

CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES
AUGUST 2, 2007

The Common Council of the City of West Lafayette, Indiana, met in the Board of Works Room at City Hall on August 2, 2007, at the hour of 4:30 p.m.

Mayor Mills called the meeting to order and presided.

Present: Griffin, Hunt, McMullin, and Satterly.

Absent: Keen, O'Callaghan, Truitt.

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

UNFINISHED BUSINESS:

Ordinance No. 14-07 (Amended) An Ordinance For An Additional Appropriation To Pay A Judgment Rendered Against A West Lafayette Police Officer For Actions In The Pursuit Of His Duties As A Police Officer **PUBLIC HEARING** (Submitted by the Police Chief)

Mayor Mills said we will have the public hearing for that.

Councilor Satterly said and I see it was reworded there?

Councilor Hunt said "second-guessed" was "not validated."

Councilor Satterly said "second-guessed" was made "not validated."

Councilor Hunt said right. That's what I have.

Councilor Griffin said so this was to move—?

Councilor Satterly said did we get an amendment?

Mayor Mills said there is an amended out there, yes.

Councilor Satterly said there is?

Mayor Mills said I'm reading it and I'm thinking, "Well, that's what it says," but I picked it up outside, that's why. So there's an amended version on the table. Okay, any further discussion on that one?

Councilor Hunt said I have a couple questions.

Mayor Mills said okay.

Councilor Hunt said I talked to [Police] Chief Marvin this morning, and he gave me some information I didn't even know, hadn't heard. I'm wondering, could you tell some more about what we talked about this morning, about some Indiana statute—?

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Police Chief Marvin said I think there are some good points to remember about this whole process. This is a case from 2002, where Officer Ferguson was sent, along with another officer, on what started out as a noise ordinance complaint and fireworks, illegal fireworks. And as he was responding, he could hear loud music and saw a bunch of people out in front of this house. As he parked and started to go up, a bunch of people ran inside the location. And as he was coming up the walk, he was greeted by the complainant in this case. He explained to him that he was there because of a noise ordinance complaint, and asked him if he was a resident, and the kid said that he was. He asked him for some ID, and the individual produced a driver's license. He held a short conversation with the individual, told him that he was there because of a noise complaint, and he saw a bunch of people run into the apartment. It sounded like they were having a pretty big party, wanted to know if everybody was 21. They had a short conversation about that, and at some point the individual wanted his driver's license back, and the officer told him, "Well, you know, you're going to get a citation for the noise ordinance violation. You'll get it back when I'm done." At that point, the individual said, "No, I want it back now," and he reaches out and grabs the officer by the arm, and with his other hand, grabs the ID and tries to rip it back out of the officer's hand. So, obviously, at that point he has assaulted the officer, so the officer did arrest him at that point. He was arrested for, I think, battery on a police officer, resisting law enforcement. I think he was cited for the noise ordinance violation. But in any event, whenever an officer uses force, they have to complete a Use of Force form, and, of course, a report form. The case report was reviewed by the shift commander. The shift commander read the whole report, didn't have any problem with the officer's response or what had happened or the use of force. The other officer that was there on the call that assisted didn't have a problem with how the call was handled or the use of force. The Use of Force form itself that was completed, that had to be reviewed by the shift commander, the captain of the patrol division, a defensive tactics instructor, and then that's forwarded to the Chief. That was reviewed by everybody listed above. Nobody found a problem with how the case was handled or the use of force that was employed. And the case then, once completed, of course, is forwarded to the Prosecutor's Office. The Prosecutor's Office reviewed the investigation in the case. And the Prosecutor's Office obviously didn't have a problem with the investigation in the case or the arrest, because they, in turn, filed charges against the individual, and he had to go to court. Where we had the issue was during the jury trial, the jury acquitted the individual of the charges. And, of course, subsequent to that, the individual filed a lawsuit against the City and the officer. The insurance company for the City hired a law firm to defend the City, and the officer—which they vigorously defended. Obviously the law firm felt that it was a good case, and that the officer did the right thing with the investigation, because they did defend it, didn't just settle. And as it went through, there's been a lot of talk about the lawsuit. I brought a copy that I can distribute of the actual findings from the jury. You can actually read through and see what the findings were. If you look down through, you have all the legal language to start with. You get down to the bottom of the first page and the beginning of the second page, it starts talking about the actual findings of the jury. And you'll see there that, as far as the—and he was suing for several things. He was suing for false arrest, excessive use of force, and malicious prosecution. And you can see on the false arrest against the officer, the jury found in favor of the complainant, for the plaintiff, rather, for \$1,000. Excessive use of force, they found on the side of [Officer] Adam Ferguson, they found that there was no excessive use of force. And on the malicious prosecution, they found on the plaintiff's side, and they awarded him compensatory damages in the amount of \$18,000, and punitive damages against the officer for \$20,000. And then on the false arrest claim, they found on behalf of the plaintiff for \$1,000. And then on the battery against the City, again, they found in favor of the defendant, West Lafayette. So basically what we're talking about here is they found against the officer for false arrest and malicious prosecution, basically. And this is a case where the officer responded to

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the call and did his job, and did what he really thought was the appropriate course of action. It was within policy, and we support him on that decision. We don't feel that he did anything wrong. Obviously, again, the Prosecutor's Office must agree with us, because they did prosecute the case in court. So we feel it's important that we support the officer, so that they know when they go out here and use their best judgment, operate within the policies and they're doing the best job they can and they're using good faith judgments to do their job, that we're going to support them.

