provided, but suggested that the sources be shared. The numbers cited by seem low to Mr. Shook, although he stated that he is neither an expert nor a statistician.

Councilor Hunt stated that she is proud to co-sponsor Ordinance No. 26-10 and Resolution No. 11-10. She has at least two citizens in her district who did have issues and felt that they were discriminated against. Councilor Hunt remarked that she wish the Council had received the information from Councilor Burch earlier. At one time, in another Council session, it was asked that the Council only discuss refereed journals. *The Journal of Family Practice* does not indicate that it is a refereed journal, and the other reference is from an edited book. In addition, the journal is from 2007, and the book is from 2006. Since books usually take a year to be published, the edited book might be a little old. She questioned what version of *DSM (Diagnostic and Statistic Manual of Mental Disorders)* was current, since *DSM-IV* that was cited in the material. Someone in the audience reported that *DSM-V* is current. Councilor Hunt said this is an issue that needs to be dealt with, because people are suffering.

Mr. Shook commented that in June 2008, the American Medical Association passed a resolution that supported the public and private health insurance coverage for treatment of Gender Identification Disorder. The AMA showed its support for the treatment of Gender Identity Disorders and affirmed the legitimacy of GID diagnosis and the appropriateness of its care. Many social service and psychological organizations—including the National Association of Social Workers, the National Association of School Nurses, the American Academy of Pediatrics, the American Counseling Association, the American Psychological Association, and the National Association of School Psychologists—recognize the considerable diversity in gender expression and have passed non-discrimination policies. The National Association of Social Workers recognizes that there is considerable diversity in gender expression and gender identity among the population, and believes that people with diverse genders, including sometimes-called transgenders, should be afforded the same respect and rights as any other persons. The National Association of School Nurses has taken the position that all students, regardless of sexual orientation, gender expression, or gender identity, are entitled to equal opportunities in the educational system. The school nurse needs to be aware of students who are lesbian, gay, bisexual, transgender, and questioning, and sensitive to their needs, knowledgeable of their health needs, and effective in interventions.

Councilor Thomas stated that he appreciates Mr. Shook’s and the Human Relations Commission’s work. He has been impressed with the Commission members and the information they have supplied. Councilor Thomas said that he is neither a psychologist nor a psychiatrist. He feels that human beings should be treated as human beings, who have inalienable rights endowed to them by the Creator and by the Constitution. He is against any form of discrimination. Councilor Thomas asked City Attorney Burns if, because his wife is on

the West Lafayette Human Relations Commission, there is a conflict of interest when he votes on the ordinance and the resolution. City Attorney Burns answered that there is no legal conflict under State statute, which is the only controlling element because there is no pecuniary interest. Mr. Burns stated that, in his opinion, there is no conflict.

Councilor Dietrich reported that Mr. Shook answered his questions and concerns. He supports both the ordinance and the resolution. The Commission did a nice job, and Mr. Shook did a nice job of presenting it.

Councilor Burch stated that she did not have the opportunity to meet with Mr. Shook, to have her questions answered. She stated that, if she read the minutes of the May 18 HRC meeting correctly, "Mr. Logan reported that through consultation with City Attorney Eric Burns he reached the conclusion that a city ordinance establishing sexual orientation, gender identity, or veteran status as protected classes would contradict Indiana Code 22-9-1-12.1....Mr. Logan therefore advised against any attempt to amend the city ordinance to include the protected additional classes...." She asked for clarification. City Attorney Burns responded that Mr. Logan is an associate with Mr. Burns' firm, and this matter has been discussed with him extensively. In 1993, a prior City administration and the City Attorney made a determination that State law would not allow the City Code Book, the ordinance, to be actually changed, because that would go beyond the bounds allowed by State law. That was their opinion in 1993, which he checked at the request of the Human Relations Commission. The law has not changed in the intervening years, and as read by Councilor Burch, the citation was accurate, but the interpretation may be amiss. The ordinance cannot change the City Code in substance. The resolution will be similar to what was done in 1993, except it would expand it to the three additional protected classes. The Commission is doing what the City Attorney's Office suggested that they needed to do, if they wanted to make a change. Councilor Burch thanked City Attorney Burns for the clarification.

Mayor Dennis opened the comment period on Ordinance No. 26-10 and Resolution No. 11-10 to the public, requesting that comments be brief and non-repetitive.

Speaking in favor of the legislation were Teht Ashmani, Suzan Windnagel, Jessica Rombach, Jan Myers, Margy Deverall, Bryan Bell, Mary Finnegan, Mark Thomas, Nicholas Goldsmith, and Chase Tien.

