

STATE APPEAL BOARD

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| In Re: | City of Mount Union |) | Order |
| | Budget Appeal |) | |
| | FY2017 |) | June 7, 2016 |

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 384.19 and Chapter 24 of the Code of Iowa on May 9, 2016. The hearing was before a panel consisting of Mr. Luke Donahue, Investment Officer, Office of the State Treasurer and presiding Hearing Officer; Mr. Ted Nellesen, City Budget Director, Department of Management; and Ms. Michelle Meyer, Manager, Office of the State Auditor.

The spokespeople for the petitioners were Mr. Dan Johnson and Ms. Linda Johnson. The spokespeople for the City of Mount Union were Mayor John Marek and City Clerk Sarah Berndt.

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 has voted to sustain the City of Mount Union fiscal year (FY) 2017 budget as described herein.

PROCEDURAL HISTORY

The FY2017 City of Mount Union proposed budget summary was posted in three locations within Mount Union on March 31, 2016. The budget was adopted at a public meeting held on April 12, 2016.

A petition protesting the certified FY2017 City of Mount Union budget was filed with the Henry County Auditor on April 20, 2016 and was received by the State Appeal Board on April 25, 2016. The petitioners' objections and their reasons listed on the petition document are as follows:

- An objection to the City Council adopting and submitting a budget the Mayor stated was incorrect.
- An objection to FY2014 budgeted expenditures of \$37,700 showing on the Auditor of State examination matrix while the FY2014 actual total expenditures on the FY2016 City Budget Notice of Public Hearing were reported as \$57,836.
- An objection to actual FY2015 total fund balance of \$62,246 reported on the FY2017 City Budget not matching the actual total ending fund balance of \$34,757 reported on the FY2015 City Annual Financial Report (AFR). This objection leads to further

objections of reported beginning and ending balances throughout the FY2017 City Budget.

- An objection to the failure to include two unpaid court judgements as long term debts listed on Form 703 of the FY2017 City Budget and to include payment for these judgements.
- An objection to actual FY2015 Local Option Sales Tax (LOST) payment total of \$9,518 reported on the FY2017 City Budget not matching the actual total of \$9,596 reported for LOST on the warrant estimate from the Iowa Department of Revenue.
- An objection to actual FY2015 Road Use Tax (RUT) payment total of \$11,126 reported on the FY2017 City Budget not matching the actual total of \$7,769 reported for RUT on the FY2015 City Street Finance Report (SFR).
- An objection to the FY2015 actual expenditures for legal fees of \$3,495 reported on the FY2017 City Budget not matching the total of \$4,217 reported on the monthly City financial report.
- An objection to the reporting of debts listed on the Form 703 – Long Term Debt Schedule as being paid from sources other than current year debt service property tax, while not showing the amount paid from property taxes in total, as was shown on Form 703 of the FY2016 City Budget.
- An objection to the lack of available, complete monthly finance reports for the fiscal year.

DISCUSSION

The petitioners and the representatives of the City of Mount Union 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. Dan L. Johnson represented the petitioners as the primary spokesperson. In addition to Mr. Johnson, Linda M. Johnson also represented the petitioners. In their presentation, Mr. Johnson and Ms. Johnson provided comments in regard to the FY2017 Mount Union budget, summarized below:

- A city budget is not “money in, money out”. To the citizens of a small town it is much more. A budget gives a sense of security and promise. A budget is comparable to a “condition of the City” statement. If the budget were not a concern to the citizens of Mount Union, they would not have signed the protest and we would not be here today.
- The FY2016 Budget was in error. There was a signed budget protest for the FY 2016 budget, but the petition was turned in past the 10 day protest period.
- There was a concern with the “beginning balance” of the FY2016 budget of \$62,246, a \$27,489 increase over the amount of \$34,757 reported on the FY2015 AFR. When questioned about the beginning balance, Mayor Marek stated “It came from the State”. The inaccurate budget was presented to the City Council without changes and the

Council voted to approve the budget. When questioned, Mayor Marek stated the budget would be amended. It has not been corrected.

