

STATE APPEAL BOARD

In Re:	Sioux County)	Order
	Budget Appeal)	
	FY 2015)	April 28, 2014

BEFORE THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT, DAVID ROEDERER; STATE AUDITOR MARY MOSIMAN; AND STATE TREASURER MICHAEL L. FITZGERALD.

A hearing on the above captioned matter was held pursuant to the provisions of Section 331.436 and Chapter 24 of the Code of Iowa on April 17, 2014. The hearing was before a panel consisting of Mr. Luke Donahe, Investment Officer, Office of the State Treasurer and presiding Hearing Officer; Ms. Carrie Johnson, Property Valuation and County Budget Administrator, Department of Management; and Ms. Michelle Meyer, Manager, Office of the State Auditor.

The primary spokesperson for the petitioners was Mr. Ronald Van Ravenswaay. The primary spokesperson for Sioux County was County Board of Supervisors Chairman Mark Sybesma.

Upon consideration of the specific objections raised by the petitioners, the testimony presented to the hearing panel at the public hearing, the additional information submitted to the hearing panel both before and after the hearing and after a public meeting to consider the matter, the State Appeal Board orders Sioux County to correct the mistake in the FY2013 beginning balance figure used to prepare the Fiscal Year (FY)2015 budget. The State Appeal Board has voted to sustain the FY 2015 tax levy and expenditures as adopted.

PROCEDURAL HISTORY

The FY2015 Sioux County proposed budget summary was published in the Sioux County Capital-Democrat on February 27, 2014 and the Sioux Center News and Siouxland Press on February 26, 2014. The budget was adopted at a public meeting held on March 11, 2014.

A petition protesting the certified FY2015 Sioux County budget was filed with the Sioux County Auditor on March 25, 2014 and was received by the State Appeal Board on March 28, 2014. The petitioners' objections and their reasons listed on the petition document are as follows:

- Objection Number One - excessive salaries for elected officials (\$581,510 vs. \$526,504 for Woodbury County).
- Objection Number Two - excessive patrolling and expenditures by County Sheriff and other departments. SWAT team can be eliminated, Sentenced to Serve can be used, and sharing with conservation can reduce expenditures.
- Objection Number Three - mismanagement of legal affairs and prosecutions (overcharging of some, failure to prosecute the elites), illegal lagoon, zoning and now landfill violations, endless appeals.

- Objection Number Four - excessive expenditures (above tax revenues by \$7 million last three budgets).
- Objection Number Five - failure to collect moneys owed to the County.
- Objection Number Six - confusing and inaccurate numbers in financial reports and published budgets. Current budget started with \$9.2 million – the day before the balance was negative. Inaccurate figures are believed to have been published for this budget.
- Objection Number Seven - taxes raised by \$700,000; expenditures up by over \$4 million
- Objection Number Eight - bullying by County Sheriff to prevent fair comments and questions at budget hearings-thus preventing and denying a hearing as required by law. No hearing held.

DISCUSSION

The petitioners and the representatives of Sioux County provided various written summaries, exhibits and verbal commentary in support of their positions. A summary of this information and the public hearing is as follows:

PETITIONERS

Mr. Ronald Van Ravenswaay represented the petitioners and Mr. Harold Postma provided comments as well.

Mr. Van Ravenswaay began his presentation by speaking from Petitioners' Exhibit 1, which included the opening statement, a letter he received from the County regarding driveway easement, a copy of a FY2013 Sioux County budget amendment and an excerpt from the January 29, 2013 meeting of the Sioux County Board of Supervisors. His statement included the following points:

- A. Mr. Van Ravenswaay stated no proper hearing has been held in accordance with the laws of Iowa. He indicated the Sioux County policy has been as soon as someone speaks or comments about the methods or policies of the departments or officers of Sioux County, the Chairman of the Board of Supervisors has the County Sheriff's Department on hand to silence them. He stated during the last two budget hearings two Taser-armed deputies have been stationed at the back of the board room. He stated there was no one who showed up for the "hearing" on the FY2015 budget. Mr. Van Ravenswaay asserted until the Board of Supervisors hold a hearing or hearings when the officers and employees are available and where there is free and open discussion of this budget, the State Appeal Board should find no hearing has been held in accordance with the Constitution and laws of Iowa.
- B. Mr. Van Ravenswaay stated the Board of Supervisors amended the FY2013 budget in February, 2013 and showed the ending balance for the fiscal year would be (\$777,xxx) but instead of starting the next fiscal year (FY2014) with this deficit figure, the budget included (and now the FY2015 budget carry over) reflected an additional almost \$10 million. The petitioners believe the \$10 million is fictional and does not and did not exist for each of the last two budgets the Board of Supervisors have approved and certified.

- C. Mr. Van Ravenswaay stated the salaries of some of the elected officials are extremely high, higher than surrounding counties which are comparable, such as Woodbury County. He stated the experience and performance of these officials is inadequate and the salaries should reflect their poor job performance.
- D. Mr. Van Ravenswaay stated the County Sheriff's budget should be set at 85% of the current figure. He said they should eliminate the use of deputies for political intimidation and repression. He also said they should eliminate the SWAT team as well as two positions, one chief deputy and one or more patrol positions, plus two or more vehicles currently used by only one officer at a time. He also suggested they bring back Sentenced to Serve, a community service program for those on probation unable to pay a fine and share officers with the Conservation Board. He stated during the budget review the County Sheriff and Chairman of the Board of Supervisors stated the County Sheriff only spends about 93% of his annual budget each year. Therefore, the petitioners are only asking for a reduction from 93% to 85%.
- E. Mr. Van Ravenswaay stated the County Attorney's budget should be reduced. The upcoming murder trial will be handled by the Office of the Attorney General. Due to additional staff, the use of the Office of the Attorney General and other outside counsel and the lack of experience on the part of the current County Attorney and staff, Mr. Van Ravenswaay stated the budget should be 80% of the current amount.
- F. Mr. Van Ravenswaay stated there are general revenues which have gone uncollected, including services performed by the County Sheriff and attorneys and moneys owed by Plymouth County and thirteen cities in Sioux County.
- In closing, Mr. Van Ravenswaay summarized by stating his belief the lack of citizen input led to the budget situation. He said the State Appeal Board should declare no budget hearing was held and require the County Auditor and Board of Supervisors to republish their proposed budget using correct figures. The petitioner said they should be required to hold a real public hearing and answer and justify all questions and concerns from the public and should resign if unable to do so.
 - Mr. Postma also spoke during the rebuttal time frame. He referenced a court case: Homeowners Association of Sundown Lake vs. Appanoose County Board of Supervisors and stated due to a hearing being set, the petition was validated and concerns regarding the signatures were moot. He also questioned the FY2013 \$10 million ending fund balance and said the public has been misled. He questioned whether the County has fund balance problems.
 - In closing, Mr. Postma said there was no justification for salaries, no explanation for the \$10 million fund balance and no response to questions posed at public hearings. Mr. Postma reiterated the budget should be sent back to the start, correct figures used, and a public hearing held to answer citizens' questions.

SIoux COUNTY RESPONSE

County Board of Supervisors Chairman Sybesma was the primary spokesperson for Sioux County. In the response to the petition, he referenced the County's Exhibit 1, which included the County's opening statement, sheets from the FY2015 Sioux County budget, taxable valuation information, an explanation of new and increased expenditures and a summary sheet.