Councilor Satterly said why would they find a malicious prosecution against the officer, when the Prosecutor's Office is the one that did the prosecution, the officer didn't?

Police Chief Marvin said I can't explain to you why juries do what they do.

City Attorney Bauman said remember, a jury found O.J. [Simpson] not guilty.

Councilor Satterly said I know that, but—

Police Chief Marvin said I don't have an answer for that, sir.

Councilor Satterly said the police officers don't prosecute, the Prosecutor does.

Police Chief Marvin said I don't have an answer for that, sir.

Councilor Hunt said so that was a big chunk of the money.

Councilor Satterly said yes, and that was \$18,000.

Police Chief Marvin said I think it's important to remember here—

Councilor Satterly said and cumulatively \$20,000.

Councilor Hunt said yes.

Police Chief Marvin said the insurance company cannot cover the damages against the officer here. But what I think what's important to remember is our Legislature had the foresight and wisdom to realize that these type of situations can occur, and they did enact legislation that specifically allows for the municipalities to go ahead in these type of cases, to go ahead and pay the judgment on behalf of the officer, if they feel it's in the best interest of the municipality. So legislators recognize that these type of things do happen, and they have laws that allow us to do this.

Councilor Satterly said what was the excessive force they were talking about?

Police Chief Marvin said well, obviously, the individual grabbed the officer by the arm, and he's trying to wrestle the license away from the officer. The officer had to use force to arrest him.

Councilor Satterly said what force was used?

Police Chief Marvin said if I remember, he was taken to the ground and placed in handcuffs.

Councilor Satterly said and that's excessive force?

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City Attorney Bauman said well, no—

Police Chief Marvin said no.

City Attorney Bauman said the jury found it was not.

Police Chief Marvin said it was not. That's what the individual was claiming was excessive force. The jury specifically—

Councilor Satterly said oh, I see. That's right.

Police Chief Marvin said rejected, they specifically rejected his claim that it was excessive force.

Councilor Satterly said okay.

Police Chief Marvin said I think that's what's important to remember. This is not a case where an officer went out and used excessive force or did something outside of his training and authority.

Mayor Mills said and we wouldn't be supporting the payment of the money if he had.

Police Chief Marvin said well, I think your insurance carrier would have a serious problem with any of your portion of the judgment, if they felt the officer was doing something illegal.

Councilor Satterly said yes.

Councilor Hunt said and this is Indiana State legislation that you've talked about?

Police Chief Marvin said yes, ma'am. Somewhere I have that statute number, if you'd like to look it up.

Councilor Hunt said just sometime between now and Monday.

Police Chief Marvin said okay.

Councilor Hunt said thank you very much. I appreciate the clarification on this. Very much.

Councilor Griffin said it's a help, Chief.

Police Chief Marvin said sure.

Mayor Mills said anything else? Thank you.

There was no further discussion.

Ordinance No. 15-07 An Ordinance To Establish Fees Under The West Lafayette Stormwater Code (Prepared by the City Attorney)

Mayor Mills said we'll have the second reading on this on Monday. Any questions on those?

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There was no further discussion.

NEW BUSINESS:

Ordinance No. 17-07 An Ordinance To Amend West Lafayette City Code Chapter 24.00 To Add Members To The West Lafayette Commission On Human Relations (Submitted by the City Attorney)

Mayor Mills said this is an ordinance to amend the Human Relations Commission number. We had a request from our Human Relations Commission to add a couple members to the commission. They'd just like a little bit more diversity on the Commission, and they also sometimes find themselves, with people's busy schedules, not having enough members to actually transact any business with just seven, because they can't all seven make it. But particularly, they wanted to add to the diversity of the Commission. So that's all this is, is making that possible, that they can add two more members to the Commission.

Councilor Satterly said and they serve without pay, so—

Mayor Mills said they serve without pay. That's right. It doesn't impact anything except—

Councilor Satterly said then as far as I'm concerned they can go ahead, they can add 15 members, if they want.

Mayor Mills said and they do it very generously, and take up issues that are always important to our community, so we're happy to make that change if it helps them function better. Any questions on that one?

There was no further discussion.

Ordinance No. 18-07 An Ordinance Requesting An Additional Appropriation (Parks Nonreverting Pool) (Prepared by the Clerk-Treasurer)

Mayor Mills said this is to do an additional appropriation in Parks, in the Nonreverting Capital Fund of \$200,000. Mr. Payne is sitting right over there.

Clerk-Treasurer Rhodes said I would just like to note that there's an omission in the title here. It is the Parks Nonreverting Capital Pool Fund, and Pool is not in the ordinance and needs to be added.

Councilor Hunt said so, it's on the agenda is it—?

Clerk-Treasurer Rhodes said it was put Nonreverting Pool Fund, and it's really the Nonreverting Capital – Pool Fund.

Councilor Hunt said okay.

Mayor Mills said questions?

Councilor Hunt said so we need some work on the pool.

Parks Superintendent Payne said right, and Pennie's [Assistant Parks Superintendent Ainsworth's] here and can explain in a little more detail. She's been working with the School

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Board, and the School Corporation to try to improve safety for the users, and to provide some additional space and to replace some parts that need to be replaced, particularly the fencing around the pool. We'd like to pretty it up, but safety is the primary concern. And these are the fees that are paid to our NRC-Pool that are periodically used for improvements at the Pool.

Mayor Mills said the entrance fees.

Councilor Satterly said so this money's from the entrance fees that you're collecting in the pool?

Parks Superintendent Payne said yes.

Mayor Mills said Pennie [Assistant Parks Superintendent Ainsworth], do you have anything to add?

