CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES
July 31, 2008

The Common Council of the City of West Lafayette, Indiana, met in Pre-Council caucus in the Council Chambers at City Hall on July 31, 2008, at the hour of 4:30 p.m.

Mayor Dennis called the meeting to order and presided.

Present: Bunder, Burch, Hunt, Keen, Roales, and Thomas.

Absent: Truitt.

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.

Mayor Dennis announced that the Order of Business would be changed, with a presentation by Mr. Jim Treat of O.W. Krohn & Associates, LLP on the excess levy appeal to fund costs associated with the annexation of the 1173 acres.

Mr. Jim Treat introduced himself. He is a partner with O.W. Krohn & Associates, now serving as financial advisors to the City. His firm has a lengthy history with the City. He has worked with Clerk-Treasurer Rhodes for the last twelve years putting together the Clerk-Treasurer's Comprehensive Annual Financial Reports, the books with the City's financial statements and demographic data. This has given Mr. Treat a lot of insights and kept him in touch with the City's finances and financial condition over the years. He and O.W. Krohn & Associates did some budgeting work and a five-year fiscal plan in the past, so he has that background. Mr. Treat and the firm have worked with the Redevelopment Commission on TIF issues for the last few months. This is the first opportunity he has had to come before the Council. He and O.W. Krohn have done a lot of work with annexations and annexation adjustments, one in particular with the City of Westfield last year. After a great deal of work with DLGF, he and O.W. Krohn secured a $3 million one-year adjustment in Westfield's levy for an annexation. In addition, he and O.W. Krohn worked with Westfield in the Legislature to change the law on how annexation adjustments are done, and allow cities now the option to phase them in over a number of years, instead of one year. That's an important change that he and O.W. Krohn were involved in that we'll try to take advantage of, too, in the proposals that are presented to the Council.

Mr. Treat's presentation:
I do want to say, overall the challenges in the annexation arena are three things trying to synch up that are hard to do. Those are: a new area with growth at some level; you've got services needed to be provided, since you have to provide comparable city services at some level each year; and you also then have revenue sources. What you're really trying to do is manage all three of those things as close as you can, and it's an ongoing process

from year to year, to make those all balance. It's not just West Lafayette. That's a really difficult process to manage in any situation. So really, that's kind of what we're going to talk about today, and I will give you more information on how these annexation adjustments work and a little bit about the process. But we're not asking for really any decisions today, because there's a lot of information and we really are presenting options that we want your feedback on and want to have a consensus on. So with that, I want to just go through these sheets that I've given you as handouts today, kind of spur our discussion and start with the first page. We thought it was important to give you a recap of what's already been incurred since 2007 in expenditures by the City from this area that so far hasn't paid any taxes. And so there's a real brief recap on the first page of the handout, in terms of fire services, just for wages and benefits for the three firemen that were hired. It's about $348,000. Another $32,000 in insurance, taxes, operating costs for the temporary station. You can see we've got additional police totaling $267,000 in wages and benefits. There's vehicles and other costs, some Street Department costs, but the bottom line is, just in the last year and a half—through the end of this year, what's budgeted—it'll be about $720,000 that the City has spent in that area, so far. So you can see already that we're starting with a real imbalance of what's going out versus what's coming in. In addition to that, there have been capital costs of over $1 million, to construct and furnish that temporary fire station. Most of the money has been funded with TIF funds so far. If you look at the current year tax rate, what we expect the tax rate to be for this year and assume those folks out there are paying taxes for the first year, there's a net assessed value of about $13.7 million. So they would be paying less than $100,000 this year in property taxes to the City. So that's kind of the comparison we want to show to the investment you're making already out in that area. In addition to that, we're assuming that throughout this process, we're trying to capture the additional costs for public safety and roads that need to be considered. We are assuming that the temporary fire station will eventually be replaced with a permanent fire station. We are hoping that we can find the TIF funds to finance that and make the debt service payments, not City funds, not City tax levies. So that's assumed also going in. Any questions about this cost schedule? I'll keep moving along. So before we get into some of the details, I think it's important—Judy [Clerk-Treasurer Rhodes] has extra copies of the fiscal plan. I don't know how many of you have had a recent opportunity to look at this document, but that was really the key document that had to be approved by the City before that annexation became effective. It basically goes through and talks about what costs those additional services are going to incur and how the City is going to fund those costs. And so that's now three years old, so a lot of things change, but this next page really illustrates one of the more critical changes. And that's in the growth assumptions in that area. Originally, it was hoped that there would be about 2,500 homes built over a 15-year period out there, and with a total assessed value of about $360 million paying taxes somewhere in the neighborhood of $2.8 million a year, just in property taxes. That's kind of the overall assumption that was made, and you'll see it in your fiscal plan when this is going on. Now, we're looking at a slightly different cost structure, and a little higher costs, not dramatically, but we'll go through that detail with you in a little bit. But on the revenue side, we're looking at a lot less money coming in. What we've done in this schedule is we've taken some new growth assumptions that we got from the Engineer's Office that, instead of 167 homes a year, we're really looking at, right now, 30 to 40 homes. I kind of then just sort of leveled out that five-year forecast to an even 50 homes a year as a reasonable level. With those kind of numbers and a cumulative basis, you can see, you know, the total north annexation with some trending adjustments of 4% a year in the base amount. We might get up to $91 million. $91 million, even at your current tax rates, is really not going to pay a lot. That's maybe $650,000 or $700,000 in taxes a year out in 2020. And when we look at a few baseline tax rate impacts for you to look at, these are the assessed value numbers we're assuming when we look at those. Those are really the key points I wanted to make in that area. So let's move on to the next couple of schedules. We're got a couple of really complex schedules that are kind of similar in structure, so the first page is the one headed "2009 through 2012." As I mentioned, the new law, although it hasn't been tested yet as to how it will work exactly, but will allow you to, for one annexation, whenever you want to start phasing in new costs into your levy for that, to do it over a four-year period. The hope there is that it better matches up with the tax base and the tax revenues and doesn't have as quite a great of impact upfront.

