

STATE APPEAL BOARD

In Re: Ringgold County E911) Order
 Budget Appeal)
 FY 2014) April 30, 2013

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

A hearing on the above captioned matter was held pursuant to the provisions of Chapter 24 of the Code of Iowa on April 23, 2013. The hearing was before a panel consisting of Mr. Luke Donahe, Investment Officer, Office of the State Treasurer and presiding Hearing Officer; Ms. Lisa Oakley, School Finance Director, Department of Management; and Ms. Suzanne Dahlstrom, Manager, Office of the State Auditor.

The primary spokesperson for the petitioners was Mr. Kevin Kilgore. The primary spokesperson for Ringgold County E911 was Merle Walter, E911 Coordinator.

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 Ringgold County E911 fiscal year (FY) 2014 budget as described herein.

PROCEDURAL HISTORY

The FY2014 Ringgold County E911 proposed budget summary was published in the Mount Ayr Record-News on February 21, 2013. The budget was adopted at a public meeting held on March 4, 2013.

A petition protesting the certified FY2014 Ringgold County E911 budget was filed with the Ringgold County Auditor on March 25, 2013 and was received by the State Appeal Board on March 27, 2013. The petitioners' objections and their reasons listed on the petition document are as follows:

- An objection because the adopted budget represents a two year budgeted expenditure increase of 639%.
- An objection because the FY2014 adopted budget is not posted on the Iowa Department of Management (IDOM) website. FY2013 budgeted carryover balance represents 308% of surcharge revenues.
- An objection because IDOM Form E911-1 has no actual fund balance.

- An objection because the E911 Service Board budget is not accounted for in the county budget (Service Area 1, line 16).
- The petitioners ask for the E911 surcharge to be zeroed by the program manager as a matter of excessive fund carryover balance.

DISCUSSION

The petitioner and representatives of Ringgold County E911 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. Kevin Kilgore represented the petitioners.

Mr. Kilgore began his presentation by sharing exhibits (Exhibit 4 and 4A) in support of the objections for the budget protest. His statement included the following points:

- Exhibit 4 contains the FY2014 certified budget, the county budget (Service Area 1), Budget Flex sheet, a listing of FY2013 salaries, the FY2012 Treasurer's end of year report and the IDOM webpage to establish veracity of Objection 2.
- Exhibit 4A was distributed at the hearing and lists the petitioners' objections and the petitioners' request for the E911 surcharge to be zeroed by the program manager as a matter of excessive fund carryover balance.
- The E911 budget should be defended by the Board, not the E911 Coordinator, who is a salaried employee and not part of the Board.
- Page 1 of Exhibit 4 shows the 639% increase in budget expenditures over two years.
- Page 7 of Exhibit 4, Ringgold County Expense Flexsheet, shows the FY2013 budget as zero.
- Page 10 of Exhibit 4 shows the FY2011 budget is missing from the Department of Management's website.
- Page 1 of Exhibit 4, Notice of Public Hearing, does not show the actual FY2012 Ending Fund Balance amount found on Page 3 of the exhibit, Supplemental Detail, line 65. The amount is \$160,319.
- Page 9 of Exhibit 4, FY2012 Ringgold County Treasurer Report, shows the revenue, disbursements and ending fund balance for E911 Surcharge. The actual disbursements on the budget do not equal the amount on the flex sheet.
- Page 6 of Exhibit 4, Ringgold County budget for Service Area 1, line 16, E911 Service Board shows all zeroes. However, the Expense Flexsheet shows actual FY2012 expenditures.
- The County Treasurer routes money to the county. Money cannot be routed to the E911 Service Board so the funds are spent by the County Auditor. The total E911 Service Board is not accounted for in the county budget as it should be.
- Page 3 of Exhibit 4, shows the FY2014 ending fund balance of \$71,069.
- Iowa Code Chapter 34A.7(5) states, "If money remains in the fund after fully paying obligations under subparagraphs (1) and (2), the remainder may be accumulated in the fund as a carryover operating surplus. If the surplus is greater than twenty-five percent of the approved annual operating budget for the next year, the program manager shall

reduce the surcharge by an amount calculated to result in a surplus of no more than twenty-five percent of the planned annual operating budget.”