Councilor Burch stated that she thought each person expressed his or her own gender, but maybe not. For those who have stated they were discriminated against, she asked if they have sought legal assistance, or what they did. Teht Ashmani stated that the logic of bullying is such that, once one is treated badly in one environment, one is disciplined into believing the individual will be treated badly in further environments. That is one reason legal advice is not sought. Secondly, gender identity and gender expression are not acknowledged in local laws. That does not encourage individuals to believe they will be taken seriously, or that officials will be familiar with these issues. Councilor Burch said she would like to think that, if one has been discriminated against, and there are already State laws on the books, that one would seek professional advice. Teht Ashmani responded that the volume of occurrences is such that there would be claims on a weekly basis, and that personal resources are not always available to do this. Mayor Dennis stated that he did not want a public debate on these points.

Councilor Burch said that there are already laws on the books by a higher unit of government than city councils. West Lafayette is a diverse and accepting community, and she does respect individuals' dignity as human beings. She feels that there should be compassion and support.

COMMON COUNCIL MEETING MINUTES, OCTOBER 4, 2010, CONTINUED

She is not certain that the ordinance or the resolution, the way they are written, is going to guarantee that there will be no more discrimination. She asked the Council to table this ordinance, and give the Human Relations Commission a chance to incorporate the gender identity terminology from the *DSM*. Mayor Dennis asked if Councilor Burch were making a motion.

Councilor Burch moved to table Ordinance No. 26-10 and Resolution 11-10, to give the Human Relations Commission an opportunity to incorporate gender identity terminology. Councilor Keen seconded the motion.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote on tabling Ordinance No. 26-10 and Resolution No 11-10:

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Bunder		✓		
Burch	✓			
Dietrich		✓		
Hoggatt		✓		
Hunt		✓		
Keen	✓			
Thomas		✓		

Clerk-Treasurer Rhodes stated that the vote on tabling Ordinance No. 26-10 and Resolution No. 11-10 was 2 AYES, 5 NAYS.

Mayor Dennis reported that the motion to table Ordinance No. 26-10 and Resolution No. 11-10 failed.

Mayor Dennis called for any additional discussion from the Council on Ordinance No. 26-10 and Resolution No. 11-10.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote on Ordinance No. 26-10:

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Bunder	✓			
Burch		✓		
Dietrich	✓			
Hoggatt	✓			
Hunt	✓			
Keen		✓		
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 5 AYES, 2 NAYS.

Mayor Dennis announced that Ordinance No. 26-10 passed on first reading.

Clerk-Treasurer Rhodes called the roll call vote on Resolution No. 11-10:

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Bunder	✓			
Burch		✓		
Dietrich	✓			
Hoggatt	✓			
Hunt	✓			
Keen		✓		
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 5 AYES, 2 NAYS.

Mayor Dennis announced that Resolution No. 11-10 passed on first and only reading.

Councilor Hunt stated that this is a difficult issue, and she appreciated the difficulty of people speaking. The Council listened to all the speakers, and she appreciated those who attended and the respect that was offered. She also thanked the West Lafayette Human Relations Commission for their hard work.

Mayor Dennis added his thanks for the courtesy extended to all, and to the speakers for the courage they exhibited.

Resolution No. 12-10 A Resolution Requesting The Transfer Of Funds (MVH) (Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 12-10 by title.

Councilor Keen moved that Resolution No. 12-10 be passed on first and only reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Clerk-Treasurer Rhodes explained that Street Superintendent Downey requested this transfer.

Street Superintendent Downey stated that, as he explained at the Pre-Council meeting, a new paint striper would cost approximately \$140,000. The Street Department currently uses a 1991 striper. The one we will purchase is a 1998 model, which we can purchase from another municipality for \$9,000. This is a nearly-new machine, and will be purchased when the transfer of funds is made. These machines paint the curbs yellow and put the centerlines down the streets.

Councilor Bunder asked where the money is coming from. Street Superintendent Downey answered that it was being transferred from the asphalt account. Clerk-Treasurer Rhodes added that the funds are coming from the Curbs and Sidewalks appropriation.

Councilor Hunt stated that she is always impressed by how Street Superintendent Downey makes these deals and saves the City money.

There was no further discussion.

COMMON COUNCIL MEETING MINUTES, OCTOBER 4, 2010, CONTINUED

Clerk-Treasurer Rhodes called the roll call vote:

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Bunder	✓			
Burch	✓			
Dietrich	✓			
Hoggatt	✓			
Hunt	✓			
Keen	✓			
Thomas	✓			

Clerk-Treasurer Rhodes stated that the vote was 7 AYES, 0 NAYS.