Councilor Keen said Jim [Mr. Treat], what's the likelihood that that's going to pass? I mean, what's the likelihood—

Mr. Treat said it's already law.

Councilor Keen said it's already law. Okay.

Mr. Treat said it just hasn't happened. This will be the first year.

Councilor Keen said it just hasn't been tested yet.

Mr. Treat said it's in [HB]1001. So DLGF doesn't know mechanically how they're going to do it yet. We've given them some suggestions. So probably, what we propose is what they'll go with.

Councilor Keen said okay.

Mr. Treat said but it does figure a lot into what we're talking about. It is already law. So what we've done is we've laid out these costs. And let me go through the costs first. I've got supporting detail for all of this, but if we go through all of it, we'll be here all night. What we're showing here—let's just look at 2009 costs. What we're trying to do is, in this analysis, finally capture and start to gain back through levy and other revenues, some of the dollars we've already invested on a recurring basis in these existing police and firemen. So the first year of 2009, the $250,000 and the $246,000 really represent the '09 costs of the police and fire, the three each that you've already hired but you really haven't funded. You're paying out of your cash reserves and cash on hand. That's the situation we've got to find a solution to. Then what this also does is then proposes to get your full staffing at the new station when it occurs and balance out your staffing throughout the City. You've got potentially three more firemen in 2010—that's the $264,000 number—and then three more in 2012. And there are also—it's not just—there are some operating costs for the stations, but most of it's the benefits and the first class salaries of the firemen. Then, likewise, on the police section, the $246,000 really represents the '09 estimated cost of the police and the one vehicles, the three that you have. Then potentially one more new officer in 2011 and one more new officer in 2012. Then on the City Services and Street lines, we've isolated some additional costs related to streetlights and hydrant rental, which you have to pay to your water utility, public hydrant rental. Also, the $35,000 represents the new costs incurred for things in the Street Department such as snow removal, signage, painting, and those type of things. Please remember these are all incremental costs, so when we have $500,000 in '09, then we have an additional $267,000 in '10 and then an additional $114,000, so we're not building up the costs. On this schedule, but they really are a building block of costs. So eventually, we're looking at this trying to fund $1,285,000 in this scenario.

Councilor Keen said are we referring to just recurring costs right now, or are we referring to—?

Mr. Treat said we are referring to just annual recurring costs right now.

Councilor Keen said so streets, sewers, all that kind of stuff is not figured in to this kind of stuff?

Mr. Treat said sanitation and sewers are totally separate. These are City Services, public safety, General Fund-type funded operations.

Councilor Keen said it's for the operational kind of things.