Assistant Superintendent of Parks and Recreation Ainsworth said I will if there are questions.

Councilor Hunt said this will not come out of property tax?

Mayor Mills said just the fund. The money's there.

Councilor Hunt said okay.

Mayor Mills said we're just going to appropriate it.

Councilor Hunt said okay. Did you do another liner or something this year?

Assistant Superintendent of Parks and Recreation Ainsworth said two years ago.

Councilor Hunt said oh, I thought it was— Okay. Thank you very much.

Clerk-Treasurer Rhodes said I think last year.

Assistant Superintendent of Parks and Recreation Ainsworth said I guess it was last year, at the end of the season last year.

Mayor Mills said any other questions on that one?

There was no further discussion.

Ordinance No. 19-07 An Ordinance Regulating The Use Of Consumer Fireworks (Prepared by Councilor Satterly)

Mayor Mills said we have an amended version that was placed on your table today. This is to regulate the use of consumer fireworks in the City, sponsored by Councilor Satterly. Do you want to—?

Councilor Satterly said want me to make some comments?

Mayor Mills said yes, sir, please.

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Councilor Satterly said if you look at the proposed ordinance and look at the section that's lined out, that's how the present ordinances read, "It shall be unlawful for any person to shoot or set off any firecrackers, bombs or fireworks of any nature whatsoever within the city" at any time. Now, for the background, the State law, up until this most recent legislative session, stated that you could buy fireworks in the State of Indiana, but when you purchased them, you had to sign a statement saying that you were going to take them outside of the State to be set off. In the most recent State legislature, they didn't, in my opinion, the State legislature didn't do us any favors. They changed the laws to allow persons to purchase fireworks in the State of Indiana, and to set them off anytime, anywhere within the State of Indiana. But as part of that law, the State legislature did give local governments the opportunity to pass ordinances to restrict the number of days that persons could lawfully set off fireworks. The City of Lafayette passed such restrictions long about the Fourth of July, I think, pretty close to the Fourth of July. So what I'm proposing is that the City of West Lafayette follow, in effect, what Lafayette has done, to restrict the discharge of consumer fireworks, restricted to the days that the State allows the cities to restrict fireworks—between the hours of 5:00 p.m. and two hours after sunset five days before the Fourth of July, five days after the Fourth of July, and then on the Fourth of July, between 10:00 a.m. and 12:00 midnight, and between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1. Then the penalty is what the State allows, but basically that's what this proposed ordinance would do.

Mayor Mills said thank you.

Councilor Satterly said I have received a number of complaints about persons unknown discharging fireworks at various hours of the day and night, and many days after the Fourth of July and on the Fourth of July.

Mayor Mills said I've received quite a few myself. Discussion? Questions?

Councilor Hunt said Councilor Satterly, so if I can clarify the date and time, one hour after the new year starts, you can no longer, so there's nothing—?

Councilor Satterly said correct.

Councilor Hunt said on January 1 after hour into the new year?

Councilor Satterly said correct.

Councilor Hunt said okay.

Councilor Satterly said that's what the State allows us to do.

Mayor Mills said any other comments? Any discussion?

Councilor Hunt said this is a safety issue, too, and noise.

Councilor Satterly said right. Noise, safety, both.

Mayor Mills said did you have something, Judy [Clerk-Treasurer Rhodes]?

Clerk-Treasurer Rhodes said we're just waiting for the motion—

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Councilor Griffin said so move to amend.

Councilor Hunt said second.

The motion to amend Ordinance No. 19-07 passed unanimously by voice vote.

Councilor Satterly said I might mention what the amendment was. Just to add "West" in front of "Lafayette Police Department."

Mayor Mills said that would be good.

Councilor Satterly said it was called Lafayette Police Department. We don't want them coming across the river.

Mayor Mills said well, we do when we want them to.

Councilor Satterly said yes.

There was no further discussion.

Ordinance No. 20-07 An Ordinance To Vacate A Portion Of An Alley: Chauncey Avenue To Salisbury Street (Chauncey Square, LLC) (Submitted by Paul Coutts)

Mayor Mills said Mr. Coutts is here.

Mr. Coutts [C & S Engineering] said good afternoon or early evening or whatever it is. If any of you have been down to the Village area lately, you're probably familiar with this project, but I'll just quickly review it again. It's the Chauncey Square Planned Development that is under construction. South Street is on the south end, Columbia Street's on the north, Chauncey Avenue on the west side, and Salisbury Street over on the east side. This area here is where the parking garage is being built, and it is 95% done. Right now, they're finishing the floor on it, putting on the final coat. It should be done here very shortly. This is the building here that is underway. I'm not sure of the exact percentage—80%, 90%, in that range—that they're putting up right now. This building "B" over here, the foundation is in for it, and then, the reason that we're here is that the area that's outlined in the yellow, less the red that had been the alley. This is the Funk property that Mr. Fleischhauer has been trying to acquire for a number of years and has finally acquired it. At the time that we started the Chauncey Square planned development, he did not have this piece of property, but since then has acquired it, and would now like to take it and incorporate that into the planned development. We'll be coming back after a few more months to you, to try to get it all cleaned up and finalize it. The reason that we're here tonight is that we'd like to have the City vacate this last little piece. Previously you had vacated the alley all the way to the west, over to Chauncey, and there's about 61 feet that's left in here that needs to be vacated. We'd like to have you vacate that, if you would, please.

City Attorney Bauman said I should point out that, previously there were utilities located in the alley. Those utilities, other than ones that would directly serve this site, have all been relocated out of the alley.