- Mayor Marek stated both the FY2016 and FY2017 budgets were not corrected and the Council voted 3-1 to accept the budget.
- The FY2017 budget did not include court ordered debts of \$27,000 and \$7,000.
- The budget states the City will have an ending balance of \$89,102. This is enough money to pay off all debts. Yet, Mayor Marek has stated the City will have so little money that un-incorporation/bankruptcy may be imminent.
- Mr. Johnson stated Mayor Marek claimed the \$27,757 difference from the ending balance and beginning balance is due to "illegal spending". If money was illegally spent, it would still be shown in a budget.
- Mayor Marek has shown disregard for any budget and for following it in the past. Overspending in one area reduces the spending in another. No amendments to any budget have been made.
- In 2009, the City received a federal grant of \$2,000. This grant was designated for an emergency generator for the City community building. The money was placed in the General Account and most likely spent. Mayor Marek has been asked at meetings several times for this grant money to be placed in the Special Account. To date it has not been done.
- The FY 2016 budget included a "debt service levy" (special revenue levy). This levy's purpose was to provide funds to pay for the City's audit. Monthly City financial reports show no payment for the State audit.
- There is currently legal action against Mayor Marek and the City concerning the LOST reporting.
- Mayor Marek did not amend the FY 2016 budget.
- If the City needed "professional help", it should have been sought. There was no reason to allow erred budgets to be approved and submitted.
- At the April 19, 2016 City Council meeting, the financial report shows City Clerk Sarah Berndt was paid \$483.56 (wages Dec-March). She attended three Council meetings, affirmed she worked on the budget when asked at the April 12, 2016 meeting and traveled on City business. She was working and was not furloughed.
- We, the signers, want a true budget. We want the budget to report the City's true finances and a guideline for future spending, one to be followed.

CITY OF MOUNT UNION RESPONSE

City of Mount Union Mayor John Marek acted as the primary spokesperson for the City. In his presentation, Mayor Marek provided comments in regard to the Mount Union budget, summarized below:

- Information reported in a financial report/budget is only good if the current information and previous information is correct. If it is not, it creates a snowball effect where the incorrect information eventually overcomes the correct information. In the case of Mount Union, that breaking point occurred and was identified in FY 2007 and verified by the State Auditors through the FY 2006 audit of Mount Union finances.
- The budget is flawed. Not just flawed, but grossly flawed. Since the FY 2013 State audit, the Council has been clear about the budget being flawed. Not only is the current budget having flaws, but every AFR, budget, and especially every beginning and ending balance from FY 2003 to present are incorrect.
- The October 2015 report "City of Mount Union Local Option Sales Tax (L.O.S.T) Account Audit and Reconstruction Report" presented to the citizens and City Council on October 27, 2015 found many instances of gross negligence and great discrepancies in the reporting of City finances.
- From FY2002 to FY2005, the three years of Annual Financial Reports, LOST funds received by the City were not recorded. The FY 2006-2009 AFRs show LOST funds continued to be spent in violation of the referendum. The report also identifies the City did not make corrections the State required and the City stated it would make in responses in the FY 2006 City audit which caused following administrations to continue the improper activities.
- The City of Mount Union was directed by the State Auditor's Office to make a single overall correction to the budget once the LOST Fund audit was completed. The City was to begin making the changes to the budget in January 2016. However the City's operational funds were illegally garnished which did not allow the City to make the appropriate corrections. These corrections are not correcting a mistake in a line within budgets or AFRs. It is a major financial change in the City's financial position.
- FY 2014 beginning balances are not as reported in the FY 2016 budget, but rather are much graver. The beginning General Fund balance will be \$(53,831) and Special Revenue Funds balance would be \$93,392. The City will work with the State to determine how to reconcile the difference of funds in the bank accounts and fund balances indicated in corrected AFRs and budgets.
- The City did not have an extension past April 15th to make needed changes to the budget. As explained during the public hearing, the budget would be amended to have the corrections to the budget made.
- The State only allowed the most recent judgement from March 2016 of \$6,286 to be added to the posted budget. During the public hearing on April 12th, the Council identified the previous RUSS judgments had been omitted from the budget for FY 2017 and an adjustment from the posted budget would not be allowed at this public hearing. The budget would need to be amended to include those judgments in the long-term debt.