Mr. Treat said yes. And then when we look at the revenues, this is where we get into the appeal assumptions. What we've done is we've assumed a certain amount in each year here, and that's what I've labeled "Property Tax from Appeal" in money that we would request DLGF to make as a permanent increase in your maximum operating levy. And, then, of course, we would budget that amount for the same year. That would help to fund these costs on the top half of the page. The other things that will come along with those increases in property tax, you will, on a one-year lag basis, you'll get additional income tax, COIT and EDIT tax, because the COIT and EDIT are based upon your levies. So if you have an unusual jump in your levy that's beyond the 4% that everybody else is getting, you should get a little bit more of the County pie. Based on historical numbers from the past couple of years, we've assumed that to be about 25% of the property tax new levy jump you'll get in income taxes starting the following year. So those help a little bit. You'll also get some additional LRS distribution, because of the additional road miles. There are some distributions that are just based on additional road miles, and that's 10 miles? I think it was 10.5 miles, something like that. And that's not a big number, but we want to take it into consideration. So you see in that first year, we've got about $500,000 in costs and we've got about $140,000 in revenue. What the plan was was to try to really minimize and phase this in in a number of ways, not just by doing a four-year plan, but also by using funds on hand, so we're not asking for an increase of $300,000 to $400,000 in the levy in the first year of this. So we're using in this scenario, see $313,000 is the shortfall, basically, which is going to come out of cash on hand, the Rainy Day Fund. That's kind of how it's built from there. Then the next year, we do add that $313,000 in again, if you want to understand the schedules, so that we can either fund it permanently or fund it with cash again. And then we carry that forward until all those recurring costs are covered in some fashion, either through income tax or property tax or other sources. What we've done in this scenario is if it's the consensus to do some kind of an appeal for the PAY 09 budget that you're working on right now we would suggest a fairly modest one, and use your cash on hand to keep that number modest. Because, as you've seen, we don't have much tax base out there, and so we don't want to jump on a really big number there for the first year. And what this would show—that $130,000, using the tax base number that we had on the prior page, would represent about $0.01, basically, in additional tax. Or, if it's more helpful for you to follow, for a $200,000 home, based on how they're going to be assessing and taxing those homes under the rules next year, which are all changing, that $0.014, in this case, would be about $14.00, so about $1.00 a month. It's something. It's not dramatic, but it's something, and so that's kind of how this builds. And then what we would do the next year is we'd still use some cash, so maybe we would ask for $230,000, and up that rate to maybe an additional $0.02 the next year, which is about $23.00 a year additional tax. And then the following year—again, this all assumes you want to do these expenses at the top, and it shows you one scenario for funding them. And this shows then cumulatively, what you'd be doing is you'd get just under $1 million in the property tax levy from appeal. So you'd eventually have a permanent increase in your levy, which is about $8 million now, by this $900,000 to $1 million. But because of the new rules, trying to keep this as straightforward as I can—and it's difficult because the rules are complex—but because of the new rules, what we would do in a scenario like this I would propose that we do a modest request the first year, both to get it and to be responsible to the taxpayers, and then every year we've got to go back in and then we reevaluate each year what makes sense for the remaining three years of this appeal. What's our cash balance? Do we have more cash to use? Can we lower that second year appeal more? What are our expenses? So any decision you make this year would be pertaining to a potential first year appeal amount. You're not locked in to any of the future amounts. It's got to be an annual process. They'll know that you're planning on coming—

Councilor Keen said so if we had a growth of not as much as we anticipated, we can make that adjustment the next year?

Mr. Treat said yes.

Councilor Keen said or if we had more growth, we could make that adjustment.

Mr. Treat said yes, it could be more than this.

Councilor Keen said okay.

Mr. Treat said or the expenses could change, you could come up with another game plan on the expenses of the staffing. You've got all those things, but it's real important to realize it's kind of daunting to think you might do this in one step and make this kind of a commitment, even though, technically, you've made the long-term commitment to this neighborhood, and you do have to fund it. But at least we don't have to nail it down based upon rough estimates that we're making right now, although a lot of work has gone into building these costs and, as I said, we can share the detail with you. Does this sheet sort of make sense, hopefully? I know it's a lot. I'm a CPA and I had to study this a while, to make sure we had all the pieces in the right place. Let me go on then, and I don't know that you have to really look at all the numbers on the next page, because they don't really look dramatically different, but one of the things that the Mayor tasked us with doing is trying to see how long we could really go and make this work and not go forward with increasing our levies and increasing taxes on folks, and wait and see what kind of build-up occurred out there and those kind of things. So we tried to see if we could find an option where we would potentially not do appeal for 2009 and wait until 2010. Now, of course, that builds up the costs a little bit more, and if you look at our grand totals, it's maybe $100,000 more under the same assumptions, just really because of inflation and you would have to wait to add some of these people, potentially a year later than what you're planning on doing, but what we're saying is potentially it is feasible to do that. And these would be the numbers and the tax rate impact and such. Not dramatically different, but it does give you an option to do that. There are a lot of things to consider when you're thinking about that. It's another year out there that you've committed to these recurring costs, but you're draining down your cash reserves to do that. You're just in a little bit more tight situation the further you go out, without at least taking some kind of action in the first year. I think that kind of covers that issue of, you know, we really did want two options there. I don't know that you have the option not to do anything, because you've got to serve this area, and you've got to have a plan. Unfortunately, it's going to be somewhat not as favorable as the plan you started with three years ago. That's just the reality of the situation that we have to deal with. I'll move on to the next page, because that really compares the plan and it gives you, on the left side of the page—

Councilor Keen said on the 2010 to 2013 annexation spreadsheet, in year 2012, the appeal for that year was listed as $18,000. Is that—? It seemed like that was awfully low.

