

**STATE APPEAL BOARD**

<b>In Re:</b>	<b>City of Silver City</b>	)	<b>Order</b>
	<b>Budget Appeal</b>	)	
	<b>FY 2014</b>	)	<b>May 21, 2013</b>

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**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 6, 2013. 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. Susan Battani, Director, Office of the State Auditor.

The primary spokesperson for the petitioners was Ms. Carolyn Blasingame. The primary spokesperson for the City of Silver City was City Council Member Jamie Cheyney.

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 reduce the City of Silver City fiscal year (FY) 2014 budget as described herein.

**PROCEDURAL HISTORY**

The FY2014 City of Silver City proposed budget summary was published in the Opinion-Tribune. The budget was adopted at a public meeting held on April 1, 2013.

A petition protesting the certified FY2014 City of Silver City budget was filed with the Mills County Auditor on April 10, 2013 and was received by the State Appeal Board on April 15, 2013. The petitioners' objections and their reasons listed on the petition document are as follows:

- An objection was raised to the amount of time provided for public input on the proposed FY2014 city budget during the public hearing.
- An objection to the use of the Special Revenue Levies (Emergency Levy and FICA & IPERS Levy).
- An objection to the \$480,398 total balance being maintained by the City while tax rates have not been lowered to use the balance.
- An objection to expenditures that appeared to be duplicated under multiple programs.

## DISCUSSION

The petitioners and the representatives of the City of Silver 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. Carolyn Blasingame represented the petitioners as the primary spokesperson. In her presentation, Ms. Blasingame provided comments in regard to the Silver City budget, summarized below:

- Citizens were given a very limited time to question the FY2014 proposed City budget during the public hearing. Two City Council Members each answered one question while all other questions were answered by the City Clerk or City Treasurer. The petitioners stated their desire to have answers come from the City Council Members.
- The City budget reflected a capital improvement in FY2012 with a cost of \$108,187. The project this expenditure financed is unknown to the citizens of Silver City.
- \$5.50 was charged for copies of the FY2014 City Budget requested by members of the public.
- The petitioners wanted to know the source of the revenues listed as "Miscellaneous" on line 12 of the Public Notice for the FY2014 budget. Revenues of unknown origin appear on this line every year. Within the "Miscellaneous" revenue total shown on the Public Hearing Notice, there is \$51,500 coming from the proprietary sewer system. There have been increases in recent years for sewer service, so the citizens are requesting clarification on what exactly that revenue is.
- The petitioners contend the Special Revenue Levies, consisting of the Emergency Levy and a levy for FICA & IPERS costs, is being applied in excess of need. The petitioners contend the \$12,253 in revenue from the FICA & IPERS levy is far more than is necessary for the two city employees. The petitioners also contend the Emergency Levy is being levied for a duplicate purpose as the General Fund levy.
  - The petitioners also question the status of City Library Director Sally Vitamvas. She is a City Council Member and the City Council has stated she is both a City employee and a contract employee for the City. The petitioners requested a definitive answer as to the employment status of Ms. Vitamvas.
  - If Ms. Vitamvas is a contract employee with the City, the petitioners question the expense of FICA & IPERS benefits for her.
- The petitioners question the need to maintain what is in their opinion a high Total City Levy Rate with ample balance being held in reserve by the City. The petitioners point to the projected FY2014 total ending balance of all City funds in the amount of \$480,398 as evidence the rate should be lowered.
  - The lack of any long term plan for improvements was brought into question by the petitioners, as well as the need for the existing fund balance.

- The petitioners stated increased assessments imposed on the properties in Silver City will net new revenue for the City and should allow for a further decrease in the City's Total Tax Levy Rate.
- The petitioners request a clarification as to which funds and how much the City Clerk is being paid. The petitioners assert 25% of the Road Use Tax revenues anticipated for FY2014 are budgeted to pay for the City Clerk's time. The petitioners stated the General Fund is being assessed for this time also and would like an explanation for why this appears to be the case.

