



**OBSERVATIONS AND RECOMMENDATIONS
FOR FUNDING IMPLEMENTATION OF THE COMBINED SEWER
OVERFLOW LONG-TERM CONTROL PLAN**

PRESENTED BY THE CLEAN RIVERS TASK FORCE

January 26, 2009

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Introduction

In the Spring of 2008, Mayor Tom Henry asked a number of Fort Wayne residents, business leaders and local officials to serve on a task force to explore alternative methods for raising capital and operating funds in support of implementing the City of Fort Wayne’s Combined Sewer Overflow Long-Term Control Plan (LTCP). The creation of the Clean Rivers Task Force came just months after the City reached settlement on a Consent Decree with the U.S. Department of Justice. The Consent Decree commits the City to the implementation of a LTCP that eliminates a high percentage of combined sanitary and storm sewage overflow into our three rivers. The estimated cost of this plan is approximately \$240 million over an 18 year period with the entire plan to be implemented by 2025. The traditional method that Fort Wayne has used to finance its sewer utility has been through user fees but the additional costs added by the LTCP are may place extraordinary financial burdens on some utility customers. The observations and recommendations of the Clean Rivers Task Force generated from its exploration of numerous alternatives are outlined in this report.

Membership of the Clean Rivers Task Force

Sixteen members of the community served on the Clean Rivers Task Force. Each member and their respective professional and/or community area of service is presented below.

Councilwoman Liz Brown – (At-Large)
Fort Wayne City Council

Mr. Steve Doan
Chief Investment Officer
STAR Financial Bank

Mr. Luke Forbing
Auditor, BKD, LLP
Vice-President of Community Involvement
Young Leaders of Northeast Indiana

Ms. Kathy Friend
Chief Financial Officer
Fort Wayne Community Schools

Mr. Steve Gard
Owner
The Oyster Bar

Councilwoman Karen Goldner – (2nd District)
Fort Wayne City Council
President, Main Street Venture Fund – Ruffolo Benson LLC

Mr. David Kohli
Ford Young Futures
Chairman – Sewer Advisory Group
Chairman – Northeast Area Partnership

Mr. James Lindsay
City of Fort Wayne
Department of Redevelopment

Commissioner Nelson Peters
Allen County, Indiana

Mr. Tom Poiry
President
Fort Wayne Anodizing

Mr. Donald Schenkel
President
Tower Bank and Trust Corporation
Chair, Greater Fort Wayne Chamber of Commerce Board of Directors

Ms. Carol Taylor
City Attorney
City of Fort Wayne

Ms. Nicole Turner-Ridley
St. Peter-Zion Project, Inc.

Major Mark Welsh
Salvation Army of Fort Wayne

Mr. Dan Wire
Teacher – North Side High School
Member – Sewer Advisory Group

Mr. Rob Young
President
Fort Wayne-Allen County Economic Development Alliance

In addition to these sixteen individuals, the City of Fort Wayne contracted with the Community Research Institute at IPFW to have John Stafford serve as the committee facilitator.

Activities of the Task Force

Over a period of approximately seven months the members of the Clean Rivers Task Force examined a considerable amount of background information regarding the LTCP, the Consent Decree, and funding options. A brief overview of that information is presented below:

*The Task Force received a presentation of general information on the Combined Sewer Overflow issue both specific to Fort Wayne and on the statewide and national scope, and on Fort Wayne's Fort Wayne's LTCP.

*The Task Force received a presentation on the Consent Decree between the City of Fort Wayne and the U.S. Department of Justice setting forth the City's legal obligations and benchmarks for implementing the LTCP.

*The Task Force received information on the financial implications of the LTCP and which were agreed upon in the Consent Decree and on the Affordability Study undertaken as a part of the Consent Decree negotiation process.

*The Task Force discussed the potential for both federal and state financial assistance for implementing the LTCP with the City's contract lobbyists (both state and federal) and received information regarding their impressions of congressional and state legislative interests and concerns for combined sewer overflow financial assistance from a national and state perspective.

*The Task Force reviewed and deliberated on a summary of alternative revenue sources potentially available to the City of Fort Wayne to finance the LTCP (This report is included for your reference as Appendix A)

*The Task Force reviewed the results of a survey of its members regarding priority ranking for the various funding alternatives previously presented and discussed.