- The petitioners exhibit 5A identifies LOST and RUT funds as \$9,596.46. The documentation submitted to support this position is a State estimate of payments for fiscal year 2016 which has not yet ended. The City financial reports reflect a cash position of the City budget and the State L.O.S.T. report reflects payments on an accrual basis. There will always be a discrepancy from the City financial reports and State reports.
- The petition states the City SFR lists \$7,769 and the actual 2015 report shows \$11,126. The petitioner was misreading the report. Line 8, the first column reflects state road use funds only in the amount of \$7,769 and the second column reflects other street monies which include Farm-to-Market payments and any other funds the City allocates to roads in the amount of \$3,357. Those two amounts total \$11,126.
- Under the petitioners exhibit 5B the issue is legal fees. The petitioner is referencing the City financial reports to total legal fees and compare this to the 2015 AFR. It appears the petitioner may have included charges for checks and bank fees in with attorney fees and this would explain the difference.
- In FY2017 payments show under "paid from funds other than current year debt services". As per the Iowa League of Cities budget classes attended by the Mayor and a former City Clerk, this is the column in which to show payments of long-term debt being paid from the General Fund instead of increasing the City tax levy with a debt service levy. In 2017, the State corrected this problem by correctly naming the column.
- Mistakes were made in budgets and AFRs by newly hired individuals unfamiliar with the process. Supervisor oversight did not catch the errors before publication. None of the Mayors or City Clerks who have served the City are professional accountants. Mistakes pointed out in the budget appeal had been identified during the City budget process, the need to complete a budget amendment was identified, a more comprehensive City budget process could not occur due to the furlough of the City Clerk. At this point in time, the current City Clerk has developed a master spreadsheet to track the financial information that will be utilized for annual financial reports and City budget development.

MEMBERS OF THE PUBLIC

None

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. The petitioners met the requirements and, pursuant to sections 24.28, 24.29 and 384.19, a hearing was scheduled and conducted on May 9, 2016.
2. Iowa Administrative Code section 543-5.7 (8), "Hearing", provides "The appeal board shall exclude evidence which is irrelevant, immaterial or unduly repetitious."

3. Iowa Code section 24.30 states, in part, "It shall be the duty of the state board to review and finally pass upon all proposed budget expenditures, tax levies and tax assessments from which appeal is taken and it shall have power and authority to approve, disapprove, or reduce all such proposed budgets, expenditures, and tax levies so submitted ...".
4. The Mount Union FY2017 budget reflects \$1,042 (-3.99%) less in property tax than the FY2016 budget. The petitioners did not protest the property tax levied.
5. The FY2017 budget levy rates decreased by \$1.32744 per \$1000 of taxable valuation from the FY2016 budget levy rates.
6. Total budgeted expenditures for FY2017 increased by \$5,345 (13.88%) from the FY2016 budgeted expenditures. The petitioners did not protest the increase in budgeted expenditures.
7. Iowa Code section 384.16 requires a city to submit a budget annually which shows three years of revenue and expenditure information, shows expenditures for the budget year by program, shows income for the budget year from all sources, and shows the amount to be raised by direct levy on taxable property within the city during the budget year. Also required under Iowa Code section 384.16 is the inclusion of actual totals from the AFR for the most recent completed fiscal year or from any subsequent audited financial statements.
8. Iowa Code section 384.16(5) requires the City Council adopt a budget by resolution after a hearing. The City Council of the City of Mount Union voted 4-1 to approve the budget after the budget hearing. The City submitted a completed budget on April 13, 2016. The City's budget submission was deemed on time, as they were under extension through April 15, 2016, granted by the Department of Management per 384.16(6).
9. Iowa Code section 384.4 authorizes cities to pay judgments out of the revenues of the Debt Service Fund, if no specific source of payment is outlined in the judgment. Repaying judgments with debt service levy revenue is allowed, but not required. Judgments not being paid from Debt Service Fund revenues would not constitute long term debt and need not be listed on Form 703 – Long Term Debt Schedule.
10. Audits completed for the City of Mount Union for FY2006 and FY2013 included findings regarding local option sales tax. The audits reported the City recorded local option sales tax receipts in the General Fund and did not track how local option sales tax receipts were spent or document the unspent balance. As a result, the auditor was unable to determine whether the City had used local option sales tax for the purposes specified in the local option sales tax referendums and the true financial condition of the City's General Fund.
11. The actual FY2015 LOST receipts of \$9,518 is reported as other city taxes in the FY2017 budget. This agrees with disbursements made by the Iowa Department of Revenue to the City for the period July 1, 2014 through June 30, 2015. The LOST