### **CITY OF SILVER CITY RESPONSE**

City Council Member Jamie Cheyney acted as the primary spokesperson for the City of Silver City. In her presentation, Ms. Cheyney provided comments in regard to the Silver City budget, summarized below:

- The City maintains there was ample time for the public to have their questions answered, both before the budget hearings and at the two hearings which followed.
  - A budget workshop was scheduled for Feb 6, 2013 during the January 14, 2013 regular Council meeting. The workshop date was included in the minutes published in the Opinion Tribune on January 23, 2013. Due to a conflict in the Mayor's schedule it was moved to February 5<sup>th</sup> and notice of the change posted in three locations in the City. No public attended this event.
  - Prior to the actual budget hearing on March 12, 2013, the City Clerk responded to all budget questions sent via email or asked in person.
    - Because of the request from the two residents and to comply with the budget posting regulations, Council Member Jamie Cheyney made a motion the Council would reschedule the budget hearing and repost the corrected budget.
  - A budget hearing was held on April 1<sup>st</sup> with a corrected Public Hearing Notice and the budget was approved by resolution of the Council.
- The City stated the \$108,187 shown as Capital Improvement expense in the FY2012 actual column on the FY2014 budget is in error. The City stated there were no capital projects in FY2012 and the amount was \$76,388 in transfers for utility service and \$31,799 in debt service payments made by the City for previous improvements, for which debt is currently outstanding.
- The City stated no sign was posted stating the specific cost of the budget but there is a sign posted in City Hall stating the cost of copies were \$0.50 per page. According to the City, no one requested a copy of the proposed budget.
- The City stated the miscellaneous revenues called into question by the petitioners were outlined at the April 1, 2013 budget hearing. The Miscellaneous

revenues come from department fundraisers, sale of property, and memorials and contributions made to the various City departments.

- The City answered the petitioners' statement of the Emergency Levy being used for a duplicate expense by stating the levy was not being used to pay for \$1,700 in E911 expense, but is instead being levied to be held in reserve for unanticipated expenses.
- The City clarified Library Director Sally Vitamvas is an employee of the City and not a contract employee with the City. The City levies for FICA & IPERS for Ms. Vitamvas and Ms. Carper, the City Clerk.
- In reply to the petitioners' questioning the fund balance being maintained, the City stated they are planning to use the balance for a future purchase of a new grinder for the wastewater treatment facility. The cost of the grinder is estimated to be between \$20,000 and \$50,000.
- The City explained the line in the budget (Clerk, Treasurer, & Finance Adm.) used by the petitioners to calculate the amount of the Clerk's wages included other costs as well. The City stated this line item included the City Treasurer's pay and was also used for miscellaneous fees such as consulting, advertising, and training.

#### **MEMBERS OF THE PUBLIC**

Libby Wolff, 114 Main Street, spoke during this time. Ms. Wolff asked why the FY2012 RAGBRAI expenses were included as a consulting expense. City Clerk Jo Carper responded by clarifying the expenses were categorized as miscellaneous. Hobbie Pieken, 125 E. Railroad Avenue, also spoke during this time. Mr. Pieken advised the panel not everyone's (all citizens) assessed value went up, (as stated during the hearing), as his went down. Mr. Pieken also advised the panel the petition was not widely available; it was only allowed to be signed or viewed by certain individuals. John Blasingame, 212 Main Street, commented on Mr. Pieken's assertion the petition was viewed and signed by a select few people in town. Mr. Blasingame stated the Iowa Code does not specify the petition must be highly circulated.