General Observations and Recommendations

1. The estimated cost for implementing the LTCP as agreed upon in the Consent Decree is \$240 million dollars (expressed in 2005 Dollars) and the estimated amount of revenue needed annually to support the eighteen year implementation of the LTCP is approximately \$13.3 million, on average, depending upon the amount of borrowing needed and the interest rates at the time bonds are issued.
2. The Task Force recognizes the City of Fort Wayne's role and responsibility in meeting the national environmental goal to improve the water quality of our rivers as expressed in federal policy related to the Clean Water Act. Throughout our deliberations, support for full implementation of the Long Term Control Plan (as set forth in the Consent Decree) was a constant. The Task Force not only recognizes the legal obligation of the City to proceed forward under the provisions of the Consent Decree, it supports the objective of enhanced water quality in our rivers and streams. **The question before us is not whether the City will successfully implement the LTCP, but rather what is the optimum method or methods for this community to fund that implementation.**
3. The Task Force suggests that it will be important to finance the cost of implementing the LTCP with a mix of revenues rather than relying solely on sewer utility user fees. While the City of Fort Wayne has historically used revenue from monthly fees paid by the sanitary sewer utility customers – residential, com-

mercial, industrial and institutional – to finance both operating and capital needs, implementation of the LTCP will place a financial burden on the Utility of a substantially greater level than has historically been the case. Therefore, seeking a diversification of revenue sources to support the LTCP was deemed to be a very important objective by the membership of the Task Force. This belief arose for three primary reasons:

- a. Total reliance on sewer utility user fees will place a severe burden on the community’s low-income households. User fees are generally a regressive form of raising public revenue – households with lower incomes will generally pay a higher percentage of their total income toward sewer fees than will a higher income household. Documentation provided to the U.S. Environmental Protection Agency in Fort Wayne’s Affordability Analysis during the Consent Decree negotiations illustrated that placing the full burden of financing the LTCP on sewer users would result in many lower-income households paying upwards of five percent of their annual incomes in sewer fees.
 - b. Placing total funding reliance on sewer utility user fees may hinder the economic competitiveness of our community. Raising sewer rates on business customers to an extent that our rates are appreciably higher than in other communities will tend to reduce Fort Wayne’s economic competitiveness. This is particularly true because the combined sewer overflow issue does not treat all communities equally. Because the Fort Wayne urbanized area remains significantly dependent upon industrial activity (much of which tends to involve relatively high use of public water and sewer services) as a key component of its basic sector economy, higher than average sewer rates make it harder to both retain and attract such employers.
 - c. Financing the LTCP exclusively from sewer users implies that customers of the Utility are the only beneficiaries of the water quality improvements that will result from reducing Fort Wayne’s combined sewer overflows. The ultimate beneficiaries will be all citizens of the watershed and beyond. Certainly many of these individuals live well beyond the direct customer base of the Fort Wayne sewer utility. Under the “benefits-received” principle of public finance it would make sense for a broader-based, more generalized form of revenue generation to be utilized for at least a portion of the costs associated with implementing this policy objective.
4. While we spent the majority of our time exploring alternative sources of funding, the Task Force certainly recognizes that sewer utility user fees will be an integral part of any overall funding scenario for implementing the LTCP. These fees have been the principal funding vehicle for those LTCP projects which have already been undertaken, such as \$65.8 million spent to replace aging equipment and expand the Wastewater Treatment Plant. They will also, almost assuredly, be the primary source of funds to implement at least the next phase of projects in the plan. The use of sewer utility user fees to finance the most immediate projects in the LTCP is, in part, recognition that several of the alternative methods for financing components of the LTCP will require action by other levels of government and therefore will take some time to gain the necessary local authority to implement. We also believe when seeking federal and state funding options, it is essential that Fort Wayne is able to demonstrate that it has been willing to take on a measurable share of the financial burden itself.

5. While recognizing that obtaining substantial financial assistance in implementing the LTCP from either the state or federal governments may be an uphill battle, the Task Force strongly encourages the City of Fort Wayne to aggressively seek such assistance. As Congress begins to assemble an economic stimulus package for 2009 and 2010, Combined Sewer Overflow (CSO) projects should be among the City's highest priorities for infrastructure assistance. In addition to seeking direct near-term federal grants, the City should also continue, and increase, its interaction with other CSO communities across the nation to collaboratively work for greater federal participation in CSO funding. Federal help does not have to be limited to direct grants. Creation of federally-supported low interest bond banks and other methods for lowering the cost of borrowing to finance CSO projects would help all such impacted cities. At the same time, the City should take a leadership role with other Indiana cities to increase awareness of CSO issues within the General Assembly and build support for increased funding for the State Revolving Fund.

