

STATE APPEAL BOARD

In Re:	Conesville, Iowa)	
	Budget Appeal)	Order
)	
	FY 2007-2008)	May 7, 2007

BEFORE STATE TREASURER, MICHAEL L. FITZGERALD; STATE AUDITOR, DAVID A. VAUDT; AND THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT, CHARLES KROGMEIER:

A hearing on the above captioned matter was held pursuant to the provisions of Chapters 24 and 384 of the Code of Iowa on April 23, 2007. The hearing was before a panel consisting of Stephen Ford, City Budget Director, Department of Management and presiding hearing officer; Luke Donahe, Investment Officer, Office of the State Treasurer; and K. David Voy, Manager, Office of the State Auditor.

The spokesperson for the petitioners was Louise MacEachern. Joyce Payne, City Clerk of Conesville, was the spokesperson for the city, along with Ivan Arthur, Arthur Tax & Accounting. Other Members of the City Council were also present.

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 subsequent to the hearing and after a public meeting to consider the matter, the State Appeal Board has voted to modify in part the City of Conesville's fiscal year (FY) 2008 budget as described herein.

PROCEDURAL HISTORY

The FY2008 City of Conesville, Iowa proposed budget summary was published in the Columbus Gazette on February 28, 2007. The required public hearing was held and the budget was adopted on March 12, 2007.

A petition protesting the certified FY2008 City of Conesville, Iowa budget was filed with the Muscatine County Auditor on March 20, 2007, and was received by the State Appeal Board on March 26, 2007.

On the petition document, the petitioners stated in part "We object to the proposed budget because the council voted to eliminate the fireman's portion of the LOST and since the council voted the fire departments percent of the LOST to the General Fund."

DISCUSSION

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

PETITIONERS

At the budget appeal public hearing, petitioner Louise MacEachern represented the petitioners. She provided written remarks with an exhibit.

In her remarks, Ms. MacEachern stated the fire department needs continuing education and equipment. The voters voted for this Local Option Sales Tax (LOST) to help the fire department. The ballot states 60% for residential property tax relief and 40% for the fire department and parks/recreation. The city had a previous LOST, in part, for a new community center but the Council would need to borrow \$20,000 from the General Fund to make up the difference. On the advice of the city's accountant, the city chose to borrow money from another city fund and repayment of those funds was at the discretion of the city.

Ms. MacEachern ended her presentation with a rebuttal and closing remarks by requesting the State Appeal Board ask the City Council to give the fire department additional funding.

CITY OF CONESVILLE RESPONSE

Joyce Payne, City Clerk, responded the community voted for the LOST for the purposes stated. The 40% for the fire department and parks/recreation is appropriated at the discretion of the Council. The proportion between the fire department and parks/recreation is also at Council's discretion.

FINDINGS OF FACT

1. The City of Conesville, subject to various state laws and administrative rules, shall propose expenditures, prepare and adopt a budget and certify taxes. The City met those requirements.
2. Section 24.27 of the Iowa Code provides persons who are affected by any proposed budget, expenditure, or tax levy, or by any item thereof, may appeal. The petitioners met the requirements and, pursuant to Sections 24.28 and 24.29, a hearing was scheduled and conducted.