#### **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 5, 2013.
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 Silver City FY2014 budget reflects \$6,659 (9.71%) more in property taxes than in FY2013.
5. The increase in property taxes includes the Emergency Levy increasing by \$155 (10.12%) over the FY2013 budget levy. The City did not demonstrate a need or purpose for the Emergency levy. Funds have not been transferred to the General Fund or otherwise committed by the City for a specific future use.
6. The total budgeted expenditures for FY2014 decreased by \$19,726 (-5.65%) from the FY2013 as re-estimated. Approximately \$19,244 of the reduced expenditures are budgeted in the General Fund.
7. The FY2014 budgeted ending fund balance for the General Fund was \$132,734, or 98.54% of budgeted General Fund expenditures. The FY2014 budgeted ending fund balance for the Special Revenue Fund was \$263,162, or 735.08% of budgeted Special Revenue Fund expenditures. The total fund balance of \$490,398 includes all City funds (governmental and proprietary).
8. The current budgeted levy for FICA & IPERS is \$12,583. Council Member Cheyney stated she questioned the need for a levy amount as high as \$10,000. Council Member Cheyney indicated, per discussion with former Council Member Peter Kloeckner, the budgeted FICA & IPERS levy should include the employer and employee portions of FICA & IPERS. Expenses for FICA & IPERS during FY2012 totaled approximately \$6,240. Budgeted FICA & IPERS levies for FY2012 and FY2013 were \$2,395 and \$10,000, respectively. The FICA & IPERS levy increased in the FY2014 budget by \$2,583 (25.83%) above the FY2013 levy.
9. The City's budgets have included road use tax expenditures from the Special Revenue Fund. However, according to the City's Annual Financial Report (AFR) for FY2012, no street related disbursements were made from the Special Revenue Fund, public works function. Instead, all disbursements from the public works function were recorded in the General Fund. In addition, the City did not report a beginning fund balance in the FY2012 AFR for the Special Revenue Fund. Instead, the beginning fund balance (for all City funds) was reported in the General Fund for a total balance of \$342,082 as of July 1, 2011.

According to the City's FY2012 City Street Financial Report filed with the Iowa Department of Transportation, the City's Road Use Tax Fund balance totaled \$20,342 as of July 1, 2011 and \$20,999 as of June 30, 2012.

The ending fund balances totaling \$355,501 reported in the June 30, 2012 AFR were misstated. The General Fund balance of \$243,607 was overstated and the

Special Revenue Fund balance of \$115,969 and Proprietary Fund balance of (\$4,075) were understated. Due to the lack of individual fund balance information, we were unable to definitively determine specific amounts. This may be resolved with the FY2013 audit of the City.

The financial information provided by the City did not provide individual fund balances as requested by the Hearing Panel. We were unable to determine the City's actual financial position by individual fund. As noted by the City, a FY2013 audit of the City has been requested and will be performed by the Iowa State Auditor.

#### **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."

Absent definitive fund balances and determination of the City's actual financial position by individual fund, the City did not demonstrate a need or purpose for the Emergency Levy.

By its own admission, the City has levied the employee's share of FICA & IPERS. Pursuant to Iowa Code 384.6 and Chapter 545 of the Iowa Administrative Code, the employee benefit levy may only be used to pay the City's (employer's) share of FICA & IPERS. Employees are responsible to pay their individual share of FICA & IPERS.

Conflicting statements were made in regard to charges by the City for copies of the proposed City Budget.

The burden of proof lies with the City to demonstrate the increase in property tax is "necessary, reasonable, and in the interest of the public welfare". Based on financial history, the lack of identified expenditure increases and the adequacy of the ending balances, the City did not meet the burden of proof regarding the increase in the tax asking.

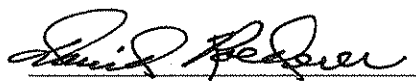
ORDER

The levy provided in Iowa Code Section 384.6 and Iowa Administrative Code 545 Chapter 4 for the employer's share of FICA & IPERS withholdings is decreased from \$2.01464 per \$1,000 of taxable valuation to \$1.12076 per \$1,000 of taxable valuation.

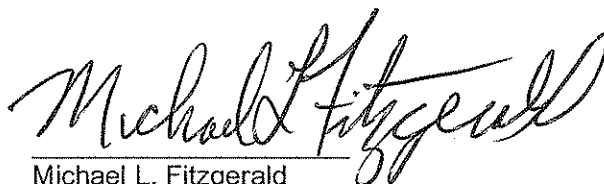
The levy provided in Iowa Code Section 384.8 "Emergency fund" is eliminated.

In the future, in the interest of transparency and consistent with Iowa Code Section 384.16(2), the State Appeal Board encourages the City of Silver City to provide timely responses to budget questions from citizens during the meetings, rather than before or after the meetings. The State Appeal Board also encourages the City to provide copies of the proposed budget (at no cost to the public) prior to the public hearing on the budget.

STATE APPEAL BOARD



David Roederer  
Chairperson



Michael L. Fitzgerald  
Vice Chairperson

- ABSENT -

Mary Mosiman  
Member

5/22/13  
Date