CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES

June 28, 2007

The Common Council of the City of West Lafayette, Indiana, met in Council Chambers at City Hall on June 28, 2007, at the hour of 4:30 p.m.

Mayor Mills called the meeting to order and presided.

Present: Hunt, Keen, O'Callaghan, Satterly, and Truitt.

Absent: Griffin and Plomin.

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

<u>UNFINISHED BUSINESS:</u> None.

<u>NEW BUSINESS:</u>
<u>Ordinance No. 14-07</u> 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 (Submitted by the Police Chief)

Mayor Mills said you have that. We want to move $25,200, we want to appropriate that additional money to pay the judgment that was rendered against him. Are there questions about this?

Councilor O'Callaghan said and that it's outside the insurance.

Mayor Mills said it's outside the insurance, that's right. Any discussion?

Councilor Truitt said I did have a conversation with Mr. [City Attorney] Bauman and Ms. [Assistant City Attorney] Hermes in regard to this situation, and Pam [Assistant City Attorney Hermes] was nice enough to forward some documents to all of us, which was helpful. I don' t know—I think during my conversation with Pam [Assistant City Attorney Hermes], she mentioned she would be here tonight, so I would like, if that is still the case, I'd like to have her provide any additional information that might—

Mayor Mills said okay. Absolutely.

Councilor Truitt said be good background.

Mayor Mills said okay.

Councilor O'Callaghan said it is still the case that she's here tonight.

Councilor Truitt said pardon?

Councilor O'Callaghan said it is still the case that she's here tonight.

Assistant City Attorney Hermes said just by way of background, it was the case of Christopher Barker *versus* the City of West Lafayette. It involved both State and federal or Constitutional claims, and the demand that was made was, I believe, for $400,000 or $600,000 and included an excessive force claim. The jury did award Mr. Barker $40,000, $20,000 of which was in a punitive damage amount, which is substantially less than the total amount that was requested. The City does have insurance that provides coverage, but they have a provision which would exclude coverage for punitive damage or fines or penalties, which is a common provision in such policies. Basically by statute in the case of a civil rights claim, which is what this is, the governing body of the political subdivision has the authority to pay those claims, when it determines that it's in the best interests of the governmental unit to do that. And it's limited to doing that in the cases of non-criminal acts or omissions by the employee. It's my understanding, from discussions with the department and my involvement just in being in contact with the insurance company's lawyer who handled this litigation, that this was not a case in which an officer was out of control or involved in some kind of criminal act or omission. He was out there, doing his job as best he could, exercising his good judgment and, unfortunately or fortunately, our legal system provides for a way for people to second-guess that judgment. And in this case, it resulted in a judgment against him. Generally, if officers are out there doing their job and we expect them to respond—this complaint arose out of a response to a noise ordinance complaint—if they're going to go out and do those things, they need the support of, not only the department, but the Council as well. And when you are talking about good faith actions, from my perspective at least, it's the sort of thing that it is in the best interests of the community to support the police department and to provide funds to pay for this. So if anybody has any questions, I'd be happy to address them or, if Chief Marvin wants to add in, he can—in terms of the circumstances.

Councilor Truitt said would they tie in the malicious prosecution? I mean, what were the main points that—let me see how to phrase this—Mr. Barker's legal counsel, what kind of points were they making that would have led the jury to believe that there was malicious prosecution grounds, lack of training? What was the—?

Assistant City Attorney Hermes said well, as I indicated to you, and the City Attorney's office did not get involved in defending the case. The insurance company handles—we make an appearance, so we make sure there isn't any default judgment or anything, and provide local counsel, but we weren't involved in the trial of the case. My understanding of the circumstances is that they were claiming that Officer Ferguson used excessive force and he claimed to have, or indicated that he had a—that the individual pushed or struck him. Am I getting this right?

Police Chief Marvin said I think he maybe had an abrasion.

Assistant City Attorney Hermes said an abrasion, and that the individual had assaulted the officer and, my understanding from the plaintiff's—of the plaintiff's argument—was that he shouldn't have used so much force, which the jury rejected, but they apparently believed he shouldn't have filed the case against him, or proceeded in the manner in which he did. It's really hard to know, because you don't—the jury verdicts, as you know from the documents I provided, they're pretty general and they don't really give you the underlying—

Councilor Truitt said right, right.

Assistant City Attorney Hermes said the underlying reasons, and sometimes different jurors have different reasons for what it is they do.

Councilor Truitt said so the tie of the $25,200 compared to the $20,000 in this document. What's the delta of $5,200 is for what?

City Attorney Bauman said that was at the request of the Clerk-Treasurer, whose opinion is that this is taxable income to the officer.

Mayor Mills said other questions for Pam [Assistant City Attorney Hermes]?

Councilor Keen said so if I'm understanding this correctly, then this judgment was against the officer personally?

Assistant City Attorney Hermes said the judgment involved several different phases. The $20,000 in punitive damages was against the officer personally. I believe there was $1,000 of the judgment that was against the City, but that portion of the judgment, as well as all of the non-punitive damage claims were covered by the insurance policy. So, if that answers your question.

Councilor Keen said the only other question I think I have at this point, I know that the police department's been short on personnel most of the year, do we have funds available that we could transfer, as opposed to an additional appropriation to cover this?

Police Chief Marvin said probably.

Councilor Keen said I guess my question is why we often go with an additional appropriation versus just transferring?

Mayor Mills said well, I guess I'll answer that. Because it certainly wasn't an expected expense, and, I mean, certainly—well, I guess it doesn't make a difference as far as I'm concerned. We'll either appropriate money specifically for this. If the department finds at the end of the year they have extra monies, as you know, that goes back into the General Fund. We'll have those reversions like we always do, but we're only midway through the year, and, of course, the chief has budgeted what he expects to use for this year. I think to go ahead and take $25,000 out of his budget now for something that wasn't anticipated, that could put the department in some straights as the year goes on.

Councilor Keen said well, I guess I was just talking about money that hasn't been spent that was previously appropriated for salaries and that sort of thing.

Mayor Mills said yes, I know what you're saying. Other comments or questions? Thank you, Pam [Assistant City Attorney Hermes].