Mr. Treat said it is, and that's because, by the third year, because of the size of the increases in the levy, the first two, under that one, in 2010, we'd be asking for about $306,000, and in 2011 we'd be asking for $385,000. If you did that, by the time you get to 2012, your property tax levy will increase your distribution of your COIT an EDIT. What's helping is that $98,000 under the $18,000 is—you'll get $76,000 more in 2011, and then an additional $98,000. Because we didn't budget much more new expense in 2012—it's just a little over $100,000, that new property tax covers almost all of it. So we may end up with the situation we're in this year, where you wouldn't ask for anything in 2012. Or we might take some of the 2013 stuff and spread it back. But it's a good observation. That does look odd, and it's because it's funded by income tax, hypothetically.

Councilor Keen said I just wanted to make sure.

Mr. Treat said sure. And then the next page gives you a more detailed comparison of the original annexation plan and our current costs. For current costs, I used the 2009, the first sheet numbers, so they would tie out. I didn't do both of them; they're not that much different. But you can see on the policemen $490,000 is what they had included. We're at about $440,000. It's the fire that's really the biggest difference as far as additional costs, the need to have—there are three more people and the cost for those people, for all the people, have increased quite a bit from what they assumed. A lot of the costs they called street maintenance were really sanitation-type things that now are being considered part of the Wastewater Utility, so we don't' have to fund those out of property tax money. We got a $200,000 offset of money we wouldn't have to spend. When you get to the bottom line and you see that they had thought over the 15-year period, you'd spend about $1.1 million more, we're looking at, on the first plan, about $1.285 million. It's about a $155,000 difference, not a dramatic difference, given the time that's elapsed. What is different about it is the tax base isn't there that you'd hoped would be, and it doesn't look like it will be there for a while. The timeframe is just not going to work to spread it out over that many years, because of the way public safety works and you have to staff a fire station. If you're going to have it, you can't just have one fireman every other year. It doesn't happen that way. The other piece of that—and we've done a little chart, actually with Judy's [Clerk-Treasurer Rhodes] help—the revenue side of things. Not only are property taxes down, but there were some different assumptions made, in terms of how income taxes would come in, and this blue line shows what those assumptions were to 2020. Our assumptions are over the appeal years, the first four or five years, you're going to get about $200,000 more in income taxes, but after that, not appreciably more. The bump in the income taxes is more related to the bump in the levy, because that's how the taxes are distributed, by your share of the levies for all the units in the County that get income taxes. On a large-size appeal, it will show an increase. To get the kind of increases they were forecasting was really based upon a big growth overall, County-wide, that everyone would share in. We're just not really seeing that when we look back at the last several years of history, we're not seeing big changes in your income taxes. It's pretty static. So you really hate to build a plan that's going to count on those numbers going up so dramatically. That's really what we're trying to illustrate here. Those are the major sheets that that we wanted to cover tonight, but I want to emphasize that we want to build consensus for a plan. We're not making any decisions tonight, but if you do make a decision to do an annexation appeal this year, you're not locked in to a long-term plan. We're not really locked into a number for a while. Like everything else in the budget, we have to kind of establish maximum limits. So for your publications and your budget forms and what goes in the paper, you have to have a maximum limit, so we might not want to use $130,000. If we do that first year appeal, we might want to use $150,000 or $200,000 or something like that. And then there will be a resolution that has to occur before the final budget approval that specifically authorizes us to file a separate filing, an appeal filing on your behalf That's filed with the budget this fall with DLGF. And then there's a separate set of hearings that considers that appeal that we would go to ourselves, and the Mayor and the Clerk-Treasurer and anyone from the Council that's interested and actually build our case to say, "Yes, these are necessary costs, they're necessary to serve the annexation area, they're reasonable." And document it and prove our case and then get it approved. And even at that point, whatever they might approve in terms of an appeal, until you sign off on your final budget the next spring, you're not saying you're going to capture all those dollars. There's always an opportunity to come back and say, before the orders come out, you just got yours for this year, unfortunately, because things are way behind—there's a final look and a sign-off by the City on those numbers for the budgets, now that you really know what your assessed valuation is, you really know what the tax rates will be, and you can—and I've had clients do this before—come back at that juncture and say, "Well, you know, we really projected that was only going to have a one-cent increase on our rate and it's not, it's two cents or whatever. And we don't want that. So we're going to cut that back and only take a portion of it." Now, you're going to lose half of it going forward, but my point is you always have another out to reevaluate and make sure it's going to have the impact from both directions that you intended. I think that's an important thing to understand, because you will be asked to make some decisions here in the near term, because we do have to build anything that we do want into the budget, and most of it's already in there for the first year, because you've hired these folks and they're there and it's the funding question that we've got to address. With that, I'll answer any other questions or let the Mayor—

Mayor Dennis stated that it is important to emphasize that the annexation levy appeal is a request. There is a process, should the Council decide one way or the other, it still has to be justified in front of DLGF. Another decision point is whether it's done in 2009 or 2010.