The Task Force recognizes that such direct lobbying and inter-community collaboration takes resources, both to engage lobbyists and in the allocation of in-house staff time. However, given the potential for millions of dollars in direct assistance or through the creation and support of vehicles which enable the City to borrow at lower interest rates, we believe the allocation of such resources is a wise investment.

The Task Force further suggests that the responsibility to lobby for such assistance at the state and federal levels is not just City government's responsibility – its importance needs to be embraced by community groups outside of government. Given the potential negative impact of substantially higher sewer rates on the economic competitiveness of Fort Wayne's businesses and industry, aggressive support in these efforts from business-related organizations is critical. An effort led by the Greater Fort Wayne Chamber of Commerce, with support from business groups such as the Northeast Indiana Corporate Council and the Fort Wayne-Allen County Economic Development Alliance must be enlisted. If it is only City government seeking this assistance, the message will have far less impact than if a broad range of community organizations stands behind the effort.

6. As the Task Force explored various funding alternatives, support for seeking state authorization of a local option sales tax to partially fund implementation of the LTCP has grown among its membership. Indiana law does not now, nor has it ever, allowed for a local general sales tax. The Indiana General Assembly has effectively reserved the general sales tax as a primary source of state funding. The Indiana sales tax is currently at seven percent. The rate was increased by 1.0% effective on April 1, 2008, to assist in funding some of the property tax relief measures contained in HEA 1001-2008. A 0.5% general sales tax implemented and retained locally in Allen County could raise approximately \$240 million over a fifteen-year period (this is an estimate based upon the limited information currently available regarding the breakdown of state sales tax collections by county).

We recognize that obtaining state enabling legislation for this alternative may be very difficult, yet we believe providing the City with the authority to at least consider this funding option should be a high priority. There are many details that would have to be resolved in the drafting and enacting of such authorization. Should the use of the local sales tax be limited to funding CSO projects or should its permitted use be much broader? We favor the former. Should the tax be applied citywide, countywide or regionally? We believe it should apply at least countywide, if not regionally (with revenue shared with

other northeast Indiana CSO communities in the latter case). Would the local option authority to adopt rest with the Allen County Council, with the City Council, or with a special formula set-up similar to the County Income Tax Council? We believe most logical option would be to follow that currently in the statute for modification of local income tax matters, the Allen County Income Tax Council. We further recommend that a general sales tax is preferable to a more limited application such as increasing the Allen County Food and Beverage Tax. A general sales tax would raise substantially more revenue and would be shared by a broader tax base.

Given that obtaining General Assembly approval for a local option sales tax is expected to be a challenge, we recommend that the City begin this initiative immediately. We recognize, however, that this may well require a multi-year effort. Fort Wayne will also need to enlist the support of other Indiana CSO communities in a partnership approach to the General Assembly. Close communication with the Indiana Association of Cities and Towns will be essential. Because Fort Wayne is further along in the LTCP/Consent Decree process than most Indiana cities, it will be necessary for our community to take a leadership role in building this statewide coalition.

7. The Task Force also explored seeking state enabling legislation for additional local option income tax authority at 0.5% dedicated to CSO project funding. This modification of existing local option income tax authority would be similar to that granted to local governments exclusively to fund public safety expenditures originally enacted in HB 1478-2007. If enacted county-wide, this rate would generate approximately \$35 million annually. However, while obtaining additional local income authority for CSO funding may have an easier legislative path, the Task Force believes that the local option sales tax would be the preferred vehicle if the General Assembly were to allow only one of these two alternatives.
8. The Task Force that recognizes the greater the customer base of the Fort Wayne sewer utility the lower the rates charged to each customer will be to fund the relatively fixed array of LTCP projects. Therefore, the Task Force encourages the City to take steps to increase its customer base by aggressively competing for new customers within its territory, by supporting the economic development efforts of the community, and by expanding its territory when opportunities to do so arise.
9. The Task Force also explored several other alternatives, such as use of the proceeds from the Community Trust Fund, which will be available upon the expiration of the lease of the City's Electric Utility to Indiana and Michigan Power in 2010; increasing the City's current Stormwater Fee to cover a portion of the LTCP costs; use of additional property taxes through the adoption of a Municipal Cumulative Capital Fund and directing those new revenues to the LTCP; and the sale of water and/or sewer utility assets. The City of Fort Wayne currently has the legal authority to pursue each of these options. The Task Force rated each relatively low on its list of potential sources of funding assistance. One or more of these alternatives might warrant further consideration at a later date if the more highly recommended alternatives are not made available to the City.