- In response to Objection Number One, the County contended the comparison with Woodbury County was misleading. Among other factors, the County asserted Woodbury County has an Auditor/Recorder and therefore does not show a salary for the Recorder, and also employs additional staff to perform some of the duties performed by the Sioux County Auditor. They contend a like comparison of the two county salaries should include those positions, bringing Woodbury County to \$722,999 versus \$573,342 for Sioux County.
- In response to Objection Number Two, the County sought clarification of the petitioners' objections regarding patrolling, sentenced to serve and conservation sharing. The County stated the SWAT team is a joint effort with Plymouth County and LeMars Police Department and the line item has been in the budget for a number of years, before the current County Sheriff took office.
- In response to Objection Number Three, the County stated they felt the management of legal affairs and prosecutions are not within the FY2015 Sioux County budget.
- In response to Objection Number Four, the County stated it has other forms of revenue than property tax revenue, including charges for service, replacement tax credits, grants and local option sales tax. The County also stated it takes pride in having the lowest taxes per capita and the 5th lowest in levy rates in the State of Iowa. In addition, the County looked at all sources of revenue and fund balances and stands behind the expenditures as budgeted for FY2015.
- In response to Objection Number Five, the County stated the claim of failure to collect money owed to the County is unsubstantiated and not applicable to the FY2015 budget.
- In response to Objection Number Six, the County stated the budgets and financial reports are prepared and published in compliance with Iowa Code. They are audited every year by an independent firm and have been found in compliance. The County went on to state the figures published in the FY2015 budget are accurate and have been certified.
- In response to Objection Number Seven, the County said taxes have increased primarily because valuations have risen and expenditures are up by \$827,494, not \$4 million listed by the petitioners. The County indicated it increased levy rates slightly to bolster fund balances which had been intentionally decreased over the past several years. The County sought to have a balance in the General Fund which would carry the County through at least 90 days of expenditures as recommended by the independent auditing firm.
- In response to Objection Number Eight, the County stated the public hearing on the budget and all previous budgets have been held in compliance with Iowa Code and notice published as required.
- Mr. Sybesma then reviewed the major expenditure increases anticipated by the County in the FY2015 budget. Major budgeted expenditure increases were due to a variety of reasons, including an upcoming murder trial, a new County park, the takeover of a municipal golf course, Governmental Accounting Standards Board (GASB) compliance, information technology costs associated with replacing a server and storage infrastructure and asbestos removal and demolition of the County Farm.

In closing, Mr. Sybesma stated he was happy to answer questions about the budget and was not concerned about potential signature issues on the petition. He was proud to have the lowest per capita taxes in the State of Iowa and the 5th lowest levies. He felt the County operated efficiently with excellent elected officials willing to help taxpayers. He said the supervisor salary was the 23rd highest in the State of Iowa. He indicated the State Appeal Board budget hearing, as well as the regular Sioux County budget hearings, are about perceived injustices by a few individuals, not about the budget.

MEMBERS OF THE PUBLIC

One member of the public identified himself and spoke during the public comment time. Comments included concerns regarding waste disposal on farmland and the Chairman of the Board of Supervisors also serving as a board member of a local bank.

FINDINGS OF FACT

1. Iowa Code section 24.27 provides persons who are affected by any proposed budget expenditure or levy, or by an item thereof, may appeal. Iowa Administrative Code rule 543—5.5(7) further states that signatures on budget protest petitions shall be legible and include a full mailing address. Over half of the signatures presented by the protesters did not contain full mailing addresses. Without full addresses the Board was unable to verify the signatures to voting records pursuant to Iowa Administrative Code rule 543—5.5(1). The petition did not contain at least one hundred legible signatures with full mailing addresses. The Board sua sponte raised this issue and allowed both parties to respond at the beginning of the hearing. The County did not seek to dismiss the protest on the basis of the insufficient signatures. Out of abundance of caution and due to the exigent nature of budget protests, the Board elected to hear the protest.

Having considered the issue and the parties' arguments the Board finds the petition was not signed by at least one hundred valid signatures under rule 5.5(7) and Iowa Code section 331.436. The Board does not believe the County can waive this procedural requirement as submission of a valid protest petition is necessary to confer jurisdiction on the Board to hearing the protest. The petition is denied for insufficient signatures. Given the exigency of budget protests and the possibility of judicial review, however, the Board will address the merits of the petition.