Mayor Dennis announced that Resolution No. 12-10 passed unanimously on first and only reading.

Ordinance No. 27-10 To Amend Certain Procedures Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #68, change required auto and bicycle parking standards in WL Village, and change height requirements in the CBW, R3W, and R4W zones) (Submitted by Area Plan Commission) **WITHDRAWN by action of the Council at the September 30, 2010, Pre-Council meeting until the November 1 Council meeting, to allow for public discussion.**

Mayor Dennis read Ordinance No. 27-10 by title and reported that this item has been tabled until the November 1 Council meeting.

OLD BUSINESS

Ordinance No. 15-10 An Ordinance Setting The 2011 City Budget And Setting The 2011 Tax Levy On Property And Tax Rate (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 15-10 by title.

Councilor Keen moved that Ordinance No. 15-10 be passed on second and final reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis clarified that discussions for this budget began in January with the Budget and Finance Committee hearing presentations by department heads. The Mayor had directed that departmental budgets were to have no increases or to be lower than the 2010 budget. This budget is approximately \$1.5 million lower than the 2010 budget. It is a fundable, practical budget for the City's fiscal situation. There are many stressors in government finance. One of the things known is that revenue is decreasing. The Mayor stated that, even with the cuts made, the City will maintain quality services, and will allow for adjustments, as needed, based upon what might happen with property tax caps and Circuit Breaker.

Councilor Bunder observed that this is his third time through the budget process, and it reminds him of a Kabuki performance—stylized drama; it's long; the actors speak in monotonous voices; the language is difficult, even for the Japanese audience to understand; there are certain gestures that are part of the presentation; and certain themes that come up from time to time. He reported that his favorite one in the history of the budget process in West Lafayette is the Mayor's car. It survives all political stripes of Mayor; it becomes one of the "set pieces." When

a car was proposed for incoming Mayor Mills, there were howls of outrage from the Republican side. So there was no City car for the Mayor, at least no City car for a Democratic Mayor. He referred to Councilor Hoggatt's questions about the Mayor's car at an earlier City Council meeting, stating that Democrats are just not as good at budget-Kabuki as "our colleagues on the other side." He added that part of the given in the budget is the promise that the City is reducing spending. He stated that he would argue that, in fact, the City is transferring costs to the Wastewater Utility, to the Redevelopment Commission, to the Pool budget. He does not believe that the budget is in great shape, once consideration is made for the sources of money for all the services and all the equipment. There is nothing illegal or immoral by using the Wastewater Utility to fund projects, but he wanted to call it to the public's attention, which he would do by voting no. Councilor Bunder reported that he would vote yes on the budget, if the Council meetings were still televised on the local cable, so that people could at least hear the argument. Shelter pets are on Comcast, but the City can't make it on Comcast, he said. Councilor Bunder added he might vote yes, if all the reporters who work for the J-C and TV-18 would still be here in 2013, when he could say, "I told you so" and be right. He said he would vote yes if any Republican on City Council had stood up and said, as the Indiana Association of Cities and Towns Executive Director Matthew Greller has said, "That the citizens of municipalities will pay the price for tax caps portrayed as the obvious answer." They will do that privately, but not publicly, of course. He stated that, with that kind of honesty, he might go along to, but for the sake of the account that will appear in the paper tomorrow, he would like to give a symbolic no to the budget.

Councilor Hoggatt stated that he was pleased that the fire hydrant fees would not be passed down as an extra burden to families. During the discussion in support of the fees, Mayor Dennis was quoted on television that, without passing on the hydrant fees to the residents, there would be "deep staff and service cuts." He is assuming that the Council should make the deep staff and service cuts, now that the fees will not be passed along. He asked where the Council should begin. Mayor Dennis responded that, in all actuality, he is unsure. The Mayor stated that we are still living in uncertain times, when it comes to government finance. One known thing is that revenues are impacted by property tax caps and by Circuit Breaker. We do know that hydrant fees passed on to ratepayers would have created small revenue. To say that there will not be cuts in staff or programs is not certain. The only certainty is that Mayor Dennis and the City administration will do the best job with the resources available, as always.