Councilor Keen asked Mr. Treat what are the different advantages or disadvantages to holding off or going ahead.

Mr. Treat said right. Well I think the disadvantage is that you—well, how do you want to put it?—by waiting, you're relying on your cash reserves, you're spending down to where you don't have that Rainy Day Fund—or much of it, if you've got other things that happen. If things don't go well at DLGF and they say, "Well, why do you need all these people to serve an area that has 118 homes?" —or whatever the number is then, 150, let's say. I mean, you're going to get hard questions. We always get these when we go to these deals, and so they may not approve it or they may not approve all of it. And by waiting another year, you're just kind of that much further in the hole. So there's some risk there. Now, the upside of waiting is that you defer the impact of any tax increase. You get more time to see what happens next year when new assessments and new ways of calculating rates come in, because everybody's tax rates are going to be different. Just because tax rates go up doesn't mean the homeowner's going to pay more taxes, because they're going to calculate them differently. The deductions are different, particularly for residential. On the average, your assessed value, at least for average-priced homes between $100,000, $200,000, $250,000, will probably be 35% less right out of the box, because of the new deductions that they're taking against gross assessed value. Then they apply the tax rate. Just because the tax rate goes up, maybe dramatically, doesn't mean a homeowner—they'll still be paying less taxes. So there's a lot of things that are going to fall out there that maybe we'll have a better idea of next year by doing it. The other risk of waiting is that you've got a little it harder story to sell down at the State, because part of the appeal is to say, "These are the necessary costs to serve this area as it needs to be served, and these are the services we cannot provide and fund if we do not have this appeal." I mean, that's the standard you have to meet. And so if you've hired these folks in late 2007 and they're there for 2008 and '09, and now you're coming in '09 for '10 and saying, "Well, we can't pay these guys, and we can't fund this," it's a little bit harder to convince them if you've been doing it for 2½ years than if you haven't. Now, we've got ways—we'll have to provide analysis with lots of cash flow analysis and cash balances and trends of showing how your General Fund and your other fund balances have been eaten into—but I'm trying to kind of lay out all the pros and cons. There isn't an easy answer. There isn't like, "This is the obvious right thing to do." We have to decide as a group what's best for the City in the long run, and what's best for the taxpayers, based on the information we know, if that's to go ahead with a modest increase now and then take another look and step back next year, or wait. We can hopefully make it work either way.

Councilor Keen said I guess what I'm hearing you say is there's really not an overwhelming reason to delay, if any. It might be more of an advantage to us to go ahead with this. The other question I was going to ask you, though, before I forget. Over the course of the four years, what is the total cumulative rate increase that is possibly expected. I know it's going to be a guess, but—

Mr. Treat said well, what I'm showing and I've got it right here on your schedules—

Councilor Keen said okay, I didn't see that.

Mr. Treat said we're looking at potentially at that bottom line on your schedule, $0.09. I know it's a huge number, but we're putting it out there because we're being up-front about it. Now, what's that's $0.09 on, I don't know what else is going to happen, and that's what's going to change dramatically, and hopefully it will be less than that. If that area continues to grow, it will fall, it won't increase. But it could be that much, if you end up increasing your levy by $1 million, that's the ballpark that we're talking about here. It could be that $0.09. Maybe $0.08 or $0.09, something like that.

Councilor Roales said what's the appropriate size for a Rainy Day Fund for a city with a $20 million budget like ours? What do you see like an average or what would you recommend?

Mr. Treat said it's all across the board. I don't know if I'd go based on what other cities do, because a lot of them don't even have—we like to see about 25% of your appropriations. Is that what you're at, you're at $20 million, Judy [Clerk-Treasurer Rhodes]?

Clerk-Treasurer Rhodes said we have been closer historically, probably in the early 2000s, we were probably closer to 20%, if you're referring to operating balances in the General Fund. We seldom have Rainy Day Funds in this City. We usually have left our operating balances in the General Fund, in Parks, and the Pension Funds. The Rainy Day Fund really gets funded automatically when there is excess income tax distribution which occurred this year of about $300,000, and then when we had the change in the function of the pension plans. One of the things they will ask us when we go down is they will ask us, "Have your transferred money into your Rainy Day Fund from any of your property tax funds in the last three or four years?" The expectation is that there will be an explanation of whether those funds are helping to defray some of the annexation costs. That is why the proposal to phase in the annexation appeal, using partly the Rainy Day Funds, would be more likely to result in a successful appeal. We have been struggling in the last several years to maintain a 10% balance as a percent of budget in our General Fund. That has been one of the things we've been working toward, as you know. We're not able to do that the last several years.