The Task Force also included the potential use of gaming revenues on its list of considered alternatives should the Fort Wayne community become host to additional gaming facilities that would be required to contribute additional to local public revenues. Current state legislation does not permit such expansion of gaming in Allen County. Subsequent to the Task Force rating various potential revenues sources for

financing LTCP projects, legislation has been introduced in the General Assembly to allow electronic gaming devices in Allen County. It is much too early to predict the fate of this proposed legislation in specific or, more generally, the subsequent actions of the legislature on the topic of an expansion of gaming in our community. The Task Force does suggest, however, that should additional gaming-related revenues become available to the City of Fort Wayne, that an unfunded capital need – which the implementation of the LTCP clearly represents – would be a logical candidate for all or a substantial portion of such new revenues to be directed.

10. The Task Force recognizes that it may seem to many that we are very early in the process of implementing the Long Term Control Plan and that the community has only just begun to feel the sting of higher sewer rates. Fort Wayne sewer rates have historically been relatively low. Even with the 25% rate increase that went into effect in 2007, sewer rates do not currently appear to be a pressing issue in our community. In the eyes of some, the need to explore alternative and/or supplemental sources of revenue other than sewer user fees may seem premature.

We beg to differ. This level of relative comfort may begin to change with the next rate increase to be presented to the City Council in early 2009. It will surely change as additional rate increases will follow in years ahead. We believe that, over time, citizen pressure will grow for a diversified approach to funding the LTCP. **Building state and federal support for their financial participation and seeking state authorization for funding alternatives now, rather than waiting for this pressure to build, is the appropriate strategy.** Most of our recommendations will likely take years, not months, to accomplish. The time to begin that process is now.

The best solution to funding Fort Wayne's Long Term Control Plan will likely involve a combination several different revenues sources to best spread the burden among our citizens and taxpayers. The more options which the City has available to implement in future years the better the chance will be for creating an optimal combination. Efforts in the near term should be concentrated on broadening those options, while funding the next phase of LTCP projects with sewer utility user fees.

The Task Force wishes to express its thanks to Mayor Tom Henry for the opportunity to serve the City and the community in this endeavor. We have appreciated the cooperation and support from the City administration and the staff of Fort Wayne City Utilities. We realize that, in many cases, we have but scratched the surface in examining the various potential sources of funding which might be available for meeting the financial obligations the City faces in implementing its responsibilities under the Consent Decree. We hope that we have provided some broad guidance as the City proceeds with the task ahead, but recognize that many details remain to be addressed.

Adoption of Report

At its meeting of January 26, 2009 the eight members of the Task Force present unanimously adopted this report. The final version was subsequently circulated to remaining members and approved by each, with the exception of one member, who requested that they be removed from the task force, citing lack of meeting attendance.

APPENDIX A

ALTERNATIVE REVENUE SOURCES AVAILABLE TO THE CITY OF FORT WAYNE TO FINANCE THE COMBINED SEWER OVERFLOW LONG-TERM CONTROL PLAN

Prepared for consideration by the Clean Rivers Task Force by John Stafford of the Community Research Institute @ IPFW

October 17, 2008

Introduction

Over the past approximately four months the Clean Rivers Task Force has been discussing alternative methods for financing the projects and activities set forth in the City of Fort Wayne's Combined Sewer Overflow Long-Term Control Plan (LTCP) and its Consent Decree with the U.S. Department of Justice and the U.S. Environmental Protection Agency (EPA). This document is intended to lay out those concepts that have been examined by the Task Force. In addition, several members of the Task Force have explored other alternatives with members of the City staff during other meetings. This paper offers some explanation and commentary on these suggested financing alternatives along with additional potential methods which have not otherwise been explored. The views and opinions presented herein are those of the author and do not represent the views, opinions and recommendations of the members of the Task Force or of the City of Fort Wayne.

The sole purpose of this paper is to facilitate a more organized discussion among the members of the Task Force as they move toward fulfilling the charge to make recommendations for financing CSO improvements as set forth by Mayor Henry. It is recognized that the recommendations of the Task Force will be those of its membership. It is further recognized that final decisions on how to finance the approximately \$240 million (2005 dollars) in Combined Sewer Overflow (CSO)-related improvements will be made by the current and future City Administrations, Fort Wayne Boards of Public Works, and Fort Wayne Common Councils.

