

STATE APPEAL BOARD

In Re:	City of Evansdale)	Order
	Budget Appeal)	
	FY 2022-2023)	June 6, 2022

BEFORE THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT, KRAIG PAULSEN; STATE AUDITOR ROB SAND; 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 5, 2022. The hearing was before a panel consisting of Mr. Kyle Harms, Investment Officer, Office of the State Treasurer; Mr. Ted Nellesen, City Budget Administrator, Department of Management and Presiding Hearing Officer; and Ms. Michelle Meyer, Director, Office of the State Auditor.

The spokesperson for the petitioners was Ms. Kelly Parker, citizen. The spokesperson for the City of Evansdale ("City") was Ms. DeAnne Kobliska, Mayor. Several citizens in attendance made comment during the hearing.

Upon consideration of relevant laws contained in the Iowa Code, 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 ("the Board") has voted to sustain the City of Evansdale fiscal year (FY) 2022-2023 budget as described herein.

PROCEDURAL HISTORY

The FY 2022-2023 City of Evansdale proposed budget summary was published in the Waterloo Cedar Falls Courier on March 4, 2022. The budget was adopted at a public meeting held on March 15, 2022.

A petition protesting the certified FY 2022-2023 City of Evansdale budget was filed with the Black Hawk County Auditor and was received by the Board on April 8, 2022. The petitioners' objections and their reasons listed on the petition document are as follows:

- An objection to the FY 2022-2023 city budget being submitted to the Black Hawk County Auditor by the Mayor, and not by a city clerk as required under 384.16(5).
- Notice of public hearing on the FY 2022-2023 city budget was invalid, as no description for protesting the city budget as required under 384.16(3) was included on the notice.

However, the objection to the notice of public hearing being incorrect was dropped by the petitioners prior to the appeal hearing.

DISCUSSION

The petitioners and the representatives of the City of Evansdale (“the City”) 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

Ms. Kelly Parker represented the petitioners as the primary spokesperson. In the presentation, Ms. Parker provided comments in regard to the FY 2022-2023 Evansdale budget process, summarized below:

- Ms. Parker confirmed that the petitioners withdrew the appeal to the notice of public hearing being insufficient.
- The City has not had a City Clerk since February 1, 2022.
- The City has failed to put forward enough effort to fill the City Clerk position in a timely fashion so that the city clerk would be submitting the budget.
- The submitted budget was signed, but did not have a seal on it. Ms. Parker contends that the seal is what is considered certification, not a signature.
- Ms. Parker stated that she feels an appropriate action would be for the City’s FY 2022-2023 budget to be held to the same amounts in the FY 2021-2022 budget.
- Ms. Parker stated that she has no explicit issues with the revenues or expenditures in the budget, but did not feel that the City followed proper procedure as laid out in the Code of Iowa.

CITY OF EVANSDALE RESPONSE

City of Evansdale Mayor DeAnne Kobliska acted as spokesperson for the City. Mayor Kobliska provided comments in regard to the Evansdale budget, summarized below:

- Mayor Kobliska acted as city clerk, due to the city clerk resigning on February 1, 2022. Chapter 15.02.11 of the Evansdale City Ordinances states that the Mayor will “make appropriate provision that duties of any absentee officer be carried on during such absence.”
- The City acted in a sufficient manor to find and hire a new clerk. A new clerk was sought through temporary employment agencies and by posting to the City website and the Iowa League of Cities classified website. The hiring environment made it difficult to find a qualified candidate that wanted the position. A new clerk was hired as of May 3, 2022.
- Mayor Kobliska reached out to Ted Nellesen with the Iowa Department of Management to make sure that having the Mayor certify the budget to Black Hawk County would be allowed. Mr. Nellesen advised in emails that this is allowable.

THIRD PARTY INTERVENERS

No third-party interveners wished to make comment.

MEMBERS OF THE PUBLIC

Dick DeWater, 930 2nd Avenue, resident and former City Council member of 24 years. Mr. DeWater attested to the difficulty in hiring and retaining a city clerk. Qualified candidates are hard to find due to the nature of the work. Believes that the City Council has made a good faith effort to hire a clerk.

Sandy Klements, 143 East End Avenue, resident and Evansdale Water Works Office Manager. Ms. Klements stated that the fact that a city clerk was needed and the position was vacant was widely known and commented upon by citizens who would come to City Hall. Though the listing was only on the City website and the Iowa League of Cities website, the need/vacancy was known in the community.