Mr. Treat said 10% to 20%, I would say, is a range of a benchmark, if you can do it.

Councilor Roales said so if we had 10%, and we went down there to ask the DLGF for an appeal, they would see that to be appropriate?

Mr. Treat said yes.

Councilor Roales said they wouldn't see that to be overly high?

Mr. Treat said no. Are you thinking they'd want you to spend it down more potentially?

Councilor Roales said yes.

Mr. Treat said now, because they really recommend, when you go through the budget process, apart from any appeals, they really try to recommend that you have fairly high operating balances on the forms that actually show what you're talking about, comparing that. And they're always telling people, "Lower your appropriations and put more in the operating balances, because you're not putting enough back." So generally they do that, so they wouldn't, in most cases, I would say, recommend that you take it away. Now, if you had something that looked like a real windfall, that might happen. But generally, from my experience, that has not been—

Councilor Roales said okay.

Mr. Treat said the case. That has not been a problem. It's just more them getting their hands around why does it cost so much and how can you justify the cost for this area, depending on what the status of the area is and some of those kinds of things.

Councilor Roales said okay.

Mayor Dennis said, Jim [Mr. Treat] is there currently a structural problem with our budget?

Mr. Treat said well, yes, I think the charts that we have kind of illustrate it, that we've got a commitment here for an area that, if we've got growing from maybe $14 million to $90 million, based on our current scenarios, we've got maybe $600,000 or $700,000 in property tax coming in a year, if the rate's still around $0.70 to $0.80—whatever that rate turns out to be, it's going to be in that ballpark—and even in current dollars, we're talking about a cost of over $1 million to fund, $1.2 million to fund, mostly with property taxes. So yes, unless at some point in time, the economic prospects for that area—whether it's residential growth or commercial—change dramatically, yes, you've got a structural imbalance kind of built into the system that you've got to deal with.

Mayor Dennis said and I don't mean to put you on the spot, but must that be solved by an annexation levy appeal?

Mr. Treat said well, that would be one solution, yes. That would be probably part of the solution, but a required part of the solution. I mean, at some point, you're going to have to do something like that. Now there are only four different ways to appeal your levy, which is down from about 14 before House Bill 1001. One of the four is annexation adjustments. There's not too many left. You have already gotten an adjustment, by the way, and if you see a number on our schedules that I didn't talk about that was like $93,000, when a city does an annexation, there is an automatic adjustment figured into the formula based upon what percentage new AV that year—snapshot basis—came in, versus what the AV is for the old part of the City, the prior part. And so that percentage, they adjust your old levy for, and you got like $93,000. You will get, you haven't gotten anything yet, but you will get it. It's in your budget order. So there is $93,000 that they're saying that should fund the cost of serving this area. There's a little piece there. It's permanent. You'll get that every year, if you use your max levy. And we factored that in and adjusted our request down by that amount.

Mayor Dennis said okay, but overall, that's—

Mr. Treat said well, that's not going to do it.

Mayor Dennis said right.

Mr. Treat said every little bit helps is more my point.

Councilor Hunt said what are the other three options that you talked about the DLGF will allow you? You said one is the excess levy. What else is there?

Mr. Treat said I might have to look at the list.

Councilor Hunt said that's okay. I mean, another time you could tell me.

Mr. Treat said yes, I mean, I do have them here, I don't—

Councilor Hunt said it doesn't seem like there are that many options.

Mr. Treat said no, there are not. Growth will be the common one. For my clients, being in Hamilton County, and a lot of my clients are in Hamilton County, almost all of them have pretty much an automatic growth adjustment. There is correction of an advertising error. I've never seen that one work. Property tax shortfall due to erroneous assessed value. Well, I'm not sure how you prove that. I've not done one of those either. So those are the kinds that are left. I've got copies of some of the forms—well, they're really just the annexation piece, but the cover kind of lists what they are.

Councilor Hunt said okay.

Clerk-Treasurer Rhodes said I will make one comment. Some of you may remember last year there was a comparison of West Lafayette to other cities of our size and population, and comparison with other cities that had similar levies. I've updated that for current times. The group of cities that is similar in population to ours has a levy that is about 174% bigger on the average than ours. They consequently have a lot more money to fund Police and Fire. The cities that actually have levies almost identical to ours have a population on the average of about 17,000. West Lafayette's levy is probably based more on the historical circumstances when the levy freeze went in and the fact that it hasn't seen large commercial growth and associated annexations. So we are very strapped when it comes to being able to allocate the levy for an expense that's outside of normal City operations. Supporting this annexation is beyond the means of the City to support without an annexation appeal.