Sewer User Fees

The City of Fort Wayne has historically used revenue from monthly fees paid by the sanitary sewer customers – residential, commercial, industrial and institutional – to finance both the operating and capital needs of the Sewer Utility. Revenues from direct customers have been supplemented by revenues from several wholesale contract customers of the Utility (generally other public sanitary sewer collection systems that have connected to the Fort Wayne systems for treatment of their effluent) and other related sources such as area connection fees, and, to a lesser extent, federal grants.

Fort Wayne's sewer rates are governed by the Board of Public Works and the Fort Wayne City Council. User fee rates for Indiana municipal sewer systems are not subject to review by the Indiana Utility Regulatory Commission.

During the negotiations with the Department of Justice and the EPA, an underlying assumption was that Sewer Utility user fees would be the primary, if not exclusive, source of revenue to finance the agreed upon plan, similar to other cities under Federal Consent Decrees. In fact, a significant component of the settlement process was the rate impact relative to median household income for residential sewer customers. Those portions of the Long-Term Control Plan which have already been financed have relied upon sewer user fees as the principal source of

revenue to either pay for these improvements in cash or to retire bonds and loans issued to provide up-front cash for the improvements, and pay the interest thereon.

There are several reasons favoring the continued use of sewer user fees as the primary source of revenue to pay for the remainder of the Long-Term Control Plan:

- *There is a direct relationship between the customers of the Utility and the fee-based method of revenue collection. This method offers the greatest degree of ability for the funder (customer) to regulate their use of the function (sewer system usage) of any alternative method.

- *Unlike a revenue stream tied to the municipal corporate limits of Fort Wayne, sewer customers are directly related to the geographic boundaries of the Utility. Not all properties within the City of Fort Wayne are connected to the Fort Wayne sewer system and many connected customers are located beyond the corporate limits.

- *Citizens here and throughout the United States have generally been more supportive of user fees than general taxes to finance those local government activities where the user of a given service can be specifically identified and to whom a charge can be directly tied. The concept of knowing the specific service/s toward which our money is being applied appeals to many citizens.

There are also several reasons that it makes sense to seek alternative financing mechanisms to offset or replace user fees:

- *The overriding objective of the federal policy mandating CSO reductions is to reduce pollution in our rivers, lakes and streams. The ultimate beneficiaries of this policy are all citizens, certainly many whom fall well beyond the direct customer base of the Fort Wayne Sewer Utility. Under this “benefits received” principle it would make sense for a broader-based, more generalized form of taxation to be utilized for at least a portion of the costs associated with implementing this policy objective.

- *User fees are generally a regressive form of raising public revenue – households with lower incomes will generally pay a higher percentage of their total income from sewer fees than will a higher income household. Documentation provided to EPA in the Affordability Analysis prepared during the Consent Decree negotiations illustrated that placing the full burden of financing the LTCP on sewer users would result in many lower-income households paying upwards of five percent of their annual incomes in sewer fees.

- *Raising sewer rates on business customers to an extent that rates are appreciably higher than in other geographic areas/communities will tend to reduce Fort Wayne’s economic competitiveness. The fact that EPA has adopted a strategy of enforcing the CSO provisions of the Clean Water Act on larger municipalities first is an inherently anti-urban policy (author’s opinion). Because the Fort Wayne urbanized area remains significantly dependent on industrial activity as a key component of its basic sector economy, higher than average sewer rates will make it harder to both retain and to attract such employers.

- *Negotiations with wholesale contract customers will be difficult. Each tends to believe that CSOs are a Fort Wayne “problem” that they should not have to finance. While there are several reasons why this issue is more complex than such a perspective asserts, determining the appropriate cost allocation will be difficult.

Historically, the Fort Wayne Sewer Utility has had a generally uniform sewer rate structure. Customers paid the same rate regardless of location, although there is some in-City, out-of City differential. It might be possible to add a surcharge to the customers in the Combined Sewer Area to assist in financing the CSO improvements. However, such a policy would also increase the financial burden on the most impacted lower-income population in our community and could undermine redevelopment efforts within the urban core. Conversely, it may be possible to restructure rates to add a differential for the distance in transporting effluent to the sewage treatment plant. This policy would place more of the burden of financing the system on newer, more suburban customers. However, such a policy might drive potential new customers into areas served by other sewer utilities.

Another consideration related to the use of sewer user fees concerns a broadening of the current customer base. While there is continuous change in the customer base caused by new development in some areas, loss of development in other areas (primarily due to housing and population loss in older parts of the community), and evolving change in the commercial and industrial components of the base; it may also be possible to expand the territory of the Fort Wayne Sewer Utility through the acquisition of the Aqua Indiana assets in the southwest portion of the community. This is a matter that has previously received some public discussion. It should be noted, however, that this service territory is primarily located in a separate watershed from much of the current Fort Wayne Sewer Utility service territory and is presently being served by a collection and treatment that is not directly related to the combined sewer overflow issues pertinent to the events leading to the settlement of the Consent Decree.