3. Section 24.28 of the Iowa Code states "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. "
4. Section 24.30 of the Iowa Code 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..."
5. The City of Conesville's voters approved a LOST in 2004 which became effective on July 1, 2004. The ballot states in part "Revenues from the sales and services tax are to be allocated as follows: "60% for residential property tax relief. The specific purpose for which the revenues shall otherwise be expended is 40% for fire department and parks/recreation."
6. The City's certified FY2008 budget includes estimated total LOST receipts of \$34,000. As required by the ballot 60%, \$20,400, is for residential property tax relief and is recorded in the General Fund. The remaining 40%, or \$13,600, is for the fire department and parks/recreation and is recorded in the Special Revenue, LOST Fund.
7. Section 422B.10 of the Iowa Code outlines the method for determining the amount of LOST receipts to be allocated to cities and counties. Section 422B.10(6) of Iowa Code allows the city to spend the moneys received for any lawful purpose.
8. Within the boundaries of the voter approved ballot language, the City of Conesville has the authority to determine how the LOST receipts will be used.
9. Property tax relief can only occur when a city has the legal authority and ability to levy a property tax. The Regular General levy has a limit of \$8.10 per \$1,000 of taxable valuation, in accordance with Section 384.1 of the Iowa Code. However, a Benefited Fire District levy within a city is required to be deducted from the Regular General levy limit, in accordance with Section 357A.8 of the Iowa Code. Therefore, Conesville has a FY2008 Regular General levy limit of \$7.51120 per \$1,000 of taxable valuation which is able to generate \$27,729 of property taxes. The City's Regular General levy amount of \$9,559 and the \$20,400 of LOST allocated to the General Fund is less than the amount of property tax which could be levied under the Regular General and the Tort liability, property and self insurance costs, in accordance with Section 384.12.(18) of the Iowa Code. As a result, the LOST allocated to the General Fund results in property tax relief.

10. The 40% share of LOST revenue for fire department and parks/recreation is estimated to total \$13,600. The City's estimated expenditures from the Special Revenue, LOST Fund includes \$20,000 for Parks, \$10,000 for the Community Center, and \$900 for the fire department.
11. The City's expenditure in FY2006 of \$130,489 to build a community center was not included in the original budget and the City did not amend the budget to gain the spending authority in accordance with Section 384.18 of the Iowa Code.

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 DECISIONS

The City's budget, budget hearings, and property tax levies were adopted by the City Council in accordance with statutory provisions.

The City budgeted \$900 for the fire department and \$20,000 for parks from the Special Revenue, LOST Fund in accordance with the ballot. The City has the authority to determine the distribution of the annual LOST appropriations between the fire department and parks/recreation.

The budgeted expenditure of \$10,000 for the Community Center from the 40% Special Revenue, LOST Fund is not authorized by the voter approved ballot.

The 60% share of LOST to the General Fund for property tax relief is justified by property taxes authorized by Sections 384.1 and 384.12 of the Iowa Code.

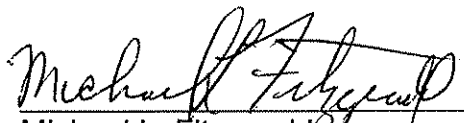
ORDER

Based on the financial position of the City, information provided by the parties involved, the wording on the LOST ballot and a review of historical data of the City of Conesville, the State Appeal Board orders the following:

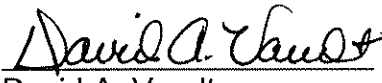
The allocation of the \$20,400 of the budgeted LOST collections to the General Fund is sustained. The City has the authority to disburse directly from the LOST Fund for items approved by the ballot of January 2004, effective July 1, 2004. The amount of the 40% share of LOST Funds to be expended for the fire department and parks/recreation in any given fiscal year is at the City's discretion.

The Community Center expenditure of \$10,000 budgeted in FY2008 from the 40% LOST within the Special Revenue Fund is disallowed. Also, it is recommended that the \$10,000 expenditure in the Re-Estimated FY2007 be removed. Community Center expenditures are to be made from the General Fund but may be paid from the Special Revenue, LOST Fund only if a formal loan agreement to repay the Special Revenue, LOST Fund from the General Fund within a reasonable time period is approved by City Council.

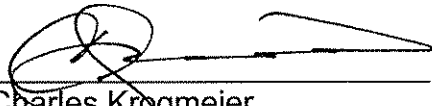
STATE APPEAL BOARD



Michael L. Fitzgerald
Chairperson



David A. Vaudt
Vice Chairperson



Charles Krogmeier
Member

5-7-07

Date