Mr. Coutts said yes.

Councilor Satterly said is Fleischhauer going to tear this building down?

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Mr. Coutts said yes, he is. I'm sorry. I could give you more information on that, but, yes, that outline is the new building. Essentially what happens is this guy just gets added on, and this here all becomes one building, and it's all residential apartments, is what it is.

Councilor Satterly said so he's going to tear down the existing—?

Mr. Coutts said yes, the existing building. I think it's like a two-story building, an older building, two story, and then he's going to take an incorporate this into, and it will actually all be part of this building then.

Public Works Director Downey said the only reason we kept that part is, before Fleischhauer owned that building, the sewer went out to that piece—

Mr. Coutts said yes, the sewer to the building, yes.

Mayor Mills said any questions for Mr. Coutts?

Councilor Hunt said Mr. Coutts, how you were pointing, it looks like this area down here will not be built out? Did I misunderstand? It looked like you wouldn't be this far.

Mr. Coutts said no. This here, in other words, this here is a building layout. And so right now, the building is right there and—

Councilor Hunt said yes.

Mr. Coutts said it had a brick wall for the fascia. That brick will not be put on there, but we'll continue to build the building out. This becomes the shape of the new building—

Councilor Hunt said okay.

Mr. Coutts said out here on this end then.

Councilor Hunt said okay, so there'll be a little greenspace?

Mr. Coutts said yes. Trying to soften it just a little bit on that end with a little bit of lawn and some landscaping area down there.

Councilor Hunt said good. Thank you.

Mayor Mills said any other questions?

There was no further discussion.

Ordinance No. 21-07 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #55) (Submitted by the Area Plan Commission)

Mayor Mills said Councilor Griffin, do you want to give us some details?

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Councilor Griffin said so, the economic and environmental importance of use of wind is increasingly realized, and along with that the fact that, in Tippecanoe County, there are some very specific areas that use of wind to produce electricity is economically viable. There's no way for it to happen until—the Area Plan Commission's worked for several months crafting this, and making sure that we were addressing all the issues that we could foresee. And, of course, until the existence of a wind tower is defined, and a wind energy conversion system and so forth, until it's defined by the Area Plan and recognized by the other governing bodies, can't build one. So this will not affect us directly here within the City, because there are not areas, for a variety of reasons, one of which is that we don't have any areas within the City that would be economically viable. Mr. [City Engineer] Buck was about to—

City Engineer Buck said we do have areas that are zone that would allow a special exception.

Councilor Griffin said right, but unlikely to be done, because the economic viability. Can we stand on that statement, Mr. [City Engineer] Buck? Is that okay with you?

City Engineer Buck said yes. Thank you.

Councilor Griffin said so it could theoretically happen.

Councilor Satterly said in other words, you couldn't if you had a residential zone, you couldn't put a little wind—?

City Attorney Bauman said well, I think he's talking about commercial wind development, and the industry's prepared maps that indicate areas where the wind is strong enough enough of the time to make it commercial viable to locate a windmill. A lot of that is in an area you [Mr. Buck] are familiar with, Benton County.

Mayor Mills said you knew that was coming.

Councilor Griffin said other questions? Okay, thanks—

Mayor Mills said thank you, Carl [Councilor Griffin].

Councilor Griffin said for your help, David [City Engineer Buck].

There was no further discussion.

Ordinance No. 22-07 2008 City Budget (Submitted by the Mayor)

Mayor Mills said you all have your budget books, and we can certainly start talking about this a little bit. I've got a few handouts to give you additional information that I've tried to give you in the past. We'll just start by saying this is a budget that is still in the preliminary stage. Because we do the budget process so early in the year, we do not have final numbers yet from our insurance provider. We're getting more firm on those numbers, but we're far from having final numbers for the insurance. So we're waiting for that. In addition, we're continuing to look at the budget, to find other ways to reduce costs. Currently we have budgeted, in the budget that you have, a 20% insurance increase this year. We are—well, it won't be 20%. We already know that the plans that they've come back with, that will be reduced. And that we are working now to determine how much that will be reduced and what portion of the cost for insurance we will ask

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the employee to cover and what portion the City will cover. So before we're finished with this process, you certainly will have a firm number for the insurance.

Councilor Satterly said are we still pooled with Lafayette?

Mayor Mills said we are still pooled, yes. We're still working together. So this budget includes a 3% salary increase for all employees. It includes one additional sanitation employee. I'll stop there, I'll talk more about that in a minute. It includes four new police vehicles and part of a trash truck, so we will start purchasing another—

Councilor Satterly said which part of the truck?

Mayor Mills said it's lease purchase, so we don't put the whole amount in this year. It also includes the annexation levy appeal, the appeal that we talked about in 2005 and 2006, when we first started discussions on the annexation process. We are already starting to realize benefit from the annexation. We've had increased assessed valuation because of that growth out there, and it hasn't been maybe as quick as we had anticipated early on, but we certainly are getting growth in that AV out there, and that's going to be great for us in the long term. During the discussions of annexations, of course, that was one of the main reasons to annex when we did, not only to have a say in that growth that occurred, but to help stabilize and lower our overall property tax rate as the area grew. And we will realize that as it grows out. But during these first few years of buildout, we certainly have to be able to sustain the operating costs associated with that annexation. Hence, the appeal. The appeal basis is really not predicated on 2008, but it's on having the salaries for those people that we're adding built into the budget so going forward, we'll have the revenue to provide for ongoing salaries. So that's why it has to be included in this year's budget. We, you know, we certainly know that this year, with all the property tax discussions Statewide, this is not the year to be asking for a tax increase. We have done, I think, a wonderful job of taking out and moving other costs, and bringing everything from the property tax funds that we can, so that we can have a very small increase in the property tax rate. We will, as I said, continue to work on that, up until the final filing of the budget, to make sure we impact our taxpayers and our homeowners in as small a way as possible. We need to, at the same time that we're moving forward the sanitation, as you all know, we need to build up our operating balance. And we only will be able to do that if we manage well in the next few years, if we add people only when we can afford to add people. So even though we know from the annexation forecast that we'll add more sanitation people, we'll add two more police officers, we'll add three more firefighters. We will not do that until we're financially able to cover those costs. We are not just going to program those new positions in automatically. We have to build up some of our operating balances again, and at that point, when we're comfortable that we can then cover the additional salaries, then we'll add people. Not until that happens. So you need to know that going forward. I've already talked to the Chief and Chief Drew, that we just can't add the additional public safety people until we build up those balances, so that—