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 you heard from Mr. [City Engineer] Buck last month that this was coming, and he gave you the background information. He gave you a good handout on this. Are there any questions? Do you want any further comments from Dave [City Engineer Buck] or from Mr. [City Attorney] Bauman about the ordinance? Councilor O'Callaghan.

Councilor O'Callaghan said thank you, Mayor. I guess I would just like to reiterate my appreciation to the Engineering staff for giving us such a thorough analysis of this, and for taking such a proactive approach and tracking the hours that it took to do it and comparing it to the Lafayette rates and the Tippecanoe County rates, which have already been adopted. And so I just really appreciate the thoughtful manner in which it was presented and had this whole extra month to think about it and I'm proud of you guys.

Mayor Mills said other questions or comments?

There was no further discussion.

Ordinance No. 16-07 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (UZO Amendment #54) (Submitted by Area Plan Commission)

Mayor Mills said Councilor Griffin isn't here. He said he might be late or not make it. Apparently he's the only one in the office today, and so he wasn't sure that he wouldn't be seeing patients very late. I think you've probably all looked at this. It's the typical changes to the UZO that occur as conditions in the County change. It's just kind of an update of the UZO. Any specific questions? I'm sure Mr. [City Engineer] Buck—you want to come up and— Dave [City Engineer Buck] is here, if you have anything for Dave.

Councilor O'Callaghan said I think I would just note that the vote at the Plan Commission was 12 yes and 0 no.

Mayor Mills said any other questions or comments?

There was no further discussion.

Resolution No. 16-07 A Resolution To Approve The West Lafayette Library Capital Funds Project **PUBLIC HEARING** (Prepared by the City Attorney)

Mayor Mills said we will have a public hearing on this on Monday night. Any further discussion or questions on this? Fortunately, we had the Library Board here last month to talk to us about this, so we are very aware of what they're asking for.

Councilor Hunt said I have a couple—

Mayor Mills said Councilor Hunt.

Councilor Hunt said I talked to Mr. Schenkel [West Lafayette Librarian] at the Library today, and first of all, I wasn't clear if the new annexed area would pay taxes into the Library and so they don't. And so they can't—

Councilor Satterly said they're not in the Library District.

Councilor Hunt said they can't expand their base, essentially, and the other thing is the increase in readers and people with cards since they've opened the new Library's been quite impressive. The other thing is they've done quite a lot of fundraisers. I know there's been the "Light up the Night" the last, I think, two or three years that many of us volunteered with that I hope—there's certainly a lot of work went into it—and I think it brought quite a lot of money and attention in, so I'm eager to hear the comments at the public hearing. That's all.

Mayor Mills said just a reminder that the Library District is not contiguous with the City, just like the School is. The Library District for West Lafayette just goes to about Cumberland Avenue, and everything north of that is in the County Library District. Okay, any other questions or comments?

Councilor O'Callaghan said I guess just to remind Councilors that we have such good information, to get that out from last month's packet.

Mayor Mills said yes, great handouts they gave us.

There was no further discussion.

<u>Resolution No. 17-07</u> A Resolution Appropriating The Necessary Funds Resulting From The 2007 Community Development Application Of The City Of West Lafayette Under Title I Of The Housing And Community Development Act Of 1974, As Amended (Submitted by the Department of Development)

Mayor Mills said this is our normal yearly application of CDBG funds. There's $80,000 in general program administration, $126,377 in street and public improvements, the allotted 15% in public services in the amount of $67,301, and $175,000 in housing rehabilitation, for a total of $448,678. Any questions on this? Mr. [Assistant Director of Development] Grady is here if you have any. Councilor Hunt.

Councilor Hunt said if I may make, there were a couple of public hearings on this. There's an advisory committee that advises, and the Councilors were invited to contribute and prioritize the funding. And the social services are always—that I'm particularly interested in at the public hearings, the social services, you know, they write up nice presentations. It was a real blizzardy night, or almost a blizzard, if I remember the first one, and there were still a lot of people here, so it's a good process, I think, and it humbles you to see the needs of others.

Mayor Mills said and we hope the Community Development Block Grant program continues to be funded by the federal government. Patty [Councilor O'Callaghan].

Councilor O'Callaghan said actually right now is—they're in the process of the appropriations right now, so if this would be a timely time to talk to your federal legislators about the importance of the program.

Mayor Mills said a good reminder. Okay, anything else on this one?

There was no further discussion.

Mayor Mills said all right, we're going to skip the next two, which are going to be our larger discussion tonight, and we're going to go to Resolution No. 20-07.

Resolution No. 20-07 A Resolution Requesting The Transfer Of Funds (Street, Sanitation) (Prepared by the Clerk-Treasurer)

Mayor Mills said in the General Fund, in the Sanitation Department, a transfer of $500 from Electricity to Legal Notices, and the MVH Fund, Street Department, $300 from Licenses, Permits, and Fees to Instruction. Mr. [Public Works Director] Downey is here, if you have questions.

Councilor O'Callaghan said who's getting instructed on what?

Public Works Director Downey said drivers' licenses, CDLs.

Councilor O'Callaghan said thank you.

Public Works Director Downey said commercial drivers' licenses.

Mayor Mills said any other questions?

There was no further discussion.

Resolution No. 21-07 A Resolution To Amend The Comprehensive Plan For Tippecanoe County To Include The Amended Transportation Plan For 2030 (Submitted by Area Plan Commission)

Mayor Mills said I'm pretty sure that John Thomas [Assistant Director of Transportation, Area Plan Commission] will be here on Monday, if we have questions from the Area Plan Commission. We asked him to come Monday instead of today, because we knew we were going to have the income tax discussion. So you all have that, you've had that for a while. So make sure you look at it this weekend if you haven't already, so that if you have questions, you can bring those on Monday night.

There was no further discussion.

Mayor Mills said okay, anything of what we've gone over so far?

There was no comment.