2. Iowa Code section 331.434(3) states "The board shall set a time and place for a public hearing on the budget before the final certification date and shall publish notice of the hearing not less than ten nor more than twenty days prior to the hearing in the county newspapers selected under chapter 349." Sioux County published the notice of public hearing in the Sioux County Capital-Democrat on February 27, 2014, Sioux Center News on February 26, 2014 and Siouxland Press on February 26, 2014.

Iowa Code section 331.434(4) states "At the hearing, a resident or taxpayer of the county may present to the board objections to or arguments in favor of any part of the budget." According to the minutes of the Sioux County Board of Supervisors, a public meeting was held on March 11, 2014, including a public hearing on the proposed budget. No comments, oral or written, were received at the hearing. The minutes also state the Board of Supervisors unanimously approved the FY2015 budget after the hearing concluded.

3. The Sioux County FY2015 budget reflects \$769,988 (9%) more in property tax than in FY2014.

4. County budgets report expenditures in the following functions: Public Safety and Legal Services, Physical Health and Social Services, Mental Health, Mental Retardation and Developmental Disabilities, County Environment and Education, Roads and Transportation, Governmental Services to Residents, Administration, Nonprogram Current, Debt Service and Capital Projects.

The total expenditures budgeted for FY2015 increased \$827,494 (4%) from the FY2014 budget. Some functions showed decreases, such as Roads and Transportation and Capital Projects.

Salary and health insurance increases of about 2-3% impact across functions. Listed below are the function areas with the largest increases and some of their stated cause/s:

Function	FY2014	FY2015	Amount of Increase	Cause of Increase
Public Safety and Legal Services	\$4,335,195	\$4,452,211	\$117,016	Increase in Criminal Prosecution due to upcoming trial.
County Environment and Education	\$1,137,681	\$2,113,961	\$976,280	Increase in Conservation and Recreation services due to new county park and takeover of former city golf course.
Administration	\$2,314,145	\$2,369,172	\$55,027	Increase in Information Technology Services due to server replacement and storage infrastructure needs.
Nonprogram Current	\$37,000	\$92,000	\$55,000	Increase in County Farm operations due to potential asbestos removal and demolition.

5. Sioux County levied the maximum General Fund tax rate of \$3.50/\$1,000 of taxable valuation for FY2015. This rate is the same as FY2014, but generated \$324,664 more in revenue due to increased taxable valuation. The General Supplemental rate increased from \$0.25275/\$1,000 of taxable valuation in FY2014 to \$0.45275/\$1,000 of taxable valuation for FY2015, generating \$317,093 more revenue. The Rural Basic levy rate of \$2.40097/\$1,000 of taxable valuation remained the same for FY2015 as FY2014, but generated \$134,953 more in revenue due to increased taxable valuation. The debt service rate in FY2014 was \$0.36585/\$1,000 of taxable valuation and then decreased to \$0.34004/\$1,000 of taxable valuation for FY2015, generating \$750 less. The County Mental Health and Disabilities Services Fund levies are held to a statutory maximum of \$1,027,388. In FY2014, the rate needed to generate the statutory maximum was \$0.74693/\$1,000 of taxable valuation. For FY2015, the rate needed to generate this levy was \$0.69974/\$1,000 of taxable valuation due to increased taxable valuation in the County. The overall tax rate for an urban resident increased from \$4.86553/\$1,000 of taxable valuation in FY2014 to \$4.99253/\$1,000 for

FY2015. The overall tax rate for a rural resident increased from \$7.26650/\$1,000 of taxable valuation in FY2014 to \$7.39350/\$1,000 of taxable valuation for FY2015.