- Page 3 of Exhibit 4, E911 Surcharge fund, shows all of the money is accounted for here and page 4 of Exhibit 4, E911 Operating fund shows all zeroes.
- Mr. Kilgore finds it odd there is a planned capital investment of \$145,000 and no numbers are available on the cost of the upgrade.

RINGGOLD COUNTY E911 RESPONSE

Mr. Walters, the E911 Coordinator, was the primary spokesperson for the Ringgold County E911 Service Board. In the response to the petition, he expanded upon the written remarks and the exhibits submitted.

- Exhibit 1 is the E911 Service Board's response to petitioner and Appeal Board of Iowa.
- Mr. Walters explained, as the E911 Coordinator, he is also on the E911 Service Board as a non-voting member.
- In response to objection 1, the E911 Service Board plans to upgrade the E911 system in FY2014 to meet Next Generation standards. These standards will include the ability to receive texts, photographs, video and voice over the internet protocols. This upgrade is costly and may take all of our reserves.
- In response to objections 2 and 3, the IDOM website changed numbers and words on the budget sheet filled out by the E911 Coordinator when it was saved. It was corrected with the cooperation of the E911 Coordinator, Ringgold County Auditor and the Iowa Department of Management. The correct budget is the one which was approved and adopted by the Ringgold County E911 Service Board at the annual budget meeting and was published in the Record News.
- In response to objection 4, Iowa Code 34A entitles a county E911 Service Board to separate from the County budget. Ringgold County E911 Service Board does not ask for, or receive any funding from Ringgold County. Iowa Code 34A also ensures a County E911 Service Board can carryover funds for the use of maintaining and upgrading E911 systems.
- If the surcharge is zeroed, then E911 will not have funds to maintain or upgrade the 911 system. If the 911 system has a failure, there will be no funds to repair, maintain and upgrade the system.
- Mr. Walters answered various questions from the Hearing Panel.
 - Revenue from the telephone surcharge goes into their fund with the County Treasurer. Iowa Code Chapter 34A allows the funds to go through the County Auditor or through the County Treasurer alone.
 - After the upgrade, the remaining balance in FY2014 would be \$3,400. The upgrade is not mandated, but they want to meet the Next Generation standards to allow text messaging, photographs and videos. Some counties have this new process, but not very many, so the cost is an estimate. The budget includes \$130,000, but the cost could be up to \$190,000. Ringgold County's equipment is 10-years old.
 - With the move to narrowbanding, the mileage was cut. The County now needs four repeaters to reach the entire County. The FY2014 budget includes \$15,000 for one repeater.
 - \$5,000 included in the FY2014 budget for consultant fees is also part of the upgrade.

- o Estimated grant revenue of \$50,000 is included in the FY2014 budget, but is not guaranteed.
- o The published Notice of Public Hearing form was not from IDOM's online budget system. A different form was initially used and then the budget was entered online. This is a new requirement to have to put the budget on IDOM's website.

MEMBERS OF THE PUBLIC

Two members of the public identified themselves and spoke during the public comment time. Comments included support for the E911 Service Board and budget.

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 Iowa Code sections 24.28 and 24.29, a hearing was scheduled and conducted.
2. E911 Service Boards are not authorized to levy property taxes. Their sources of revenue can include telephone surcharge, wireless surcharge, County and/or City contributions and other miscellaneous income. The Ringgold County E911 Service Board receives revenue from the telephone and wireless surcharges. Because it does not receive any direct County contribution, the E911 Service Board expenditures will not be reported on the county budget Service Area 1, line 16.
3. The Ringgold County E911 Service Board's FY2014 budget reflects \$147,100 (367%) more in expenditures than in FY2013 and 539% more than in FY2012.

FY 2012 actual expenditures	\$29,259
FY 2013 estimated expenditures	\$40,050
FY 2014 budgeted expenditures	\$187,150

4. Ringgold County serves as the fiscal agent for the E911 Service Board. The FY2012 Ringgold County Treasurer Report dated 07/23/2012 shows actual disbursements through June 30, 2012 of \$32,340. The actual FY2012 expenditure amount shown on the FY2014 budget is \$29,259.
5. The Ringgold E911 Service Board's FY2014 budgeted expenditures include \$145,000 for capital improvements and \$5,000 for related consultant fees for E911 system equipment upgrades. The \$37,150 in remaining budgeted expenditures are less than the FY2013 budgeted expenditures of \$40,050.