LEGAL AUTHORITY

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 5, 2022.
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. 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 budget of the previous year and which the objectors propose should be reduced or excluded; but the burden shall be upon the certifying board or the levying board, as the case may be, to show that 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."
5. Iowa Code section 384.16(5) states "After the hearing, the council shall adopt by resolution a budget for at least the next fiscal year, and the clerk shall certify the necessary tax levy for the next fiscal year to the county auditor and the county board of supervisors."
6. Iowa Code section 372.13(3) states "The council shall appoint a city clerk to maintain city records and perform other duties prescribed by state or city law."

7. Iowa Code section 24.17(1) states “The local budgets of the various political subdivisions shall be certified by the chairperson of the certifying board or levying board, as the case may be, in duplicate to the county auditor not later than March 15 of each year on forms, and pursuant to instructions, prescribed by the department of management. However, if the political subdivision is a county or a city, its budget shall be certified not later than March 31 of each year...”
8. Neither section 24.17 or 384.16 of the Iowa Code require that a city certify their budget with a seal.

FINDINGS OF FACT

1. The City of Evansdale was without a city clerk during the period of February 1, 2022 to May 3, 2022.
2. Chapter 15.02.11 of the city ordinances for the City of Evansdale states that the mayor will make the appropriate changes to duties of city employees in the event that a city officer is absent. Pursuant to this ordinance, Mayor Kobliska shifted this duty to herself. Mayor Kobliska appears to have worked within the requirement of the ordinance in regards to certifying the FY 2022-2023 city budget.
3. The City of Evansdale publicized the open city clerk position through the City’s website and through the classifieds page on the Iowa League of Cities website. The City also worked with Express Personnel, an employment agency and posted on Indeed, a hiring website, to find appropriate candidates. The City had also reached out to Iowa Workforce Development for assistance in finding candidates.
4. Iowa Code 372.13(3) requires the hiring of a city clerk, but does not define the process that should be undertaken in the search for a city clerk.
5. The City contacted the Department of Management to verify that a mayor is allowed to certify the budget to the County Auditor’s Office in the absence of a city clerk. The Department of Management approved certification by a mayor in this situation.

BASIS OF DECISION

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.

The petitioners were not seeking a specific reduction to the FY 2022-2023 tax levy or budgeted expenditures. The petitioners did not object to the approved budget or that the budget was properly adopted by resolution. The petitioners’ primary objection is the City did not put forth sufficient effort to fill the city clerk vacancy in a timeframe sufficient to allow the budget to be properly certified as described in Iowa Code 384.16(5). Iowa Code section 384.16(5) states “After the hearing, the council shall adopt by resolution a budget for at least the next fiscal year, and the clerk shall certify the necessary tax levy for the next fiscal year to the county auditor and the county board of supervisors.” At the time

that the budget was to be submitted, the City did not have a city clerk or a deputy city clerk employed.

The objection of the petitioners is to the Mayor, and not the city clerk, certifying the necessary tax levy to the county auditor and the county board of supervisors. However, Iowa Code section 24.17(1) states "The local budgets of the various political subdivisions shall be certified by the chairperson of the certifying board or levying board, as the case may be, in duplicate to the county auditor not later than March 15 of each year on forms, and pursuant to instructions, prescribed by the department of management". Emails provided by the City verify that this method of submission was authorized by the Department of Management. In addition, to provide for the continuation of services in the absence of a city officer, Chapter 15.02.11 of the city ordinances for the City of Evansdale allows the mayor to make the appropriate changes to duties of city employees in the event that a city officer is absent.

The City stated they had taken action to fill the city clerk vacancy and provided testimony attesting to a good faith hiring effort. The process for hiring of a competent city clerk is a local matter and not a matter to be determined by the State Appeal Board under Iowa Code section 24.30.

Due to there being no statutory requirement for a seal to be affixed to a budget in order for it to be deemed certified, the petitioners' objection to the budget having no seal is not valid.

ORDER

Based on the information provided by the parties involved and the Iowa Code, the State Appeal Board sustains the City of Evansdale's FY 2022-2023 budget.

STATE APPEAL BOARD


Kraig Paulsen
Chairperson

Did Not Attend
Rob Sand
Vice Chairperson

Approved via Google Meet
Michael L. Fitzgerald
Member

6/6/2022
Date