There was no further discussion.

UNFINISHED BUSINESS:
Ordinance No. 22-08 An Ordinance Amending The Procedures And Composition Of The City Of West Lafayette Traffic Commission (Submitted by the City Attorney)

Mayor Dennis asked Councilor Roales about the modification to the ordinance he submitted. Councilor Roales said he distributed that to the Council at this meeting. The main point is the composition of it. There were questions at the last meeting about definitions of "businessman" and "appointed by Purdue." The amendment is an attempt to clarify that and to make some adjustments to better represent the diverse community we have.

Councilor Hunt said that she liked the breakdown of the Purdue representatives. She asked about the member from the Chamber of Commerce, whether that would have to be someone who has a business in West Lafayette. Mr. Roales said that wasn't specified. Ms. Hunt said she would prefer that, because there's a person on the Traffic Commission now who represents the West Lafayette business owner, and even though she doesn't live in the City, her business is here, and she brings a great viewpoint. Mr. Roales said he didn't think she'd be outside the lines. Ms. Hunt said her concern was that commission already has members from Lafayette, and she wanted to maintain the West Lafayette focus.

Councilor Burch asked Councilor Roales to clarify the representative "not natively born in the United States." Mr. Roales responded that Purdue University has 6,000 international students, a significant portion of the community. If one were to include the professors and graduate students as well, Mr. Roales said well over 20% of our community is not natively born. He said that Councilor Bunder has highlighted in the past some difficulties that individuals that are not native English speakers have in dealing with road signs and dealing with enforcement. So it would be a great step for the City to have that point of diversity explicitly on this group, so that that group can be accommodated when making sure that City streets and enforcement is safe and clear. Councilor Hunt said there are already two on the Commission. Councilor Bunder said it already happens.

There was no further discussion.

<u>NEW BUSINESS:</u>
<u>Ordinance No. 24-08</u> An Ordinance Providing For Temporary Loans From A Fund Having Sufficient Balance To A Depleted Fund (WWTU to General Fund) (Prepared by the Clerk-Treasurer)

Mayor Dennis read the ordinance by title and called on Clerk-Treasurer Rhodes to provide background. Ms. Rhodes said this is again a need to cover expenses until property tax collection and distribution in our county occurs. Councilor Keen asked if it was necessary to have two readings. Ms. Rhodes indicated it was.

There was no further discussion.

<u>Ordinance No. 25-08</u> An Ordinance Requesting An Additional Appropriation Of The Motor Vehicle Highway Fund And Consolidation Of The LOHUT Fund With The Motor Vehicle Highway Fund (Prepared by the Clerk-Treasurer)

Mayor Dennis read the ordinance by title and called on the Clerk-Treasurer to give details about the ordinance. Clerk-Treasurer Rhodes explained that this is the method for consolidating the Wheel Tax Fund with the MVH Fund. In effect, this is to eliminate the LOHUT [Wheel Tax] Fund, transferring the LOHUT Fund cash balance and future revenue from wheel tax to the MVH Fund. Additionally, the original LOHUT appropriation will be re-established in the MVH Fund, and there is an additional appropriation to include funding for Salisbury Street Phase 2. None of this will occur until there have been two readings and a public hearing, and notification of approval by the DLGF.

There was no further discussion.

Ordinance No. 26-08 Amendment To City Code Making Any Violation Of City Code A Violation Of The Ordinance Violations Bureau (Filed by the City Attorney)

Mayor Dennis read the ordinance by title and asked City Attorney Burns to provide background on this ordinance. City Attorney Burns said that this is an attempt to give the City more enforcement options, not to change the laws on the books in the City of West Lafayette. When people do not follow the City Code, the City is forced to get compliance. Traditionally in all cities, that compliance was to send a letter or visit the violator, ask them nicely. If there continued to be a violation, the only option was to file a lawsuit, which is expensive, time consuming, and not citizen-friendly. Several years ago, the State legislature created an alternative, the Ordinance Violations Bureau. West Lafayette has an Ordinance Violations Bureau currently, but the selection of City Code violations that can be enforced by the Ordinance Violations Bureau is limited. There are eight of them, and they're in City Code 20.08. This amendment allows the Ordinance Violations Bureau to enforce any violation of any provision of the City Code. It is still an option to deal with those serious offenses that are viewed by the City as critical to be dealt with in court. This ordinance does allow a ticketing process, after a warning. The ticket would be payable at the Clerk's Office through the Ordinance Violations Bureau. The first offense would be $50; the second, $100; the third would be $250. If the individual chooses not to pay the ticket, then the City would bring the case to City Court, asking that the City Court Judge rule in the matter. Mr. Burns said it is an effective process, it is flexible, a system of increasing enforcement, and is cost-effective for the City. Many cities, including the City of Lafayette, use this process.