Resolution No. 18-07 A Resolution To Cast The Votes Of The City Of West Lafayette On The Tippecanoe County Income Tax Council On The Proposed Amendment To Ordinance No. 2006-01-TCITC, To Adjust The Allocation Method For Distribution Of The CEDIT Homestead Credit For Inventory Deduct **PUBLIC HEARING** (Submitted by the Mayor and the Clerk-Treasurer) and

Resolution No. 19-07 A Resolution To Cast The Votes Of The City Of West Lafayette On The Tippecanoe County Income Tax Council On The Proposed Amendment To Decrease The Economic Development Income Tax Imposed For Homestead Credit To Mitigate The Inventory Deduct **PUBLIC HEARING** (Submitted by the Mayor and the Clerk-Treasurer)

Mayor Mills said if not, let's go back then to Resolution No. 18-07 and, Judy [Clerk-Treasurer Rhodes], do you want to start this discussion?

Clerk-Treasurer Rhodes said I'm going to begin with a presentation, and also making a presentation this evening or afternoon is County Auditor Jennifer Weston. I want to recognize the members of other bodies we have here tonight from the County. County Council member Tom Murtaugh, [County] Treasurer Bob Plantenga, and from Lafayette we have Deputy Controller Terry Schmitt, and also I'm delighted to have here tonight Larry DeBoer from Purdue University Ag Econ Department who is somewhat of a guru on local government finance.

Mayor Mills said that's what I told IACT today, Larry [Dr. DeBoer, Purdue University Professor of Agricultural Economics], so…

Clerk-Treasurer Rhodes said I'm going to talk from here, so that way we can get it recorded. I apologize, my back will be to you, so if you want to migrate, by all means, do so. Today, we're here to talk about the County Economic Development Income Tax-funded Homestead Credit for the Inventory Deduct, and just to explain what's the relationship between the inventory deduct and local income tax. The State mandated that all business inventories would be removed from taxation beginning 2006, pay 2007. Inventories are still being assessed, but 100% of the value is then subtracted from the assessment, so no taxes are levied. There is a property tax increase for everyone else, if governments continue to collect their same levies. The local County Income Tax Council has an option to respond. They can provide a local homestead credit to subtract a percentage from the tax bills of homeowners, to offset the increase in tax. Local governments will collect less taxes, if there is a homestead credit. However, the lost revenue can be made up by income tax revenue from an increased County Economic Development Income Tax. I want to mention Larry [Dr. DeBoer, Purdue University Professor of Agricultural Economics] has an excellent review, a handout online about the local option inventory deduction at the Ag Econ local government finance site. What happened in Tippecanoe County? Last March, the County Income Tax Council voted to increase the CEDIT tax from 1% to 1.1%. A new CEDIT Homestead Credit was created, and the Income Tax Council also chose to use the allocated method for distributing the homestead credit. Jennifer [Tippecanoe County Auditor Weston] will explain that in more detail, but basically homeowners who have property tax bills increasing from removal of inventory get a homestead credit to offset the increase. How did this come about? What's the mechanism? An ordinance was adopted by the Tippecanoe County Income Tax Council, and three members of the Council who comprise more than a majority of the votes voted in favor of the ordinance. You can see the votes are given there, and they're based on population from the last census. Well, that was the theory, and then came the reality this year. We had a couple of surprises. We found out that virtually everything that was collected had to be distributed. Couldn't retain an excess to lower taxes next year. Virtually everything—98%—that came in had to go out. We also learned that the Auditor of the State provides one method for counties to use for using the allocated method, and that method turns out to create large distortions in some counties when there are taxing districts that contain large amounts of inventory value compared to homestead value, even though the taxing districts have the same major tax levies. We also learned that county auditors have statutory ability to adapt the allocation method and propose one to the Auditor of the State. That method can better achieve the allocation desired. And we learned that the homestead credits that are needed to offset property tax increases and the homestead credits that result from having to distribute everything create unintended and unexpected tax breaks in certain taxing districts, unrelated to any other factor. They're artifacts of the method. We also learned that we had some local fiscal control over the CEDIT homestead allocation. With those, local control allows the County Auditor to make a determination that other changes are needed to make an equitable distribution of homestead credit. The County Income Tax Council must then approve the changes to the method to be effective for the coming year. The second aspect we have control over is the rate. The length of time for us to make that decision was increased from, I believe, a spring date to August 1, with the CEDIT rate change being effective October 1. Totally unexpected. So we're gathered here today as the County Income Tax Council. Actually what I want you to do now is look at your handout on page 7, if you've been following along. Does everybody have a handout that looks like this? They're at the table back there if you don't. Page 7. And we'll talk a little bit about who we are in the County Income Tax Council and where our homesteads are. This information is taken from the 2007 Abstract. The County Income Tax Council is comprised of the County and city and town governments. We control about 40.9% of all the levies in the County, about $81.6 million out of nearly $200 million. But our homestead credit, of course, applies against that $200 million. So although we're only responsible for levying 41%, we have a responsibility that impacts the tax bill created by all the overlapping jurisdictions. The homesteads, you can see on page 8, although the nice graph is up there. This information is taken from work done by [County Treasurer] Bob [Plantenga], and his name has fallen off this chart here. I apologize. I put it on myself, but I must have text-boxed it off. This was a compilation work he did, in which he used the 2007 Abstract and totaled up all the properties that had homesteads in our County. It turns out that we have 32,452 properties with homesteads now, and they're divided up between Lafayette and the unincorporated part of the County pretty evenly. As you can see, West Lafayette then has about 11%, and the towns about 5%. If you look at the handout on page 8, you'll see that there's some difference in the value of the homesteads, the value of property among the jurisdictions, as you might expect. And there is one—if you picked up the yellow page. This came in your mailers, those who got the mailer, but that just shows you, if you look in the left columns there, you'll see that the jurisdictions are quite differently dependent on homestead assessed valuation, in terms of the percentage of homestead to total net AV. You can see that the unincorporated County and West Lafayette are very depended on homestead AV compared to Lafayette. I want you to look at the handout on page 9 now. This, as I mentioned—and Bob's [County Treasurer Plantenga's] name is up there, partly chopped off. I apologize again—Bob did an analysis looking at what was the average homestead value in each of our taxing districts, and from which I compiled some of the figures you saw. He also did analysis of, on the average, how much CEDIT Homestead Credit went to each parcel. You can see that, the total CEDIT Homestead Credit that was distributed, according to the Abstract, is $2,587,671, and, on this handout here, page 9, you'll see the calculation of the CEDIT Homestead per parcel distributed. And then, last column, which was inspired by the presentation Larry DeBoer [Purdue University Professor of Agricultural Economics] did a couple of weeks ago, a video streaming conference for local government officials, there was a calculation of the break- even point, that is the income, at which a taxpayer has received about the same benefit from property tax reduction as they've paid in income tax. So, up to that level, that income level, they break even. They earn more than that, they're paying more in income tax than they're receiving in property tax reduction. And, looking across the County, it's somewhat surprising about how low that level is. Now, Larry [Dr. DeBoer, Purdue University Professor of Agricultural Economics] would probably tell you, caution that's taxable income, so that real income is higher because there are State income tax deductions and there are probably some other adjustments, but rough rule of thumb, you can see that, across the County, the breakeven point's pretty low. And there are very strange anomalies. For example, in Lafayette Fairfield 56 and 58, those gross tax rates change considerably in terms of break-even point in the same jurisdiction, having the same City services. In one case, if they earn more than $54,846, they're going to be a net donor. In another case, they'd have to earn all the way up to $124,000. And the gross tax rates between those districts are only different by 2%. So coming now to where we are this year, I want you to look—you can either look on page 10, if that's easier for you—but on the left column, you're going to see the column that shows what happened this year, 2007. We're not going back and changing anything this year. We're talking about what's going to happen next year. The tax bills have been figured; we're set. The CEDIT Homestead Credit, we mentioned, amounted to $2,587,671. And it was awarded $1.6 million to Lafayette homeowners, $645,000 to the unincorporated County homeowners, and $263,000 to West Lafayette homeowners and the rest of the towns. I want you to come across to the column that's still labeled CEDIT Homestead Awarded, which is on the right side, and we'll just work through and figure out how much did we need and how much was extra. We collected $2,742,020 with a 0.1% CEDIT. We're required to hold aside a 2% reserve, so we had $2,687,180 to distribute. We distributed $2,587,671. Now, we distributed everything we thought we could distribute, which meant the amount we needed to make homeowners whole and everything else in the bucket. So we gave, along with making them whole, we gave them extra money that translated into the unintended tax breaks. Even though we did that, we still have money left over, $99,508. We still have another $100,000 left over. So we will be using this, if we have it at the end of the year, it will go into the reserve for next year. The Auditor will talk to you about how the estimation was for how much we needed to just offset property tax and how much was extra following my talk. But, roughly, she's going to show you that we estimated that we had collected about 19.5% more than we needed to totally offset the tax. Does everybody understand that? Okay. We probably actually collected more than that. But just for a rough estimation here, I took the amount that was awarded and I reduced it by the extra that was given out, the unintended bonus, you might say. And we come down to what we probably really needed. We need about $2,165,000 to have totally protected our taxpayers from removing inventory value. So let's come on back around to this side on the right column and, once more, we go up here. We collected $2.7 million, and we have to set aside a little reserve, and we have that amount that we can distribute. We really only needed $2,165,415, let's say, to make everyone whole, to neutralize. And we can see probably the real excess of what we collected is over $500,000. Here it's $521,000, but we clearly have collected at least $500,000 more than we need to neutralize the inventory value removal. So, we're here to talk about one of the issues being the tax rate. And I'm going to do a little "what if" here. What if the rate was reduced to 0.08%? If the income tax collected for the County was flat, we would collect a little bit less with a 0.08% rate, or about $2.19 million. That's this number. We'd have available to us the reserve, at least part of that left from the prior year, and we'd have the excess that, it turns out, we didn't need, based on what we did in the Abstract. We could add that back in. We'd have to take out that 2% reserve again, and we'd end up with $2.3 million to distribute. If our needs for Homestead didn't change, we'd still have over $135,000 left. We learned from this year that, for every $150 of inventory value that was taken out of the tax rate—we had about $332 million in inventory in the County—it took about $1 of Homestead Credit to make everyone whole. So this is $20 million of inventory. That's our cushion. We could have no growth rate in the income tax, or we'd assume the income tax would grow enough to take care of any other adjustments, due to imposition of new tax rates out of the ordinary, and we would still have enough to cover growth of inventory of $20 million. I want to turn the rest of the presentation over to [Tippecanoe County Auditor] Jennifer Weston, who will be able to describe in detail her recommendation on a rate and how things worked this year. Thank you.