6. Before a correction of the actual FY2013 beginning balance, the FY2015 ending fund balance for the General Fund and Special Revenue Funds was budgeted at \$5,595,647, or approximately 27% of expenditures.
7. The petitioners objected to a perceived discrepancy between a budgeted ending fund balance for FY2013 of approximately (\$737,817) versus an actual ending fund balance of \$9,289,173 million arrived at through the FY2013 Cash Basis Annual Financial Report. Comparing budgeted ending fund balances for a fiscal year estimated during budget preparation with actual ending balances at the close of the same fiscal year 18 months later will often result in different figures. A variety of factors may come into play to cause a fund balance to deviate from the estimate arrived at 18 months prior during budget planning, and such does not invalidate the original budgeted fund balance estimate or the actual end of year balance.
8. The County Compensation Board prepares a recommendation to the Board of Supervisors regarding the compensation of the elected officials of the County per Iowa Code section 331.907. The Sioux County Compensation Board recommended the Board of Supervisors adopt an across the board increase of 3% for elected officials, with an additional \$1,000 for the County Sheriff and \$650 for the County Auditor.

Iowa Code section 331.907 states, in part:

2. "At the public hearing held on the county budget as provided in section 331.434, the county compensation board shall submit its recommended compensation schedule for the next fiscal year to the board of supervisors for inclusion in the county budget. The board of supervisors shall review the recommended compensation schedule for the elected county officers and determine the final compensation schedule which shall not exceed the compensation schedule recommended by the county compensation board. In determining the final compensation schedule if the board of supervisors wishes to reduce the amount of the recommended compensation schedule, the amount of salary increase proposed for each elected county officer, except as provided in subsection 3, shall be reduced an equal percentage.
 3. The board of supervisors may adopt a decrease in compensation paid to supervisors irrespective of the county compensation board's recommended compensation schedule or other approved changes in compensation paid to other elected county officers. In determining the final compensation schedule if the board of supervisors wishes to reduce the amount of the recommended compensation schedule, the amount of salary increase proposed for each elected county officer, except as provided in subsection 3, shall be reduced an equal percentage."
9. Petitioners requested the State Appeal Board reduce salaries and budgets due to poor job performance. Section 24.30 of the Code of Iowa limits the authority of the State Appeal Board to items specifically related to the local government budget process. Therefore, the State Appeal Board does not have authority to issue any rulings on issues outside of the authority given under section 24.30 of the Code of Iowa.

CONCLUSIONS OF LAW

The State Appeal Board has jurisdiction over the parties and the subject matter of this appeal, pursuant to Iowa Code sections 24.28 and 331.436.

BASIS OF DECISION

Iowa Code section 24.28 states, in part, "At all hearings, the burden shall be upon the objectors with reference to any proposed item in the budget which was included in the previous year and which the objectors propose should be reduced or excluded...". The Code continues: "...the burden shall be upon the certifying board or the levying board, as the case may be, to show any new item in the budget, or any increase in any item in the budget, is necessary, reasonable, and in the interest of the public welfare."

FY2015 budgeted expenditures increased overall, with most increases due to salary and benefit cost increases, an upcoming trial, administration of a new County park, planned takeover of a former municipal golf course, an information technology project and asbestos removal and demolition of the County Farm.

Job performance and salary are a local policy matter. Local elected officials are elected by their constituents. The salary levels for elected county officials are determined via recommendation of the County Compensation Board and approval by the Board of Supervisors. Salary is not a matter to be determined by the State Appeal Board under Iowa Code section 24.30.

The petitioners did not adequately satisfy the burden of proof requirement to justify a reduction in the FY2015 budget. The County adequately satisfied the burden of proof requirement for the increases in the FY2015 budget. However, it was noted the County used an incorrect figure as the beginning balance for FY2013 when budgeted for FY2015. As FY2013 has concluded, the County should have used the audited actual figures for FY2013 when budgeting for FY2015.


ORDER

Based on the information provided by the parties involved and the Iowa Code, the State Appeal Board orders Sioux County to correct the mistake in the FY2013 beginning balance used to prepare the FY2015 budget. The State Appeal Board sustains the FY2015 tax levy and expenditures as adopted.

STATE APPEAL BOARD


Mary Mosiman
Chairperson


Michael L. Fitzgerald
Vice Chairperson


David Roederer
Member

4/28/14
Date