Councilor Hunt said she had talked to City Attorney Burns today. She asked if over-occupancy would be one of the violations. Mr. Burns indicated that it could be. He felt this might be a good example of something that might be dealt with with a warning and then a ticket, if not resolved. Ms. Hunt asked if a door hanger would be the warning notification. Mr. Burns suggested a letter might be used. Ms. Hunt then asked if a ticket would be issued. Mr. Burns said yes. Ms. Hunt inquired if the Court appearance would be the following Thursday, rather than several weeks later, at City Court. Mr. Burns responded said that the timeframe would be up to the administrative officer, but a 20-day period for payment would be allowed. Ms. Hunt asked if the second day the individual seemed to be in violation would be a separate violation. Mr. Burns responded that the tickets could be written every day, if necessary. Ms. Hunt reported that everyone is worried that a long-term abuse of over-occupancy or other health and safety issues might be a weakening of the policy. Mr. Burns answered that it is not in the least; it is merely an add-on, giving more tools. It would likely not be used in those more serious cases such as occupancy, issues with the fire code, over-occupancy, things of that nature. This is for weed height, trash, refrigerators in the alley. Ms. Hunt said she did not want the code enforcement to weaken. Mr. Burns said his experience is that it would not be a weakening, but be a great strengthening, an additional tool.

Councilor Burch asked if "each day on which a violation occurs" meant that a first offender would have 20 days to pay the $50, then the start counting additional days. City Attorney Burns said a ticket could be written every day, although he did not think that would happen.

Councilor Thomas asked if the second ticket written would be the second offense. City Attorney Burns responded that it would be. Mr. Thomas then asked if the third ticket would be the third offense. Mr. Burns answered that it would be. Mr. Thomas asked if any ticket after the third would continue to be the third. Mr. Burns said it would be the third offense, because the top fine is $250.

Councilor Keen asked if the second offense had to be for the same violation. City Attorney Burns responded that it did have to be. Councilor Keen asked if he were cited for weeds on one day, and then get cited for trash the next day, it would be the first offense on each one. Mr. Burns confirmed that it would be. Mayor Dennis noted they are two separate issues.

Councilor Roales asked if the City Judge would have the option of reducing the fine, if the individual were found guilty, could the fine be less. City Attorney Burns responded that the Judge probably could fine less or plea bargaining could occur.

Councilor Bunder thanked City Attorney Burns for addressing the issue of ticketing. The one area that Mr. Bunder expressed concern about was Section 117 that deals with rental property, hoping that an incorrect affidavit would not go from $1,000 to $50, or a second instance of filing an incorrect affidavit go from $2,500 to $100. Mr. Bunder said the prospect of those made him nervous. Mr. Burns said that certainly would not be his intention. Most of the housing violations have a separate track, using different tools the City has. The housing appeals process tends to be a little cumbersome, but in serious cases, the larger fines get the attention of the individuals.

There was no further discussion.

<u>Resolution No. 14-08</u> A Resolution To Reduce The 2008 Budget (Prepared by the Clerk-Treasurer)

Mayor Dennis read the resolution by title, and asked Clerk-Treasurer Rhodes to respond to it.

Clerk-Treasurer Rhodes explained that, as part of preparing the 2009 budget, the budget for an 18-month period is prepared—the last half of 2008 and all of 2009. When requests are made for budgets for 2009, the City looks through the 18-month time period. When it appears that the City can't fund the 2009 budget, one option is to examine the 2008 budget and reduce it, if there are amounts appropriated which are not deemed to be necessary in 2008. That is what was done here, by asking for a reduction in the Local Road and Street Fund of $45,000, and in the Cumulative Capital Improvement Fund of $550. This enables the City to fund the necessary expenses for 2008 and fund the 2009 budgets that are expected to be filed. This action will be incorporated in the budget forums that will be prepared for the budget filing in the next week. This is not an atypical action, as Council members who have been here in prior years may recollect.

There was no further discussion.

Resolution No. 15-08 A Resolution Requesting The Transfer of Funds (Sanitation, Legal, LRS) (Prepared by the Clerk-Treasurer)

Mayor Dennis read the resolution by title, and asked for any questions.

There was no discussion.

ADJOURNMENT:
There being no further business at this time, Councilor Keen moved for adjournment. Motion was seconded by Councilor Burch, and Mayor Dennis adjourned the meeting, the time being 6:35 p.m.

Respectfully submitted,

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