Ms. Jennifer Weston [Tippecanoe County Auditor] said thank you for the invitation to be here this afternoon. I did a presentation that I'm really not going to talk about the first half. I simply wanted it to be information that someone could read if they had questions. We tend to talk a lot about acronyms and definitions—Homestead, PTRC—all of those things that someone might say, "Well, what exactly is that?" So I tried to just to do a simple overview of taxes in the first half. I just really want to concentrate now on the Homestead Credit at hand. So I'm going to be starting with page 4 of your handout.

Councilor O'Callaghan said and which handout is this, Jennifer [Tippecanoe County Auditor Weston]?

County Auditor Weston said sorry, it says, "Property Taxes: An Overview."

Councilor Keen said I don't have that one, either.

Councilor O'Callaghan said I don't think we have it.

Councilor Truitt said that's what I think they were copying that just a bit ago.

County Auditor Weston said so the credits that Tippecanoe County does have, we have Property Tax Replacement Credit, money that comes from the State to lower property taxes across the board. We also have Homestead Credits; these are for residential, owner-occupied homesteads. It lowers the property taxes for those with a homestead, and also that comes from State and local resources. The new credit is the local CEDIT, which is what we're talking about. The theory being that when total assessed values are reduced by inventory and the levies stay the same, property tax rates are going to go up. Judy [Clerk-Treasurer Rhodes] mentioned this. I don't want to repeat a lot of what she said. So homeowner rates would increase. In order to neutralize the impact, you would offset the rate increase with this additional Homestead Credit. If you were to bill without the Homestead Credit, your levy would fall short. So you impose the income tax to make up for it. In theory, the amount of dollars that would be lost is equal to the amount of income taxes collected. You just saw that that is not exactly the case. So for 2006, the best information that was available at the time was Certified Inventory Values of $483 million. The dollar amount of taxes to be shifted from those who owned inventories to the homeowners was estimated to be $1.8 million. We would need to impose a 0.08% income tax. At the time, there was discussion about this, and the Council imposed a 0.1%, not knowing what inventories would be doing. We come to 2007, and what did we get? At 0.1% income tax, we received $2.7 million. The State method for calculating the allocated method produced rates that ranged, in certain districts, up to 61%, meaning that tax bills would be reduced significantly in those districts, which was not the intent of imposing the tax or offering the credits.

