

STATE OF INDIANA

BEFORE THE CLARK COUNTY COUNCIL

RESOLUTION NO. 2 -2011

**A RESOLUTION DECLARING THE MAXIMUM  
LEVY REDUCTION EFFECTED IN 2007 TO BE THE  
PRODUCT OF MATHEMATICAL OR DATA ERRORS**

WHEREAS, on July 11, 2011, this Council received a *Comprehensive Financial Plan* (the "Financial Plan") prepared by H. J. Umbaugh & Associates Certified Public Accountants, LLP ("Umbaugh"), analyzing and detailing the dire financial condition presently faced by Clark County; and,

WHEREAS, in 2007 this Council reduced the County's maximum property tax levy by the sum of \$2,754,548 in effort to lower County property taxes for budget year 2008; and,

WHEREAS, the Financial Plan analysis (see pages 3-4 and 3-5 in particular) confirms earlier calculations prepared by Dan Eggermann of Governmental Consulting Services, LLC, utilized in this Council's maximum levy appeal to the Department of Local Government Finance ("DLGF") due to mathematical or data error made by this Council in effecting the maximum levy reduction pursuant to the provisions of Ind. Code § 6-1.1-18.5-14, which calculations conclusively demonstrate that Clark County has lost over \$5.6 million in property taxes through 2010, and that such losses will total more than \$7.2 million through 2011 as the result of the maximum levy formula; and,

WHEREAS, the maximum levy reduction, while perhaps well intentioned at the time, has nevertheless created a permanent structural deficit in the Clark County budget that threatens to prevent this Council as the fiscal body of Clark County government from fulfilling its duty to provide sufficient budgets and appropriations as necessary to fund essential governmental services and functions; and,

WHEREAS, a DLGF memorandum issued on May 16, 2011, describes the effect of the Indiana Legislature's adoption of House Enrolled Act 1288-2011 and House Enrolled Act 1004-2011 regarding changes to a unit's maximum levy calculation in pertinent part as follows: "Civil taxing units ... that do not levy the full max levy will be treated the same in the following year as any of those that do seek the max levy. Further, political subdivisions may reduce property tax levies for a year without decreasing their long-term revenue capacity..."; and,

WHEREAS, the budgetary relief that would undoubtedly result were this Council to utilize the legislative changes in the maximum levy calculation referenced above was not made available to units such as Clark County that had reduced their maximum levy prior to the effective date of the legislation; and,

WHEREAS, Merriam-Webster Dictionary defines the term "error" in pertinent part as "an act or condition of ignorant or imprudent deviation from a code of behavior" or "something produced by mistake", and the term "data" as "factual information (as measurements or statistics) used as a basis for reasoning, discussion, or calculation"; and,

WHEREAS, this Council now adopts this Resolution for purposes of expressing its collective sentiment as the fiscal body of Clark County government with respect to the wisdom and effect of the maximum levy reduction effected by this Council in 2007, effective in 2008 and subsequently.

**NOW, THEREFORE, BE IT RESOLVED BY THIS CLARK COUNTY COUNCIL as follows:**

1. This Council hereby acknowledges the findings and analysis of the Financial Plan dated July 11, 2011, prepared by Umbaugh as accurately representing the current financial condition of the County, and as a guide for future planning.

2. As demonstrated by the Financial Plan, the direct and proximate result of the above-described maximum levy reduction effected by this Council in 2007, effective in 2008 and subsequently, imminently threatens to prevent this Council, as the fiscal body of Clark County government, from fulfilling its legal duty to provide sufficient budgets and appropriations as necessary to fund essential governmental services and functions. As such, this maximum levy reduction was clearly the product of mathematical or data error(s) made by this Council, as any short-term benefit from property tax reductions is far outweighed by the damage that will be undoubtedly result to public health, safety, and welfare from the Draconian budget cuts now necessitated by this Council's prior imprudent and mistaken deviation from generally accepted budgeting procedures and standards.

3. In order to minimize the financial burden that may result to County tax payers in the event of a favorable ruling in the County's pending Tax Court review of the DLGF's denial of its maximum levy appeal, the Council expressly conditions its approval of this Resolution on a reduction in the amount subject to recovery for the period of 2008 through 2011 pursuant to such appeal and judicial review thereof to \$3,200,000.00. Notwithstanding such reduction, however, this Council fully supports readjustment of the County's maximum levy to the fullest extent that would have been permissible had the levy reduction in 2007, effective in 2008, not been effected.

WHEREFORE, on this 11 day of July, 2011, this Resolution was duly promulgated, passed, and adopted by this Clark County Council.

**CLARK COUNTY COUNCIL**

By: Kevin Vissing  
Kevin Vissing, President

*ATTEST:*

R. Monty Sneling  
R. Monty Sneling, Clark County Auditor