Councilor Satterly said in order to build up the balance, we're going to need that excess levy?

Mayor Mills said well, that excess levy will make a big difference in seeing us over the hump, until we start to realize increased income tax from that area and, you know, until the new AV helps mitigate the property tax rate for everyone else. So, yes, it's critical that we have some sort of increase this year. And, again, we're trying to do as minimal as possible. We know that no one likes to pay any more property tax than they have to, but we need to look at the long-term view of the City, not 2008. We have to make sure that, when we get to 2010 and 2011,

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we've done the right thing this year, so that we have plenty of money then and we can add people as we need to. Again, we kept the appeal as minimal as we could. Right now, we have in there a \$600,000 appeal. I would like to see that come down a little bit further. Right now that would be a \$0.048 increase per \$100 of assessed valuation, and I would like to try to get that down below \$0.04. Now, again, we're doing our best to make that as small as possible, but we do have to look to the future and make sure that we're going to not put the City in dire straits in 2010 and 2011 by the choices we make this year. You know, we've had a couple things in the last couple years that have helped make this situation a little more difficult for us. We've lost the 9-1-1 funds for the police dispatchers, we've lost for two people now, and those positions, \$50,000 plus each, we covered by the 9-1-1 funds. We've had to pick up both of those people now, one last year and one in this budget. And so all those small things add up, and then that's hurt us a little bit. Again, the insurance was higher than we anticipated. We certainly knew that in the first couple years of the insurance consortium, we wouldn't have the claim history to probably get the very best rates. We have to, again, take the long-term look at it. We know that insurance consortiums around the State are very effective in stabilizing increases in insurance costs, and so that is our goal. We have to keep our eye on the goal. We hope that after this complete year of claim history, then we'll have a basis to get really a great package of rates from the insurance provider—but this year, we're barely half a year into it—claim history for them to give us the rates that we'd really like to have. Our income tax receipts, our share, that keeps decreasing. The Child and Welfare Levy takes a larger and larger chunk of that every year. That's a State program that we pay for locally. So we hope that with this discussion, the property tax issue at the State level, and the discussion of freezing that levy at today's rate and the State picking up anything after this year, we actually hope they go back and look at it from 2005, because that would be a lot more beneficial to us, since our rates in Tippecanoe County have really gone up since 2005. Originally, during the session, there was talk of going back to 2005 and freezing the rate, and any increase after 2005, the State would pick that up. That would be a lot better for us in Tippecanoe County, so we hope they do that. And, you know, the gas tax money, LRS and MVH, are just barely increasing, about 2% annually. So we just have too many independent events that are working against us being able to add new people without any kind of tax increase at all. This year, 2008, the State-allowed growth in the levy is 3.7%, so even less than it has been in the last four years—

Councilor Satterly said what does that amount to in dollars?

Mayor Mills said that's \$281,460. So that's the new property tax limit for us for 2008. Again, it's all these different mitigating factors that are making it difficult for us to really build up our cash balances again. So we have been successful in keeping the increases very low, I think by moving people around, and the Clerk-Treasurer gave you a great handout on all the particulars, but I'll remind you that we again moved one person in Parks into the NRO. We hate to keep putting people into that fund, but it's making the General Fund usable, and we have to continue to have enough balance in NRO to support people in there. We're going to have to keep doing it as long as we can. We took four people in Development this year, who were typically paid out of the General Fund, and moved them to Economic Development Income Tax. You know, I cringed at doing that, because that money is supposed to be for economic development. But because we now can use it for any operating need, we absolutely just have to do it this year. I hope that will be a short-term move, but we will leave salaries in there as long as we need to, to protect the General Fund. We also changed Jeromy Grenard, he's been half-time in EDIT and half-time in Wastewater, and we moved his full salary to the Wastewater Utility. He is going to do an increasing amount of stormwater work for us, and so we've moved his salary totally to the utility. We have also moved Jim Everette who does our GIS and data administration from EDIT into the Wastewater. Again, it's to free up more money in EDIT, to move other people, so that