Mr. Terry Schmitt [Deputy Controller, City of Lafayette] said is that 61% or 0.61%?

County Auditor Weston said 0.61%. Sorry. And what we saw in 2007 is that the Certified Inventory Values dropped from $483 million to $332 million. So what did we do? We looked at the method and decided to utilize the original concept of neutralizing the impact, and, with Bob's [Tippecanoe County Treasurer Plantenga's] help, went through and refigured what all tax rates would have been, had that inventory been included. We calculated the dollar value of the tax rates, the differences, and then allocated the credits, so we really worked backwards from what the State had sent as the original method. This is not exactly what Madison County adopted. They did, in fact, adopt some sort of a hybrid, but it is not exactly the same concept, as far as going back to figuring what the rates would have been prior to. So the results of doing so, and the numbers that we—and I'm demonstrating here that we came up with $2.2 million needed. Judy [Clerk-Treasurer Rhodes] was using actual Abstract numbers. When we calculate these credits, we only have Certified Values at the time, so that's what I'm talking about here, is that we used Certified Values of Inventory and AV. In doing this new method, the Homestead rates ranged from 0.01 to 0.11, which seemed extremely more reasonable than those initial rates, and so, with some exceptions, the Homestead Credit was higher in those districts that you would have thought it would be higher in. So we feel like we made a bad situation better or fairly good, going into the tax billing. What we want to talk about now is can we have that method altered, so that we distribute the excess in a combination? I'm going to have you look at another handout that was in the packets, and it was distributed to the County Council on June 12. It listed all the tax districts. If we start with the first column, see the dollars needed. Again, using the Certified Values that we had available to us, we were estimating that we needed $2.2 million. Having generated and needing to distribute about $2.6 million, we come up with a difference of approximately $400,000 to $500,000. If we apply the uniform method to this current method of allocated, we would come up with a somewhat more equitable way of distributing the money. So I'm showing here a new rate, plus the uniform rate, gives us a proposed—what we're talking about today—CEDIT Homestead Credit rate. And then the next column shows what we actually used in 2007, so you can see the differences in the two by using a partial uniform rate. And then I also looked at $175,000 assessed value homestead, what the taxes would have been on that property using this method, versus what we actually did this year, so that you could see a range of dollar impact. Does anybody have any particular questions about that one? That was if we had done it this year, but, as Judy [Clerk-Treasurer Rhodes] mentioned, we've billed, collected, we're moving on. We're talking about what we could possibly do in 2008.

Councilor O'Callaghan said Jennifer [Tippecanoe County Auditor Weston], is that last column, then, what are those numbers? Are those percents? Are those dollars?

County Auditor Weston said it's dollars.

Councilor O'Callaghan said dollars on a $175,000 AV home?

County Auditor Weston said yes.

Councilor O'Callaghan said thank you.

Mayor Mills said so that is the change in actual dollars for that value of a home with what you're proposing, the new—?

County Auditor Weston said yes.

Mayor Mills said okay. Thank you.

Councilor O'Callaghan said and from [tax districts] 64 to 70, we can see West Lafayette, and we can see a lot of negative signs, so that would mean that our $175,000 home in West Lafayette would decrease by that amount of dollars. Correct?

County Auditor Weston said right.

Mr. Schmitt [Deputy Controller, City of Lafayette] said and conversely, the Lafayette people would go up $22, and Shelby in the County would go up $23.80, Fairfield would go up $16.54. Correct? So they would be negatively affected by the new allocation?

Mayor Mills said but correct me if I'm wrong, they will still be whole. They will still be whole from the loss of inventory. Is that correct?

Councilor O'Callaghan said this is after it's allocated, so yes.

Clerk-Treasurer Rhodes said yes.

Mr. Schmitt said doesn't it have something to do with the rate at which our rate went up—our tax rate went up, compared to your tax rate going up. Our tax rate went up 8 to 10 cents because of the inventory. Do you know what yours went up because of the inventory being taken out?

Clerk-Treasurer Rhodes said you can see from the amount of Homestead Credit that we received, that we have very—

Mr. Schmitt said do you know what the rate is? I'm asking you what the rate is. I'm asking what the rate is. Do you know?

Clerk-Treasurer Rhodes said well, we don't have one rate. We have a weighted average rate, and I can't answer you.

Mr. Schmitt said you don't know what the West Lafayette rate went up because of the inventory?

Clerk-Treasurer Rhodes said West Lafayette, our civil jurisdiction, or what our taxpayers experienced?

Mr. Schmitt said civil distribution.

Mayor Mills said civil rate.

Clerk-Treasurer Rhodes said civil rate. Well, no I can't tell you. I don't have that table right here. Bob [Tippecanoe County Treasurer Plantenga] might have something there. The question he's asking is how much did the civil city rate—he doesn't care about the overlapping rates, just the civil city rate—

County Treasurer Plantenga said because of inventory?

Clerk-Treasurer Rhodes said yes.

County Treasurer Plantenga said or just overall?

Mr. Schmitt said do you have that for all the counties or all the districts—

County Treasurer Plantenga said I don’t have it with me. I only have the West Lafayette one, but I have the city general rate for West Lafayette was 56 cents, almost straight, and if inventory were included, it would have dropped to 55.3 cents, or two-thirds of a cent the rate went up because of inventory going away.

Mr. Schmitt said so it went up just a penny?

County Treasurer Plantenga said two-thirds of a cent.

Mr. Schmitt said two-thirds of a cent? Okay. Do you have it for all of them?

County Treasurer Plantenga said I do, but not with me.