The principal use of sewer fees as the primary means to finance the CSO Long-Term Control Plan, along with all other financial needs of the Sewer Utility, is clearly the “default” method. It is the method we, as a community, are most familiar with; it is the method that the state and federal regulators expect (but do not require) that we utilize; and it is the method that most closely represents the “benefits received” principle that it seems to be most in vogue with constituents. But it is certainly not the only game in town.

Property Taxes

Indiana Code (I.C. 36-9-6) identifies the construction and operation of a sanitary sewer system as a permissible use of property taxes. More specifically, property taxes may be used fund sewer system improvements through a Cumulative Capital Building Fund for Municipal Sewers (I.C. 36-9-26) and a Municipal Cumulative Capital Development Fund (I.C. 36-9-15.5). Perhaps most importantly, the Municipal Cumulative Capital Development Fund has a rate-controlled property tax levy that is outside the maximum controlled levy for the City of Fort Wayne. The City has not, to date, chosen to implement the Cumulative Capital Development Fund.

Property taxes have, however, become an increasingly unpopular method for financing local government activities. The Indiana General Assembly’s recent enactment of HEA 1001 (2008), which included many provisions to reduce property taxes, is but one of several recent manifestations of this unpopularity. In addition, the geographic boundaries of the City of Fort Wayne (the tax base for its Cumulative Capital Development Fund should the City implement one) are substantially different than the geographic boundaries of the Sewer Utility service territory. As is the case with any form of taxation, the property tax does not uniformly impact all segments of the community. Lastly, if the City of Fort Wayne’s property tax rate is substantially higher than that of competing communities or immediately surrounding areas, it will tend to drive away current and prospective economic development opportunities.

Income Taxes

Local income taxes in Indiana are adopted on a county-by-county basis. Allen County currently has a local income tax rate of 1.0% of individual adjusted gross income (0.6% rate for the County Option Income Tax – COIT and 0.4% rate for the County Economic Development Income Tax – CEDIT). This is the maximum combined rate for these two taxes allowed by Indiana law. Countywide this combination raises approximately \$70 million annually, with the City of Fort Wayne receiving approximately \$34 million in local income tax revenue in 2008. These funds currently support basic city operational functions such as police protection, public infrastructure projects, economic development activities, and debt retirement for a variety of capital improvements. It is unlikely that significant amount of current income tax revenue could be diverted from these uses to support LTCP projects (author's opinion).

In 2007, the Indiana General Assembly enacted a new type of income tax – the Local Option Income Tax or LOIT. This new variation of the income tax can be adopted at the countywide level to support several forms of property tax relief and, under certain circumstances, to increase funding for a variety of public safety-related purposes. To date, Allen County has not chosen to enact any of the LOIT provisions.

Local income tax decisions in Allen County are made by the Allen County Income Tax Council. The City of Fort Wayne Common Council currently holds the majority of votes in this Income Tax Council, and thus has the ultimate decision-making authority on local income tax matters. It should be noted that some officials in Allen County government would like to see this authority shift to the Allen County Council and may seek a legislative change toward that end.

It was primarily the City of Indianapolis that successfully urged the Indiana General Assembly to allow new income tax funding for public safety functions. One potential avenue available to Indiana CSO communities would be to lobby the General Assembly to similarly allow a specific use of new local income taxes (LOIT) for financing of CSO-related improvements. The current maximum LOIT rate for public safety is 0.25% (it is 0.5% in Marion County only). Countywide, a 0.25% income tax rate would raise approximately \$17.5 million in Allen County.

Sales Taxes

Indiana law does not now, nor has it ever, allowed for a local general sales tax. The Indiana General Assembly has effectively reserved the general sales tax as a primary source of state revenue. The Indiana sales tax rate is currently at seven percent, higher than any surrounding state's rate. The rate was increased by 1.0% effective on April 1, 2008 to assist in funding some of the property tax relief measures contained in HEA 1001.

However unlikely (author's opinion), a 0.5% general sales tax implemented and retained locally in Allen County could raise approximately \$240 million over a thirty year period (this is a very rough estimate due to the lack of good county-specific data on state sales tax revenues). Generally, local governments in urban counties (retail centers) have encouraged the General Assembly to permit a local option sales tax and those from rural counties (whose residents are more likely to make purchases out-of-county) have opposed such efforts.