receipts are reported as other city tax in accordance with the City Finance Committee's recommended Uniform Chart of Accounts for Iowa City Governments.

12. The actual FY2015 RUT and Transfer of Jurisdiction/Farm-To-Market receipts of \$7,769 and \$3,357, respectively, are reported as intergovernmental receipts in the FY2017 budget. The RUT receipts agree with disbursements made to the City by the Treasurer of State. The Transfer of Jurisdiction/Farm-To-Market receipts agree with the amount reported by the City to the Iowa Department of Transportation on the Street Financial Report. The receipts are for the period July 1, 2014 through June 30, 2015. The RUT and Transfer of Jurisdiction/Farm-To-Market receipts are reported as intergovernmental revenues in accordance with the City Finance Committee's recommended Uniform Chart of Accounts for Iowa City Governments.
13. The actual FY2015 legal services and City Attorney disbursements is reported as \$3,495 in the FY2017 budget. This does not agree with the petitioners' calculation of \$4,217. The difference between the petitioners' calculation and the amount reported by the City for legal services and City Attorney disbursements was due, in part, to the petitioner's calculation including interest on the legal loan in the calculation which the City included in other general government disbursements and the City including a disbursement paid in July as a FY2015 disbursement.
14. The FY2015 actual total beginning balance of \$62,246 reported on the submitted FY2017 City Budget is in error. Per the City's opening statement, the figure of \$27,489 was listed separately under the Special Revenue Fund, where it had been included with the General Fund total on the FY2015 AFR. The City then failed to reduce the General Fund total from \$34,757 on the FY2017 City Budget to \$7,268.
15. The Long Term Debt Schedule, Form 703 of the City Budget, was updated prior to the FY2017 budget cycle to more accurately reflect when debt service levy taxes were being used to pay debt. This change was made by the Department of Management and approved by the City Finance Committee on July 8, 2015.
16. The City of Mount Union approved a resolution of intent to discontinue under Iowa Code 368.3 on May 30, 2016 by a vote of 4-0.

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 384.19.

BASIS OF DECISION

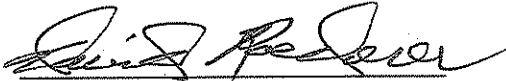
Iowa Code section 24.28 states, in part, "At all hearings, the burden shall be upon the objectors with reference to any proposed item in the budget which was included in the previous year and which the objectors propose should be reduced or excluded...". The Code continues: "...the burden shall be upon 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."

The petitioners did not request a reduction in the FY2017 tax levy or budgeted expenditures. The objections from the petitioners focus on inaccuracy of reporting or perceived indifference of the Mayor and City Council to these inaccuracies. It was noted the City used an incorrect figure as the beginning balance for FY2015 on the FY2017 budget. The City failed to properly adjust the beginning balance in the General Fund to offset the amount of beginning balance allocated to the Special Revenue Fund.

ORDER

Based on the information provided by the parties involved and the Iowa Code, the State Appeal Board orders the City of Mount Union to correct the mistake in the FY2015 beginning balance used to prepare the FY2017 budget. The State Appeal Board sustains the City of Mount Union FY2017 tax levy and expenditures as adopted.

STATE APPEAL BOARD



David Roederer
Chairperson



Mary Mosiman
Vice Chairperson



Michael L. Fitzgerald
Member



Date