Mr. Schmitt said can you email that or send it to me?

County Treasurer Plantenga said sure. And I would think, just because Lafayette’s got a lot more percentage of inventory—

Mr. Schmitt said yes.

County Treasurer Plantenga said that you would have a higher impact. That’s why the—

Mr. Schmitt said it did. And people in Lafayette got hit by that extra 8 cents because of it, which was not equitable either.

Clerk-Treasurer Rhodes said but your taxpayers didn’t feel it. You understand that?

Mr. Schmitt said yes, I do. I understand the situation.

County Treasurer Plantenga said now that’s just the city general rates. If you look at all the city rates, it was right at a penny in West Lafayette.

Mayor Mills said and I guess, to reiterate my question, what we’re proposing, even though it is going to have a negative impact, that’s compared to the CEDIT distribution this year, which, you know, people got more than they actually needed to offset that loss of inventory, because we distributed extra. Correct?

Mr. Schmitt said but then in ’08, they’re going to get it back, if you do it this way.

Mayor Mills said but they’re still going to be made whole.

Councilor Truitt said and the purpose is to neutralize—

Mayor Mills said it's to neutralize—

Councilor Truitt said the impact, right?

Mayor Mills said it's still going to neutralize the impact of the loss of inventory.

Clerk-Treasurer Rhodes said your taxpayers will—in terms of negative detriment, the removal of inventory will not be a detriment to any homeowner in Tippecanoe County with the proposed adjusted rate.

Mayor Mills said right.

Clerk-Treasurer Rhodes said however, it is true that those taxpayers who then received the advantage of there being excess will not get that benefit. They're going to have to share it with all the homeowners in Tippecanoe County who are all paying.

Mr. Schmitt said so you're talking about just changing it so that the excess is less—

Mayor Mills said yes, the excess.

Clerk-Treasurer Rhodes said correct.

Mr. Schmitt said you're going to leave the credit the way it is right now.

Clerk-Treasurer Rhodes said right.

Mayor Mills said yes, just the excess.

Clerk-Treasurer Rhodes said so the homeowners who've seen any tax increases from the inventory being removed will always have first claim to the dollars. They'll be made whole. And I think it's reasonably probable that there'll be sufficient revenues using the lower rate to make them whole. But in any case, their position is not jeopardized. However, the question is, are we willing to continue to allocate, this year about $500,000, in additional tax benefits to homeowners for no other reason that we—

Mayor Mills said we collected too much.

Clerk-Treasurer Rhodes said we collected too much. And it's the homeowner in District 56 versus the homeowner in District 58 in Lafayette. Why should they have different claims to the excess?

Mayor Mills said right. But nobody will be hurt next year. I mean, they'll get less because we'll distribute less excess, but we will make everyone whole, so it's even from the loss of inventory. So we're not suggesting that taxpayers in Lafayette—you know, we agreed a year ago that we would all share that burden. We're not changing that position. We're just saying, if we're collecting extra, we don't want to unevenly distribute that extra amount.

Mr. Schmitt said I guess it's your definition of uneven. Okay.

Councilor Truitt said well, correct me if I'm wrong, but it's a—

Councilor Satterly said you're distributing it uniformly instead of allocating the surplus.

Councilor Truitt said I mean, it's a 19.5% lottery win for a large number of taxpayers in Lafayette, right? Above the neutralized impact. Correct?

Clerk-Treasurer Rhodes said yes. This year, because of the rate and our need, there was an unintended, unexpected additional—it was their lucky number.

Councilor Truitt said correct.

Clerk-Treasurer Rhodes said for all the taxpayers that were paying, it certainly wasn't their lucky number. And that was 100% of the folks, virtually. So, we've broken the issue into two parts here, because we understand there are two different discussions that are going to occur. One is whether revising the method is fair and equitable and achieves the purposes for which the new tax was imposed, and the other question is whether we wish to collect probably more than we need and distribute it to homeowners nonetheless. So we've proposed to separate these two issues with two different ordinances with two different ordinances before the Tippecanoe County Income Tax Council.

Councilor Truitt said Mayor.

Mayor Mills said yes, Councilor Truitt.

Councilor Truitt said if one of the County Council individuals would be willing just to speak—I was not able to attend the County Council meeting when this was brought up in some way, shape, or form. If someone would just be willing to just give just a quick snapshot of what your group discussed and decided and any logic behind that would be helpful.

Mayor Mills said Tom [Murtaugh, vice president, Tippecanoe County Council], do you want to do that? Or Kathy [Vernon, member, Tippecanoe County Council].

Mr. Tom Murtaugh [vice president, Tippecanoe County Council] said when we spoke about this at our last meeting, we had a discussion and decided to do nothing at that point. Because, I think the consensus of the [County] Council was to give it another year's history. Now, we—and I certainly can't speak for the rest of the [Council] Council—as for myself, I certainly can support the first ordinance that's being presented here. I think it is only fair to allocate that excess uniformly across all the taxing districts, so as far as—and, again, this is solely my opinion—but as far as the second ordinance, I think it's a little too soon to talk about that, to talk about a reduction. I think we need at least another year's history of collection on that, because inventory very well could be rising, you know, as it's only been a few years since that inventory tax has been eliminated. And, you know, hopefully, the goal of that is to increase inventory in Indiana, and hopefully that works. So there could be, you know, a big rise in inventory, and I think even if there is a continuation of excess collected, those funds going back to property tax relief in a uniform method is exactly what we're all hearing. You know, people want property tax relief. You know, so I don't think we're hurting taxpayers by overcollecting on that. I think that's what we're hearing across the board. But, again, I am not in any way speaking for the entire [County] Council, and Kathy [Ms. Vernon, member, Tippecanoe County Council] may have a different opinion on the matter.

Mayor Mills said Kathy [Ms. Vernon], want to add something?

Mr. Murtaugh said I hope that answers your question.

Mayor Mills said thank you.

Councilor Truitt said thanks, Tom [Mr. Murtaugh].

