

**PERRY COUNTY COUNCIL
SPECIAL MEETING MINUTES
August 6, 2024**

The Perry County Council met on the above date at 4:00 p.m. as was duly advertised. Council members in attendance were David Etienne (DE), Stan Goffinet (SG), Kelli Harding (Kelli), Keith Huck (KH), Gale Garner (GG), Earla Williams (EW), and Paul Malone (PM). Auditor Kristinia Hammack and Sheriff Alan Malone were also present. There was no *Attorney* or *News Representative* present.

The meeting opened with the Pledge of Allegiance.

DE stated the purpose of this meeting is for a second and third reading and a vote will be taken on the proposed modification of a Local Income Tax. On July 25, 2024, the Council did conduct a Public Hearing in accordance with State Statute, and all taxing units were notified as required.

At that meeting, the Council voted on the Ordinance. When an Ordinance is first introduced, it must have a unanimous vote in order for it to pass, which there was a vote of 5-2. This required the Council to conduct a second and third reading.

PUBLIC COMMENTS

- a) Public comments were made by Steve Owen, Megan Fritchley, Chris Cail, Jeff Hagedorn, Martha Dupre, and Larry Kleeman. Questions were asked of the Council regarding where the money will be going, and DE stated 0.1% will be going to Emergency Medical Services, 0.1% will be going to Correctional Rehabilitation Facilities, and 0.03% will be going to Public Safety for dedication of PSAP. Kelli stated the approximate dollar amounts for EMS is 0.1% for \$479,981 per year, PSAP is .03% for \$144,981, and Correctional Rehabilitation Facilities is 0.1% for \$479,981. The total is \$1.1 million. DE stated these are the services the County is mandated or obligated to provide. Kelli stated the issue is the County does not bring in enough money to fully fund these three items. She further stated that the County has struggled properly funding the EMS. Kelli explained the County pays two different things, one being a subsidy for whatever loss they experience from insurance claims, and the equipment. The County has to purchase the ambulances and any equipment that they need.

City of Tell City Attorney Jeff Hagedorn stated that Perry County established a Local Income Tax Council pursuant to Indiana Code Section 6-3.6-3-1. Perry County adopted an Edit Tax March 5, 1990. It was the Perry County Local Income Tax Council that adopted that. The Perry County Local Income Tax Council consists of the fiscal body of the County, as well as the fiscal body of each City or Town that lies either partially or entirely within the County. This means the Perry County Local Income Tax Council consists of the Perry County Council, the Tell City Common Council, the Cannelton Common Council, and the Troy Town Board.

The Perry County Income Tax Council is the appropriate body to consider the allocation of LIT funds pursuant to the Indiana Code, which includes providing notice to the affected municipal units within the Perry County Income Tax Council jurisdiction.

Hagedorn stated the City of Tell City has received no notice from the Perry County Local Income Tax Council of any proposal to change the allocation of LIT funds within the jurisdiction of the Perry County Local Income Tax Council as required by Indiana Code Section 6-3.6-3-7. He further stated the only notice provided to the City of Tell City was provided by the Perry County Council acting unilaterally and contrary to the Indiana Code in an effort to adjust the LIT allocation within the jurisdiction of the Perry County Local Income Tax Council. Hagedorn stated that because the Perry County Council is not the proper body to adopt a revision of the allocation of LIT funds, the action of the Perry County Council is not in compliance with provision of the Indiana Code. The notice previously provided by the Perry County Council is invalid. The prior hearing of the Perry County Council to consider an Ordinance amending the LIT allocation

is invalid. Any action taken by the Perry County Council of any furtherance of these matters will likewise be invalid.

Hagedorn stated that if the Perry County Council decides to move forward with these matters in comprehension of the requirements of the Indiana Code, the City of Tell City is prepared to take any and all steps necessary to challenge these invalid actions. However, should the Perry County Council wish to take a step back, involve the municipalities as they are required to do, the City of Tell City welcomes an open discussion regarding the allocation of LIT funds.

DE responded that if that is the case, then the County has been in violation prior. He further stated that the Council's attorney told them they were correct in what they did.

PM made a motion to table.

Kelli stated she spoke to the Department of Local Government Finance (DLGF) and their attorneys also stated that this is the proper procedure. DE does not know where this is coming from.

Kelli stated that the Council could vote on this, and PM stated that the thing to do is table this and let attorneys take care of this. Comment from the audience stated that if they do not table this, the County will be paying lawyers, having a legal fight, paying attorney fees on both sides, and where does that get the County? It is best to work it out among yourselves.

SG stated that with the election coming up in November, let the people of Perry County decide, and if it changes the structure, then they can go back to the way they want.