Consultant Fees	\$5,000
Communications, Towers & Equipment	\$15,000
PSAP Telephone Equipment	\$130,000
Other Expenditures	\$37,150
Total FY 2014 budgeted expenditures	<u>\$187,150</u>

6. Iowa Code Chapter 34A.7(5) states, "If money remains in the fund after fully paying obligations under subparagraphs (1) and (2), the remainder may be accumulated in the fund as a carryover operating surplus. If the surplus is greater than twenty-five percent of the approved annual operating budget for the next year, the program manager shall reduce the surcharge by an amount calculated to result in a surplus of no more than twenty-five percent of the planned annual operating budget."

7. Ringgold County's E911 budget Form E911-2 shows the following:

a	Budgeted year ending June 30, 2013 Surcharge expenditures	\$40,050
b	25% of line a	\$10,012
c	Surcharge Unassigned ending fund balance June 30, 2012	\$15,319
d	Greater of line b or c	\$15,319
e	Line d less line b	\$5,307
	If line e is positive, subtract the amount on line e from the amount shown in li and place the reduced amount in lj	
li	Estimated amount to be raised by surcharge	\$22,000
lj	Entry by County Auditor - approved surcharge	\$16,694

8. The FY2014 ending fund balance was budgeted at \$71,069. This includes \$5,000 in Reserved fund balance and \$50,000 in Assigned fund balance. The Unassigned fund balance is \$16,069.

9. If the surcharge is reduced by the Program manager as specified in Iowa Code Chapter 34A,7(5), the Unassigned ending fund balance would also be reduced by \$5,307.

10. Iowa Code 34A.2 (13) states, "Program manager means the E911 program manager appointed pursuant to section 34A.2A."

11. Iowa Code 34A.2A (1) states, "The administrator of the homeland security and emergency management division of the department of public defense shall appoint an E911 program manager to administer this chapter."

12. Iowa Code Section 24.17 states, in part, "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."

13. The Ringgold County E911 Service Board budget was adopted as required by law, including the requirements for a public hearing. However, the budget was prepared using forms other than those prescribed by the Department of Management. Upon completing the process using forms other than those prescribed by the Department of Management, the budget was entered into the online budget system. As a result of using the non-Department of Management forms, the following occurred:

- The final budget reflects a different ending fund balance amount than the published forms. There were no differences in expenditures.
- The FY2014 budget forms were not available online at the time of the public hearing.

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.

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 E911 Service Board's budget was adopted by the Board in accordance with statutory provisions. The increase in expenditures for capital equipment appears to be necessary, reasonable and in the interest of the public welfare.

The petitioners did not adequately satisfy the burden of proof requirement to justify a change in the FY2014 expenditures. The E911 Service Board Coordinator adequately satisfied the burden of proof requirement for the increases in the FY2014 expenditures.

The petitioners requested the E911 surcharge be zeroed by the program manager as a matter of excessive fund balance carryover balance. Iowa Code Chapter 34A directs the E911 program manager under the Homeland Security and Emergency Management Division of the Department of Public Defense to reduce the surcharge if the FY2012 Unassigned ending fund balance is greater than twenty-five percent of the FY2013 budgeted expenditures.

The Ringgold County E911 Service Board budget was prepared using forms other than those provided by the Department of Management. This resulted in the ending fund balance on the notice of public hearing being incorrect and the forms not being available online at the time of the public hearing. However, this does not affect the propriety of the budgeted expenditures adopted by the Service Board.

ORDER

Based on the information provided by the parties involved and the Iowa Code, the State Appeal Board requests the E911 program manager under the Homeland Security and Emergency Management Division of the Department of Public Defense reduce the Ringgold County E911 Service Board surcharge in accordance with Iowa Code Chapter 34A. The State Appeal Board also directs the Ringgold County E911 Service Board to use the required Department of Management online budget forms.

STATE APPEAL BOARD



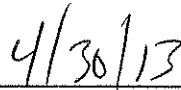
David Roederer
Chairperson



Michael L. Fitzgerald
Vice Chairperson



David A. Vaudt
Member



Date