Ms. Kathy Vernon [member, Tippecanoe County Council] said you know, the definition of the word "consensus" means once we leave the room, we all agree that, you know, we're going to walk out with this. But we've been placed with the obligation to our citizens of this County to do what's right and to collect only the amount of money that's needed. And when we collect our money, then to be good stewards of that money and to distribute that money as we should. I spoke at the [County] Council meeting, that I felt a public hearing was necessary and that we should revisit the issue, because we do have history now. We've learned from what happened, and the situation began a year ago, and then when we received the tax rates in March, we realized that maybe the decision that we had made back in 2006 was not the right decision. And so we were able to come up with a formula. But now we have more data, so we see we can do a better job than we did in 2007. So I support a different method of distributing the excess, and, as we can see from the numbers, if we could just collect 0.08% versus 0.1% and do our due diligence to our citizens of Tippecanoe County, I think that's what we need to do.

Mayor Mills said thank you.

Councilor Truitt said thank you, Kathy [Ms. Vernon].

Mayor Mills said I'd be interested, Larry [Dr. DeBoer, Purdue University Professor of Agricultural Economics] if you had any thoughts about any of this, since you've got the history.

Clerk-Treasurer Rhodes said you'd have to speak from the podium, however. That would be the requirement.

Dr. DeBoer [Purdue University Professor of Agricultural Economics] said well, I guess I have a couple of thoughts. Unaccustomed as I am to public speaking, a couple of thoughts. One is that we're focusing entirely on homeowners here, and that there are both other income taxpayers and other property taxpayers out there. I'm thinking about the people who have income in the County but don't own homes, who are not getting any of the property tax relief from this, but are paying extra income tax. They would probably favor reduction of the rate to 0.08%. Then I'm also thinking about the property taxpayers who didn't have inventory. They're paying the income tax and paying the extra property tax and they're not getting the break, so who are those people? Renters, office buildings without a lot of inventory, I suppose, landlords, probably, are the sorts of people who are not represented in these documents here, but are paying more, and you might want to take into consideration those folks as well, even though they're not a majority of voters anywhere, I don't think. The other thing is it sounds to me like are we really going to adjust the allocation and Homestead Credits and income taxes based on the assessed value of inventory every year? Or are we going to take what it was the year immediately before the end of the inventory tax? Now I think it's going to be problematic in a couple of ways, if we keep moving forward and doing a recalculation every year. One is because, I think this has been discussed, is that once the assessors realize and the taxpayers realize that the inventory that they're reporting is never going to be taxed, the reporting quality of the inventory assessed value is going to diminish. And so that's really unfortunate, because it would be great—as an economist, this is really unfortunate, because it would be a great way to test whether eliminating the inventory tax has any impact, like we think it will—but we'll never be able to make that test, because we'll never be able to trust the data again. The other thing is that if you keep talking about "making people whole," what if the elimination of the inventory tax really does have the impact that it is supposed to, and we get extra inventories? You really shouldn't count that extra inventory, in terms of making people whole, because had that tax not been eliminated, that inventory wouldn't have existed. So people are not losing out on the taxes that would be paid on those additional inventories, because those additional inventories would not have existed, had the tax not been eliminated. So, in a sense, what impact—I guess, my opinion—what the inventory was in 2005, pay 2006, the last year before the inventory tax was eliminated, is probably the number you should continue to focus on on into the future. It's the last real number we've got, it's the last number not affected by the changes in the tax rates. If we keep offsetting that and making people whole relative to that, I suspect that's about as good as we're likely to be able to do. So those are a couple of thoughts from listening to what you say.

Mayor Mills said thank you. I appreciate that.

Councilor Truitt said thanks, Larry [Dr. DeBoer].

Clerk-Treasurer Rhodes said well, I will respond a little bit to that. It's kind of a choice between dealing with the facts that we have now, versus trying to understand why numbers have changed. Keep fixing that baseline back there, back then brings upon a host of other assumptions about what's happening with the tax base. And in the end, it's the value of property as assessed for taxes now that is determining the tax rate. In my opinion, despite the lack of enthusiasm by some assessors in our County, inventory is concentrated enough in a few taxing districts that enthusiasm does not have to be widespread for a relatively accurate value to occur, compared to, perhaps, other counties. In the end, it's what's in the tax rolls that determines people's tax bills, and staying with what we have actually got on the tax rolls every year may be a more verifiable system than freezing things and then speculating that changes are due to this or that in years to come. Just my opinion.

Mayor Mills said any other—? Bob [Tippecanoe County Treasurer Plantenga], do you want to come and add some thoughts here to this discussion?

County Treasurer Plantenga said I wasn't really prepared for any thoughts until I got here, so I'll just respond to what— the page I'm looking at here is Judy's [Clerk-Treasurer Rhodes's] handout on page 11. maybe—and I certainly have more concern about changing the rate than changing the allocation method, because the allocation method, when we're just given general property tax relief, what you're doing with that extra $500,000—you know, having a uniform method that would seem correct. But as far as changing to the 0.08%, we have some variables there that are really hard to determine. In looking at the historical chart that we've had with income tax, you know, if you have a stock market crash, if you have layoffs within your community, your income can drop pretty significantly pretty quickly. That was seen in a lot of counties, and our County as well, a few years ago. We also don't know if we're going to be using the current inventory amounts, those can change drastically, too. We saw that from what we had in 2004 to what we had when we used the current. That was quite dramatic. But my point I wanted to make was we're distributing 98% of the money that we take in, not just to create a reserve, but, like for 2007, the $54,000 there, that 2% we're holding back, that's for corrections. Now, when we bill property taxes, especially with homesteads, there's some people, that, on their tax bills, they don't have the homestead on there, and we have to go back and correct that. So that is really, to me, the other 2% doesn't exist. And we're looking at this 0.08% sheet, you've got the 2%, $54,000, and then you've got the 2% reserve for the next year. When we get to 2008, that $54,000 may have been used up. The $46,000, that may be used up in 2008. If you take those two numbers out, that's $100,000 less.

Clerk-Treasurer Rhodes said well, the 2% for 2008 is already out of there.

County Treasurer Plantenga said but you're using that to calculate your excess, and I think that we could have, over this two-year period of time, we could have $100,000 in refunds to CEDIT Homestead.

Clerk-Treasurer Rhodes said okay, you're saying that the adjustments could take away almost $100,000.