Kelli feels that if the Council votes on this, and the DLGF attorney gets with Jeff Hagedorn, and if there is something wrong, the Council can hold another meeting in forty-eight hours. KH asked DE what good will it do the Council to vote and approve this, and Tell City files suit? Kelli stated that the DLGF attorney can speak to the City of Tell City tomorrow after the vote. Once they speak, if it is not proper, the Council can redo it. Kelli does not want to drag this out. Kelli further stated that this is exactly what has been done with every other LIT modification, although Kelli stated she was not involved with those.

PM made a motion to table, seconded by KH. Auditor Hammack stated that technically the Council can not do any business until all the public comments are heard.

DE read information from Fred Van Dorp who was at the time the Director of the Budget Division with the DLGF. This was written in 2022. Chris Cail stated he would seek an update. DE read this information regarding the adoption process. It stated that the Local Income Tax Council takes the vote, not the Perry County Council. Hagedorn stated that the Perry County Council is not the Perry County Local Income Tax Council.

Chris Cail, Mayor of Tell City, stated his fear is if the Council approves this, and then find out later the process was not legally done, it is giving false hope to the County for their budget and would have to go back and move numbers around, and it is giving the City of Tell City and City of Cannelton, as well as the Town of Troy false numbers, as they would have to go back and rework their budget.

Cail suggests the Council call an attorney who specializes in this and reschedule this meeting. DE stated that Emily Crisler, General Counsel with the DLGF, assured the Council could do this. Cail asked if he called it a COIT Community and she said the Council did not have to go through Tax Council, and DE stated yes. DE stated that they went through all this in 2022 with Baker Tilly. Cail asked what if you find out what the Council is doing is wrong now, and also did it wrong in 2022? Cail asked who is liable? DE stated the County has followed the same procedures in 2021, 2022, and 2024.

Kelli stated that if they vote, and find out from Baker Tilly what they did was wrong, they can rescind it.

Larry Kleeman stated many projects that the PCDC secured for the County.

Question was asked of the Council what are the specifics for where these new funds will go to the County, and Kelli responded to the three categories mentioned earlier. Kelli stated the County is not adequately funding the Ambulance Service subsidy, plan for the future for equipment for the ambulances, costs continuing to increase for the jail, and this is just to name some of the items. Mayor Cail asked the Council with regard to the amount of money they have in their budget for these three areas, for example \$500,000, does the County intend to keep the same \$500,000 and this new money they are taking would be added to the top of this amount? On the other hand, will the county reappropriate that

money for something else to pay other things, to fund the County budget other ways? Kelli stated the County has been through their budget yet.

Auditor Hammack read a portion of the May 20, 2024 minutes regarding Baker Tilly was going to advise on this, and asked the Council what they received from Baker Tilly as far as advisement? DE stated they reviewed the proposed Ordinance and the notice that was put in the newspaper, and they provided the County with an Excel spreadsheet. Hammack read the minutes from the May 30th meeting. The motion was made to consult with Baker Tilly by Kelli Harding, seconded by Stan Goffinet, with motion carried 6-0-1.

Cail had a printout from the DLGF. He asked the Council that the DLGF gave them permission to do this modification? This PowerPoint presentation by the DLGF was dated April 2024 stating Indiana Code 6-3.6-3-1 outlines adopting body as either a County physical body or a Local Income Tax Council. This is dependent upon the County's income tax structure. If the County was a former COIT County, which it is, then the adopting body is the Local Income Tax Council. The County and each City and Town, Tell City, Cannelton, and Troy, has the opportunity to pass resolutions and vote on changes to the configurations of LIT in the County.

Cail stated all he asks is to follow the process.

DE stated that the County received information that stated under Indiana Code 6-3.6-3-2 provides that in the context of action on Local Income Taxes, an adopting body, meaning a Local Income Tax Council or County Council or other governmental entity, may submit a Proposal Notice Ordinance or Resolution to the Department of Local Government Finance (DLGF) department for review. The department must provide the submitting entity a determination to the appropriateness of the Proposed Notice Ordinance or Resolution including recommended modifications within thirty days of receiving the Proposed Notice Ordinance or Resolution. DE stated the County did submit this to the DLGF and they did come back saying it was approved. Cail asked if they were aware that Perry County is COIT, and DE stated yes.

Cail asked DE that the County has not been advised by the DLGF, Baker Tilly, or any attorneys that it is not following the process? DE stated no.

Kelli stated that if the Council votes on this now, and then finds out tomorrow for some reason there is some kind of difference, then the Council can schedule a 48-hour meeting and do something differently.

PM made a motion to table, seconded by KH. Motion carried 4-3.

The meeting was adjourned at 5:42 p.m. CST.

KH made a motion to adjourn, seconded by PM. Motion carried 7-0.

Minutes approved this 29th day of August, 2024.

President, Perry County Council

Minutes reviewed by:

Kristinia L. Hammack, Perry County Auditor

Minutes prepared by:

Leisa M. Ecker, Deputy Auditor