Indiana law does allow for limited local sales taxes such as a Food and Beverage Tax and an Innkeepers Tax. Allen County has both the former at 1.0% and the latter at a 7.0% rate. Recent legislation enacted to finance the Lucas Oil Stadium in Indianapolis permitted Marion and surrounding counties to raise the local Food and Beverage Tax

to 2.0%, with eligible local counties outside of Marion County to keep a portion of the new revenue. A 1.0% Food and Beverage Tax increase would raise approximately \$5 million annually in Allen County.

Both the local option income and sales taxes would likely be required to be adopted at the countywide level and thus many non-sewer customers would be subject to these taxes. The local enacting authority for the two local limited sales taxes in place in Allen County has been the Allen County Council.

Federal Grants-in-Aid

When the Clean Water Act was first enacted in 1972, Congress also implemented a substantial grant-in-aid program to assist local governments in upgrading their municipal sewage collection and treatment facilities. The City of Fort Wayne benefited greatly from these grants. Over time, however, federal financial constraints and changing priorities ended these general grant-in-aid programs for sewer systems. They were replaced by federal funds provided to states to assist in capitalizing state revolving fund load programs (SRFs) to be accessed by local governments for financing sewer-related projects. While these programs have been helpful, there is a substantial difference between a grant to assist financing a project and a loan (even at a very low interest rate).

As the number of U.S. communities financially impacted by the CSO issue grows, perhaps they collectively will be able to place enough pressure on Congress to establish a new CSO grant-in-aid program at some level of financial significance. However, given the current federal budget deficit position, and the more recent general financial crisis, any such relief will likely be very hard to achieve. Seeking continued, and perhaps increased, support for capitalizing state revolving loan funds may be a more realistic collective municipal strategy. More immediately, should a second economic stimulus program move forward in Congress, funding for capital-intensive sewer projects might be a logical included use of such funds.

One active federal grant program currently being explored by the City as a modest source of capital funds for the LTCP is the State and Tribal Assistance Grant program through the U.S. Environmental Protection Agency. It may be possible to obtain annual grants from this program in the \$500,000 to \$1,000,000 range. For more information on this grant program please reference www.epa.gov/compliance/state/grants/stag/index.html. The other approach to obtaining federal funding for CSO implementation is to aggressively seek project-specific earmarks. The City of Fort Wayne was the benefactor of such an approach with the federal grant awarded for the Camp Scott wetlands/stormwater management/sewer separation project. While this approach may provide some limited assistance, it is unlikely that it can support a significant portion of the total CSO Long-Term Control Plan cost (author's opinion).

State Assistance

There are over one-hundred CSO communities located in the State of Indiana. As more and more of these communities face implementation deadlines mandated by EPA and the Indiana Department of Environmental Management, it is very likely that pressure will grow for the General Assembly to provide some kind of financial assistance. This assistance could come through either additional state appropriations to the State Revolving Fund for sewer projects or the enactment of a new state-funded CSO grant-in-aid program. However, the state recently took on substantial new responsibilities for funding traditional local government activities (the remainder of school operating budgets, county child welfare funds and juvenile incarceration costs, and municipal police and fire pension obligations). There is some practical limit to how much more assistance the state can give to local

governments before being required to find additional revenue sources. Further, it is questionable if they would raise state tax rates to fund what many legislators view as primarily a local responsibility (author's opinion).

Stormwater Fees

The sewer overflow events in Fort Wayne's combined sewer area are the direct result of heavy rainfall overwhelming the system. Such events are an issue for both the sanitary and stormwater utilities. For the past decade plus, the operating and capital costs associated with the Stormwater Utility have primarily been financed through a stormwater fee assessed on impervious surfaces throughout the City of Fort Wayne. While there is certainly logic in having the Stormwater Utility share some of the CSO financial burden, the geographic service territory of this utility is coterminous with the City, not the combined sewer area or the sewer utility service area. Significant opposition would likely generate from those areas within the City that are subject to the stormwater utility fee but are served by Aqua Indiana or are on private septic systems.

Sale of Assets

The City of Fort Wayne does own several income-producing assets that could be sold or leased to raise revenue which, in turn, could be allocated to funding CSO improvements. The lease of the Fort Wayne Electric Utility in the mid-1970s was an example of such an action. Both the Sewer and Water Utilities represent potential opportunities. Given the growing list of federal environmental mandates and requirements being placed on sanitary sewer systems (CSO measures being just one example), the market interest in sewer systems has waned in recent years. Water utilities, however, have retained more favorable interest given their significant revenue generating ability.