Councilor Hoggatt asked the Mayor if he believed that the budget, with the fire hydrants maintained, keeps current staff levels for 2011. Mayor Dennis answered that he could not be certain of that. Councilor Hoggatt said that he hears two different things: That the budget is fundable and balanced, we are adding \$14,000 to the Rainy Day Fund in 2011, and we are purchasing new vehicles. A department head said that the City was replacing vehicles that were beyond their useful lifespan. When investigating further, Councilor Hoggatt learned that a 2003 Ford Taurus with 42,000 miles; a 2002 Ford Taurus with 55,000 miles; and a 2003 Ford Taurus with 55,600 miles were being replaced. He stated that many West Lafayette residents would disagree that a 2003 Ford Taurus with 42,000 miles is beyond its useful lifespan. The car Councilor Hoggatt drove today has 127,000 miles, and the one he had in college was a 1993 Pontiac Grand Prix with 193,000 miles. He stated that he knew many residents dealing with much worse than a 2003 Ford Taurus with 42,000 miles. He said that apparently I've gone through three lifespans on my car. Councilor Hoggatt said that if there are areas that can be cut, he can certainly go through here, if we are uncertain about whether we can maintain our public safety services, which is what the fire hydrant clause is claiming. It was claiming that, if we do not pass this tax on to our residents, our public safety services are going to suffer. Well, we're not passing it on, so if we need to maintain our public safety services, he has a few ideas

on cuts. He said that, if you believe that I was correct last month in that, though our budget for 2011 could support this, despite the fire hydrants, I can withstand these things and I can be in tentative support of a budget that does not result in increased taxes and fees for our residents.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Bunder		✓		
Burch	✓			
Dietrich	✓			
Hoggatt		✓		
Hunt	✓			
Keen	✓			
Thomas		✓		

Clerk-Treasurer Rhodes stated that the vote was 4 AYES, 3 NAYS.

Mayor Dennis announced that Ordinance No. 15-10 passed on final reading.

Clerk-Treasurer Rhodes stated that Council members need to sign the budget forms with their respective votes after the meeting ends.

COMMUNICATIONS

None.

CITIZEN COMMENTS

► Ms. Jan Myers (1909 Indian Trail) thanked Councilor Burch for being the first and only Council member who has ever accepted her offer to view life in a wheelchair. Ms. Myers asked whether there had been a timber sale from the trees cut down along North River Road and, in the future, trees which will be taken down along the Celery Bog. She stated that those were all good timber trees and have value of hundreds of thousands of dollars. She hoped that the City did not mulch those. Ms. Myers also raised the issue of the upcoming construction projects on Lindberg Road and on Cumberland Avenue, citing Federal Highway Administration sources that do not permit either road to be closed to pedestrians. If the City has exclusion for pedestrian access, she would like to see it. On another topic, she reported that a recent article in the *Journal and Courier* about infrastructure gave the State a D+ in economic development. One of the factors in that determination is capacity of roadways. The term “traffic calming” has been used, as the City has made street markings narrower with fewer lanes. Streets such as Salisbury and Cumberland were built as and are four-lane roadways. As the City wants to invite more companies to be in the Research Park for all the revenues the City receives from these, it needs to understand that it cannot “traffic calm” the roads and expect economic development. Ms. Myers raised the issue of difference of opinion on the revenue source for fire hydrants. She proposed a different question than the one raised at the Pre-Council meeting, when it was discussed that 130 households have sprinklers and thus it was unfair to have them pay twice. She said that 130 residences is less than 2% of the City. She urged those who object that a \$2 fee when the City is paid directly is no problem compared with 98% of the residents who support 130 households to have sprinklers. If the City really believes it is a green community, then it

should consider banning sprinklers. Ms. Myers said she would save the rest of her points until the November Council meeting.

► Mr. Arnold Sweet (304 Hollowood Drive) stated that he had noticed a leaking fire hydrant at the end of Sumac Drive. He emailed the Mayor, and flags were put around the hydrant, but nothing happened. He also spoke with Councilor Hunt. Someone told him the hydrant had leaked for five years, and the reason that the water company would not repair it is that it is a problem deep in the pipe. When the hydrant fee issue arose, Mr. Sweet sent an email letter to the *Journal and Courier*, but they never published it. The day after the *Journal and Courier* received the email, Mr. Sweet noted that the leak had stopped, but now everyone in the neighborhood has had a drop in water pressure. He also called the Fire Department to see if the hydrant was still functioning, and they said they did not know, that it was the water company's. Mr. Sweet express concern that Indiana-American Water has to make a profit, and it is not in their interest to do maintenance if they don't have to. He is concerned that, if the company is not making enough profit, the water quality in the City may decrease. He is hopeful that the Council might have access to Indiana-American Water maintenance records, or find some State or federal agency that could check into this matter.

Mayor Dennis said they would check to see if the hydrant is functioning.

ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting, the time being 8:22 p.m.