PRE-COUNCIL MINUTES, AUGUST 2, 2007, CONTINUED

we can take people out of the General Fund and protect the General Fund. This isn't the first time that the City has gone through this type of process. The City's annexed a couple of other times, and it's always a painful process. The cash balances get very low, but it doesn't take very many years of careful management that you realize a happy balance again. The Blackbird Farms annexation was in '92, and for a couple years, they had very, very low to zero cash balances. But you know what condition that the City was in in the early 2000s, so you know that with careful management, we'll be back up there again. We just have to be careful and frugal and watch what we're doing, and save the money, not add new people, and do everything we can to continue to protect that General Fund, so it grows a decent balance. The good news is that we haven't had to touch our PERF accounts, and we won't have to. We had an unexpected, unanticipated pension monies this year, which have been wonderful. The State re-looked at the way they—Judy [Clerk-Treasurer Rhodes] can give you the details—calculate our pension amount, and we got—\$380,000? \$390,000?—\$380,000 that we didn't anticipate, which is, you know, wonderful. It covers a huge amount of our pension obligation. So, again, we'll leave those PERF accounts untouched. We are fast approaching \$1,000,000 in those PERF accounts because we're earning a really wonderful interest, and we haven't had to touch them. So we're getting to the point where that PERF account alone can cover a great deal of the pension obligation. It's wonderful not to have to go there, to let that be protected. And, because I know it's a tough year and we hate to ask for any increase, we are going to do some things this year to continue to really minimize the need for property taxes, and these are a few of the things that we've already started or will be doing. Again, I mentioned that we're evaluating the employees' share of the health insurance. We will take a hard look at what we as a City contribute and what the employee contributes. We are also changing our plans this year, to offer a plan that will save the City money, still provide excellent insurance for the employees, but will be a little bit cheaper for us to provide. So both cities are doing that, we've agreed on that together. We are going to set up a citizens' committee to look at our user fees—trash fees, code enforcement fees—some of these user services need to more appropriately cover the cost of service. And so we will put together a citizens' committee to start looking at those and make recommendations to the Council before the end of the year, on whether it's time to raise the trash fee and recycling fee, and whether we should look at the fee system for code enforcement.

Councilor Satterly said the trash fee right now is \$9 a month?

Mayor Mills said \$9 a month.

Councilor Hunt said and hasn't gone up in—?

Mayor Mills said '93?

Public Works Director Downey said back when I had hair.

Councilor Satterly said that long ago?

Councilor Hunt said when I was in my small groups for discussion on the Strategic Plan, that was mentioned by several individuals, to look at fees in all sorts of areas.

Mayor Mills said we just have to, you know, we do not have the revenues that keep up with our costs any more. So we have to be realistic that we're going to have to be creative in being able to provide the service. We don't want to cut service, we provide excellent services for the citizens and we want to be able to do that, but it's getting more and more difficult. One of the

PRE-COUNCIL MINUTES, AUGUST 2, 2007, CONTINUED

other things Mr. [Public Works Director] Downey and I will set some criteria this fall to reduce the number of take home vehicles and reduce the size of our City fleet. You know, we are facing higher and higher gasoline costs. That it not going to, I believe, ever go back to where it used to be, and so we have to address that issue. We've held out as long as I think we can hold out. Some of our employees are compensated with a take-home vehicle. That's part of their compensation package, but we have to address that this year, and we will do that before then end of this year.

Councilor Satterly said take-home vehicles only in public works, or other departments also?

Mayor Mills said well, I'm not talking about the Police Department at this point, but other departments, every department. And again, we will not be hiring additional employees in Police and Fire, even those that are part of the annexation process, until we absolutely know we can support those people, which means there will be some time, maybe 2009. We'll look at it again next year and see where we are with the budget. So that's just the introduction. You have all the parts of the budget, lots of pages. I hope you've already taken a good look at it. I'm going to pass out to you—I've got little packets like I try to do for you every year. We use so many other funds besides the General Fund, and I've tried to show you what I've put in CCI, CCD. I will have that for you on Monday. Take the whole paper-clipped thing, it's a whole packet. So just so you have a breakdown of different funds that the departments are realizing revenues out of and, again, I will give you the Police and Fire. We made so many changes in the last four days that I have to update those again. I thought those were correct, but I sat down today and I realized the Fire Department one is all out of whack now, so I'll get those to you on Monday. Or I can actually email them to you, if you'd rather have them before Monday. I can do them after I fix them.

Councilor Griffin said I think email.

Mayor Mills said okay, I'll email them, so you'll have them ahead of time, so you'll have a chance to look at all of them. As it stands now, the total budget is \$19,773,535. But, again, that will be less, because we're still looking at the insurance and we're still looking at other places to cut.

Councilor Satterly said do you have an estimate of what the free balance might be on the property tax funds, General Fund, at the end of this year?

Mayor Mills said at the end of this year?

Councilor Satterly said just roughly.

Mayor Mills said I've got that somewhere.

Clerk-Treasurer Rhodes said if you look in your budget book VII-1, there's a column "Operating Balance 31 December '07," that does not reflect reversions, that is, unexpended balances, and they normally have ranged in the \$300,000 to \$450,000 range. However, we'll probably back off the higher number, because we're already cutting the budget, getting closer to \$300,000 range as a minimum. So you would add that to that column, add an amount which reflects basically a reduction of expenditures. I would say at a minimum it will be \$200,000. I hope it will be higher. Everything depends on what happens the last half of the year, most certainly the last quarter of the year.

PRE-COUNCIL MINUTES, AUGUST 2, 2007, CONTINUED

Councilor Satterly said in other words, if I look at an operating balance on 31 December '07—

Clerk-Treasurer Rhodes said yes.

Councilor Satterly said you've got that with \$600,000 appeal? I take \$600,000 off of that?

Clerk-Treasurer Rhodes said no. You would take the \$879,000 number, \$879,678, and I'd add \$200,000, \$300,000, \$350,000 to that number, and that's what we're going to have as a cash balance at the end of '07. These are extracted from the budget forms. The budget forms always underestimate the operating balance, because unless you reduce the budget, you cannot consider reductions in expenditures.