Certainly leasing or selling such assets can generate considerable political controversy. The elected City officials would lose all or substantial control over rates; utilities are a primary mechanism for municipalities to retain some control over their geographic destiny; and many citizens believe these utilities are a core function of municipal government. The sale or lease of such assets would be an extremely complicated endeavor. Should the City seek to explore such a venture, it would be wise to obtain the best professional assistance possible.

Community Trust Fund

When the City of Fort Wayne leased its Electric Utility in 1975, it concurrently established the Community Trust Fund. \$270,000 of the lease revenue the City received from I & M was annually placed into the Trust. Ostensibly at the end of the 35-year lease the corpus of the Trust would be available to either purchase the assets necessary for the City to re-establish its Electric Utility or to have a fund of a magnitude such that the annual interest earnings would approximate the prior lease revenue (now about \$1,700,000 annually).

The Trust is to remain without permanent invasion (unless approved by the City Council after an advisory citizens' referendum) until the expiration of the lease of the Electric Utility in 2010. At that time the use of the entire corpus of the Trust will be under control of the Mayor and the City Council. The balance of the Trust was approximately \$33.4 million at the end of June, 2008. Obviously, current financial events on Wall Street have subsequently eroded this value. It would be very difficult to currently estimate what the value of the Trust will be 2010. Whatever the amount, however, those funds could be applied to funding CSO projects or the Trust could continue to be invested and the interest earnings could be applied to CSO activities. It must be noted that the possibilities for use of the Community Trust Fund are nearly endless. Mayor Henry has committed to a communitywide dialog on the future use of these funds before any commitments are made. It should be further noted

that the current lease with Indiana Michigan Power is being negotiated, and funding some CSO projects could be taken from potential future lease revenues.

Gaming Revenues

In 1988, the voters of Indiana, through a referendum, approved state run gaming. The Hoosier Lottery was initiated soon thereafter. There has been a rather continual increase in the scope of state-approved gaming since that time – the lottery, riverboat casinos, wagering at Indiana horse tracks, off-track betting, “racinos”, and pull-tabs. In each case, state government has taken a share of the proceeds or established a fee to operate such activities. These revenues have, in turn, supported a variety of state-funded activities. In certain cases local governments, particularly in host communities, receive a share of these proceeds.

Gaming revenue offers several potential funding alternatives to finance CSO improvements including: reallocating all or a portion of the approximately \$1.5 million the City of Fort Wayne receives annually from the local revenue sharing component of the Riverboat Wagering Tax (such a reallocation would, of course, have to be taken at the expense of the Civil City’s General Fund); a modest expansion of gambling opportunities at the Allen County Off-Track Betting facility (Allen County currently has one off-track betting facility); seeking a relocation of one of the eleven state-authorized riverboat casinos to Fort Wayne; or seeking new authority for a land-based casino in Allen County.

The expansion of gaming venues and opportunities is not without controversy. While many elected officials disdain such activities, gaming continues to represent an expanding source of revenue for state-funded activities. The specific amount of revenue each alternative might generate for local government activities is very dependent on the specifics related to each situation. The Riverboat casinos have, for example, provided substantial annual revenue to their host communities. There is, however, some indication that gaming is not an endless source of funding. As opportunities to gamble grow in both Indiana and our surrounding states, there is evidence that we are beginning to see a leveling of revenue potential. The potential for state approval of any additional gaming venue authority is also just a gamble.

Concluding Comments

A substantial portion of the funds used to implement the Long-Term Control Plan will be directly obtained from a series of bond issues likely to be retired through one or more of the revenue streams outlined above. There are several important policy matters associated with issuing debt, including the balancing of higher total interest paid with lower annual debt service payments gained by extending the term of the bonds. Debt management of the financing of the Long-Term Control Plan must also be integrated with other debt policies for both the Sewer Utility and the City of Fort Wayne. In addition, there are always substantial technical matters related to vehicles used to obtain the lowest possible interest rates on such debt. However, the most fundamental issue is what is the most appropriate source or sources of revenue used to retire this debt. This paper concentrates on that question, but certainly recognizes that subsequent Task Force discussions may also explore debt management policies relevant to financing the LTCP.

Without question, the above ten basic alternatives do not exhaust all possibilities. There are surely many possible variations on these themes. It is quite possible that the best solution is represented by a combination of such alternatives. It is hoped that this paper can serve as a meaningful foundation for consideration of a recommendation to the Mayor from the Clean Rivers Task Force.