County Treasurer Plantenga said right. And that's why we're distributing 98% of what we take in. You know, and when you're getting this down to, if your other numbers are staying the same, $35,000 out of $2.2 million, that's a pretty slim margin. And we're going to get to the point where we're not going to be able to make everybody whole from the inventory. So that's just my only point, that maybe if we can see how this goes. But you never know what's going to happen with the economy and whether income taxes are going to stay steady. You know, historically, when you look in the long term, they've been going up pretty nicely. We're in a good community there with—when you've got our major employer here is not really inclined to lay off—so we have tended to go up at a pretty good clip. To me, maybe it's too early to take this step.

Mayor Mills said okay, thanks.

County Treasurer Plantenga said thank you.

Clerk-Treasurer Rhodes said I guess I have one question regarding the risk of "not making taxpayers whole." Given that we gave so much additional this year, what is the risk next year? Would it be $5—? Could it be a $4 or $5 change on a tax bill? Do you have any sense of the order of magnitude you judge that risk to be?

County Treasurer Plantenga said it wouldn't be significant. I mean when you look at the Homestead Credit percentage of what we're creating, we're not that high. But, in theory, we want to make everybody whole. I'm not sure we're going to necessarily always be—we may not be able to do it at 0.1%. So 0.08% is just a little bit closer to the line of where we're at.

Councilor Truitt said and I think at some point also, when Larry [Dr. DeBoer] gave his presentation, we also have this 2009 unknown factor, in regard to will there be a bailout of—I can't remember what—$250 million to $300 million, as the homestead exemption starts to run out, as the bailout or local control begins to transfer over. I mean, there's a lot of variables that are coming into play, above and beyond just what we're talking about today. So I mean there's a lot of factors that are somewhat disturbing as we try to discuss this topic as one, we have this future item that's a lot more spooky, use that word. See, Larry [Dr. DeBoer], you can use that now in your next presentation, if you want. You don't have to give us any credit for that.

City Attorney Bauman said that's an economics term.

Councilor Truitt said yes, that is an economics term. Voodoo economics, I think, actually. So, I appreciate everybody's comments, though, that came tonight. I think it was great. Very helpful.

Mayor Mills said very educational for all of us, I think. Big decisions to make. Anything else? Patti [Councilor O'Callaghan].

Councilor O'Callaghan said thank you, Mayor. I guess I would just really like to reiterate, especially when the Deputy Controller from Lafayette is here, about how committed we are to the allocated formula for the first part, that we voted for that last time, because we felt that, although we don't have much inventory in West Lafayette, we certainly benefit from the inventory that is in Lafayette, and to consider us as a community of the whole, even though that vote wasn't unanimous, we did send a strong message that we want to act as one whole community. And so just to reiterate that this is just on the excess and not on that original part, that we're still very committed, no matter what we decide about the other stuff, just very committed to the—personally committed—to the allocated portion for the inventory tax deduct part.

Mayor Mills said yes, I definitely want to second that, Terry [Lafayette Deputy Controller Schmitt]. I think we—

Mr. Schmitt said I'm just here and have my thoughts, and I know the [Lafayette] Mayor wants to meet with you and talk to you about this a little bit more, I think, too.

Mayor Mills said okay. No, we are committed to the allocated method, but, again, we're just talking about excess here, we're not talking about making anybody's property tax bill go up higher because of the loss of inventory. I think we do economic development in this community so well because we're all looking at the same big picture. We don't want that to change. Other discussions?

Clerk-Treasurer Rhodes said I would like to say that we recognize the need to cooperate, but my introductory part about our different circumstances—We understand Lafayette's circumstance and the County's circumstance, but we also want you to understand how it feels to the homeowners and taxpayers in West Lafayette. We haven't had a chance to get together and look at some of the big picture. I hope you'll look at some of that data and understand how these decisions are affecting all of us, and take that into account when you're making your decision. I'm glad to hear that, at least, Tom [Tippecanoe County Council vice president Murtaugh], you and Kathy [Tippecanoe County Council member Vernon] would feel that carrying forward with a more equitable method would be something that would be desirable. The County Auditor has already done her statutory role by making that determination, but, without the approval of the Tippecanoe County Income Tax Council, that can't go into effect. So at least as a local finance officer, along with the County Auditor and, hopefully, the County Treasurer, a method for allocating that appears will have a lot of benefits, I hope, will get serious consideration.

Mayor Mills said any other comments? Patti [Councilor O'Callaghan].

Councilor O'Callaghan said thanks, Mayor. I guess I just wanted to reiterate something that Tom [Mr. Murtaugh] said that really struck me about when we're considering the second part about the percentage is the idea of the shift from property tax to income tax, and we've decided not to do that option that we were allowed to by the Legislature this year, because we had to decide by August 1, so there really wasn't any time to do that this year. But that was just a real interesting way to think about this 0.2%—or .02% is it? .02%, I guess it is.

Clerk-Treasurer Rhodes said are you implying, then, that there might be other uses for an income tax than this particular use?

Councilor O'Callaghan said no, I'm agreeing with Tom [Mr. Murtaugh] that this might be leaving it at 0.1% when it is in excess might still just be shifting some property tax to income tax. So shifting that, what seems to be the mood of people is to decrease property tax and increase income tax.

Mayor Mills said and I'll make copies, because I know everybody wasn't at Larry DeBoer's presentation, but did a really excellent job of talking about property tax versus income tax and the pros and cons, and I learned a great deal. I think it was eye-opening to see it on kind of the property taxpayer basis—if you earn over this salary and your home is worth over this amount, then you are benefited or not by going to income tax, and that was very eye-opening to me, which is something I think that all the Council needs to see that information, because I think that plays into what decision we ultimately make. I'll make sure you get copies of that. Well, I'll just stop by saying thank you to all of you for being here. I think it's been very worthwhile. I very much appreciate you taking your time to come and discuss this. Thank you.

OTHER BUSINESS: None.

<u>ADJOURNMENT:</u>
There being no further business at this time, Councilor O'Callaghan moved for adjournment. Motion was seconded by Councilor Truitt and passed by voice vote, the time being 5:52 p.m.