Mayor Mills said does that make sense, Gil [Councilor Satterly]?

Clerk-Treasurer Rhodes said you're looking at the far right column. The reason why there's an operating balance at all is only because there is an appeal involved. Without the appeal, that would be negative. In other words, we could not publish the budget like this.

Councilor Satterly said so if we don't get the appeal—

Clerk-Treasurer Rhodes said if we don't get the appeal—

Councilor Satterly said we're in trouble.

Clerk-Treasurer Rhodes said if we don't get a certain portion of the appeal, which is actually around \$321,000—if we didn't receive that much additional, we would have to go back and either cut the 2007 budget some more—

Councilor Satterly said 2007?

Mayor Mills said 2007.

Clerk-Treasurer Rhodes said 2007 budget some more or we'd have to cut the 2008 budget.

Mayor Mills said right.

Clerk-Treasurer Rhodes said we have several options. This is a process that gives you several opportunities to adjust your current budget, and your proposed budget, from now until when we get the Preliminary Budget Order early next year. This is not a final plan, because we'll have better numbers as we go, and we'll have opportunities to decide where—how—we want to raise the money needed for the spending plan.

Councilor Hunt said [unintelligible] get to vote.

Clerk-Treasurer Rhodes said how can we have so much money in 2006 and not in 2007 and 2008? I'd like to give a little review of that after the Pre-Council. I was going to do it for Ross [Councilor McMullin], on how to read the budget forms. I'd be glad to do that, and we can go through step by step, refreshing you on how this 18-month budget works.

Mayor Mills said yes, you need to remember that, that it's an 18-month budget—

PRE-COUNCIL MINUTES, AUGUST 2, 2007, CONTINUED

Clerk-Treasurer Rhodes said and the difference between cash and the control of appropriations. The budget is all about the control of appropriations, not about actually how much money you have.

Councilor Hunt said I know the DLGF has had some changes lately, but my question is when will we know about the appeal?

Mayor Mills said we will have a hearing, likely in October.

Councilor Hunt said okay.

Mayor Mills said so we will know.

Councilor Hunt said okay.

Mayor Mills said we'll know this fall. We will know before the final—we'll get the final back from DLGF. Long before that, we'll have had the hearing.

Councilor Hunt said okay.

Clerk-Treasurer Rhodes said but as described in our memo, we will not know how large necessarily we want the appeal to be, until we see what our automatic geographical factor is going to give us. As I explained how that process works, we've been advised that we can actually choose to reduce the excessive levy appeal, not only at the hearing—of course, the local control board—

Mayor Mills said they can reduce it for us.

Clerk-Treasurer Rhodes said we'll have a final opportunity to reduce it when we get our preliminary budget 1782 Notice. Our practice always has been to notify you immediately and, if the Council wishes to convene and meet, we have two weeks to do that in. We should be able to accomplish that.

Mayor Mills said and, actually, we have the opportunity at the hearing to ask for less of the appeal than we filed it. We can do that at the hearing itself, and then, as Judy [Clerk-Treasurer Rhodes] said, as late as the 1782 Notice, not take it. So there are multiple opportunities to see how we are doing and what we want to ask for which is part of the process.

Clerk-Treasurer Rhodes said cutting the 2007 budget can be done effectively, right up to the point where they issue the 1782 Notice. So you can proceed to the very last month of the year and still reduce your current budget.

Mayor Mills said and we are doing some of that today, Monday. We have a budget reduction resolution. It's the start of the process. Okay, any particular other questions? We'll go ahead and work through the rest of these forms that you have, and then certainly Judy [Clerk-Treasurer Rhodes] is willing to walk you through the whole process again, and that's great. So Ordinance No. 22-07 is the City budget itself.

There was no further discussion.

PRE-COUNCIL MINUTES, AUGUST 2, 2007, CONTINUED

Ordinance No. 23-07 An Ordinance Setting The Tax Levy On Property And Tax Rate For The 2008 City Budget (Prepared by the Clerk-Treasurer)

Mayor Mills said this sets the tax levy on property and the tax rate. And, as always, we are advertising high, so don't panic when you see the amount. You know that if we don't advertise high enough, we won't be able to take our full levy, and we certainly wouldn't be able to take any appeal levy if we were under. Last year, we neglected to include a change that we made, and we lost a few dollars, because—remember that? Last year, we didn't include something from the insurance.

Clerk-Treasurer Rhodes said no, what happened is that we enacted the budget after we'd advertised, and they wouldn't let us, of course, go higher, even though we had sufficient tax rate to do so.

Mayor Mills said so we did have sufficient tax rate?

Clerk-Treasurer Rhodes said yes. They held us to the advertised amount of the budget, not the fact that the tax rate was well—we had sufficient levy advertised and sufficient tax rate. But they wouldn't allow us to change the budget. That was their ruling, which I found a bit puzzling, but there's been a lot of activity in the DLGF with turnover, and they're trying the best they can to be consistent and implement their policies across the State in a predictable way..

Mayor Mills said any questions about that one?

There was no further discussion.

Ordinance No. 24-07 An Ordinance To Fix 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 2008 (Prepared by the Clerk-Treasurer)

Mayor Mills said basically all the employee salaries are here.

Councilor Satterly said and that reflects 3% increase?

Mayor Mills said well, it does, but what you see are the minimums and maximums listed for each position. It's in a different format than last year, but we have to list the minimums and maximums.

Councilor Satterly said okay.

There was no further discussion.

