

STATE APPEAL BOARD

In Re:	City of Indianola) Petition to Appeal) Streetscape Project)	Report and Recommendation June 7, 2021
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A petition from the citizens of the City of Indianola protesting the use of Local Option State Sales Tax (LOSST) for a streetscape project was submitted to the Warren County Auditor on April 27, 2021. The petition was received by the State Appeal Board from the Warren County Auditor on May 3, 2021. The petitioners' objections and their reasons listed on the petition document are summarized as follows:

Objection #1 – The City Council of Indianola approved funding part of the City Square Reconstruction Project with Local Option State Sales Tax (LOSST) revenues. The voter-approved allowable purposes only allow the LOSST revenues to be spent on construction and/or rehabilitation of public safety facilities, public works, and street maintenance. The City Square Reconstruction Project is not allowable under those categories.

Objection #2 – The use of LOSST for the City Square Reconstruction Project diverts funding from an ongoing wastewater treatment facility improperly.

FINDINGS OF FACT

The FY2021/2022 Indianola city budget was approved on March 15, 2021, and was submitted to Warren County prior to the March 31st deadline. For protesting an original budget submitted by the March 31st deadline, this would mean that a city budget protest petition must be received by April 10th. The petition submission date of April 27th falls outside of the April 10th deadline to protest the FY 2021/2022 city budget. City budget amendments are also subject to protest, but the petition does not cite any amendment to be protested. It can be assumed that they are not objecting to a specific budget amendment. Also, the City of Indianola completed four amendments to the FY 2020/2021 city budget, but none of these amendments would have been available for protest on April 27th. City budget amendments were completed on 07/06/2020, 11/16/2020, 02/16/2021, and 05/17/2021. The first three amendments would have been past their 10 day protest periods, and the fourth amendment would not have yet been published at the time of the petition signing. The notice of public hearing for the fourth amendment was published on April 28th.

The petition did not reference a specific budget or amendment to be protested, but instead referenced an April 19th action by the City Council approving use of Local Option State Sales Tax (LOSST) revenues to fund a city square streetscape project. The use of LOSST as a funding source for this type of project is governed by the allowable purpose statement approved by vote of the citizens when the LOSST referendum was approved. The petition did not state an objection to the project expenditure, but only the source of payment.

The City appears to have completed a valid bid letting and approval process. The City requested bids on March 23rd, with bid opening to occur on April 14th. A public hearing was held on April

19th, at which arguments for and against the project and bid were heard. The bid was approved unanimously by the Indianola City Council after the hearing on April 19th.

RECOMMENDATION

Dismiss the Petition as untimely. Iowa Code Chapter 384.19 governs protests related to City budgets and provides that written protests may be filed within a period of 10 days after the last day a budget or amended budget may be certified – in this case March 31. As noted above, the Indianola Petition was filed with the County Auditor on April 27th seventeen days after the statutory deadline of April. The role of the State Appeal Board in reviewing city budgets is set forth in Iowa Code Chapters 384.19(3)(the SAB shall proceed to consider the protest in accordance with the provisions of Chapter 24), 24.27 (no later than April 10 persons affected by any proposed budget, expenditure, or tax levy in a city budget may appeal by filing a written protest) and 24.30 (the SAB shall review and finally pass upon all proposed budget expenditures, tax levies and tax assessments from which appeal is taken). The State Appeal Board has no power to review and finally pass upon a proposed expenditure in the City of Indianola’s budget absent a timely filed appeal of a proposed budget or amended budget. Thus, the Petition should be dismissed.

ORDER

Recommendation adopted.

STATE APPEAL BOARD

APPROVED VIA PHONE
Michael L. Fitzgerald *ON RECORD*
Chairperson

APPROVED VIA PHONE
Rob Sand *ON RECORD*
Vice Chairperson

Michael Bousset
Michael Bousset
Member

7 JUNE 2021
Date