Ordinance No. 25-07 2008 Wastewater Treatment Utility Salary Schedule As Submitted By The Board Of Public Works And Safety For Approval By The Common Council Of The City Of West Lafayette, Indiana (Presented by the Board of Public Works and Safety)

Mayor Mills said it is the same for the Wastewater Utility, the new salary schedule. Also a 3% raise included.

There was no further discussion.

PRE-COUNCIL MINUTES, AUGUST 2, 2007, CONTINUED

Ordinance No. 26-07 An Ordinance To Set The Biweekly Salaries Of The Elected Officials, City Of West Lafayette, Indiana, For The Year 2008 (Prepared by the Clerk-Treasurer)

Mayor Mills said and then the final salary ordinance is Ordinance No. 26-07, and that's for elected officials—myself, the Clerk-Treasurer, the City Judge, and you all. And 3% for everyone but you poor Council people. Any questions on any of those?

Councilor Satterly said when was the last time that the Councilors' salaries were increased?

Mayor Mills said it was before I was on the Council.

Councilor Satterly said me, too.

Mayor Mills said I don't know. I can't answer. I know Lafayette's Council salary is considerably higher.

Councilor Hunt said twice as high.

Mayor Mills said is it?

Councilor Hunt said yes.

Mayor Mills said and we're so grateful that you're all willing to do this job for—

Councilor Hunt said so little money.

There was no further discussion.

Resolution No. 22-07 A Resolution Requesting The Transfer Of Funds (Engineering, Police, CDBG) (Prepared by the Clerk-Treasurer)

Mayor Mills said this is a transfer of funds resolution. First in the General Fund, Engineering \$500 from Uniforms to Office Supplies; in the Police Department, from Full-time Salaries, \$58,200 to New Uniforms, Range Equipment, Office Equipment, and Other Equipment; and then the Community Development Block Grant Fund, \$2,500 in Code Enforcement and \$3,000 from Public Services-Legal Aid to Street and Public Improvements, \$5,500.

Councilor Satterly said so this gets the Police officers new weapons from the 2007 budget, rather than 2008?

Mayor Mills said yes, it does.

Clerk-Treasurer Rhodes said and holsters.

Mayor Mills said and holsters.

Chief Marvin said got to have something to carry them in.

Councilor Satterly said I thought they just put them in their pocket.

Clerk-Treasurer Rhodes said and extra ammo to get certified.

PRE-COUNCIL MINUTES, AUGUST 2, 2007, CONTINUED

Police Chief Marvin said well, yes, because it's a different caliber weapon, so you have—

Mayor Mills said we were really thrown off by that New Uniforms until we—Judy [Clerk-Treasurer Rhodes] and I were like, “New uniforms?”—until we pulled out the sheet and realized that holsters are part of the clothing.

Councilor Hunt said these are the Glocks that you wanted, as opposed to the Smith & Wesson?

Police Chief Marvin said yes.

Councilor Satterly said how many caliber?

Councilor Griffin said 40.

Councilor Hunt said I don't know much about guns. So you'll get these and you think you might be trained and up and ready to go with these—?

Police Chief Marvin said I think it would be pretty quick, because the last time we switched handguns was, I think, in 1988, we transitioned from revolvers to semi-autos. This time, we're going from one semi-auto to another, so it's not as radical of a change. It should be able to happen fairly quickly.

Councilor Hunt said is the ammunition like anything else and the price goes up?

Police Chief Marvin said oh, yes.

Councilor Hunt said and what's a magazine?

Police Chief Marvin said it's what the ammo goes in, that you put into the gun. It holds the ammunition.

Councilor Hunt said okay. Thank you.

Mayor Mills said okay, any other questions about this one?

There was no further discussion.

Resolution No. 23-07 A Resolution To Reduce The 2007 Budget (Submitted by the Mayor)

Mayor Mills said as we were talking about, to fund the budget next year, we have to reduce this year. And we'll continue to do that, as we go through the rest of the year.

Councilor Hunt said it's a resolution?

Mayor Mills said it's a resolution.

Councilor Satterly said this is just the first iteration?

Mayor Mills said well, this is—yes, I'm sure we'll be doing more before the final budget, before the end of the year. It's a good start. Any questions on that? Places we knew we were going

PRE-COUNCIL MINUTES, AUGUST 2, 2007, CONTINUED

to have extra funds, we don't want to find ourselves short in any of those before the end of the year, so that's why it's \$127,000 and not more. We'll do more as we get closer to the end of the year.

Councilor Hunt said our consultants, over and over, their expert opinion was that overall the annexation will create a reduction of taxes, right?

Mayor Mills said right. And if you look at what Judy [Clerk-Treasurer Rhodes] provided you on the tax levy rate for this year, if we weren't asking for the appeal, our rate would go down \$0.006, so we're already starting to feel the impact of that increased assessed valuation, which is what we want to see happen. It will make a long-term reduction for property tax rate.

Councilor Hunt said in my most recent tax bill, I got this pie chart of where how much of the tax dollar goes to the City versus the school versus the County versus—

Mayor Mills said the township and library—

Councilor Hunt said it's too early—

Councilor Satterly said and public transportation—

Councilor Hunt said to get any idea of where we are with that, is it? I mean, we don't even know the school rate—I mean, we probably won't—

Mayor Mills said typically, and what we were last year, we were \$0.25 of \$1.00 of a property tax dollar came to the City, \$0.25. That's our portion to provide services with. Anything else?

There was no further discussion.

ADJOURNMENT:

There being no further business at this time, Councilor Satterly moved for adjournment. Motion was seconded by Councilor Hunt and passed by voice vote, the time being 5:35 p.m.

Respectfully submitted,

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