

SPENCER COUNTY
F21 PG681

SPENCER COUNTY FISCAL COURT
SPECIAL MEETING
MONDAY, JUNE 27, 2016, 2:00 pm
FISCAL COURT MEETING ROOM, 28 EAST MAIN STREET

- A. CALL TO ORDER BY COUNTY JUDGE EXECUTIVE JOHN RILEY AT 2:00 PM
- B. ROLL CALL BY SPENCER COUNTY CLERK, LYNN HESSELBROCK – ALL PRESENT
- C. PRESENTATION AND REVIEW OF JUNE 24 DEPARTMENT OF LOCAL GOVERNMENT LETTER.



OFFICE OF THE GOVERNOR
DEPARTMENT FOR LOCAL GOVERNMENT

Matthew G. Bevin
Governor

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Sandra K. Dunahoo
Commissioner

June 24, 2016

Honorable John Riley
County Judge/Executive
Spencer County Fiscal Court
P.O. Box 397
12 W. Main Street
Taylorsville, KY 40071

RE: *Requirement of Fiscal Court to Adopt a County Budget*

Dear Judge Riley:

We understand that Spencer County's FYE 2017 budget has yet to be adopted. I am writing to remind you and the Spencer County Fiscal Court of the importance of passing a budget for Fiscal Year 2017. On behalf of the Department for Local Government and the State Local Finance Officer, I urge you give this matter your immediate attention, as the County cannot legally operate after June 30, 2016 without a budget approved by the State Local Finance Officer. Please be aware of the Constitutional and Statutory requirements discussed below.

Kentucky Constitution § 157b requires that all counties adopt a balanced budget, with expenditures not exceeding revenues. KRS § 68.250 states as follows:

The state local finance officer shall have full power and authority to supervise and direct the form and classifications of all county budgets. He shall approve all budget forms and classifications and may change any form or classification submitted to him before making such approval. The county judge/executive shall use the form furnished or approved by the state local finance officer and shall not make any changes therein or use any other form, unless authorized by the state local finance officer.

In addition, KRS 68.260 states in part:



The proposed county budget, tentatively approved by the fiscal court and approved by the state local finance officer as to form and classification, shall be submitted to the fiscal court for adoption not later than July 1 of each year. *The budget as presented and amended shall be adopted as of July 1.*

Furthermore, KRS § 68.350 states that:

The state local finance officer shall prescribe the books, blanks and forms to be used by county officials in the administration of the fiscal affairs of the county under the budget laws. He shall examine the budget records and make such investigations as may be necessary to determine the condition of the financial affairs of each county. *If the state local finance officer finds that any county officer is willfully violating or neglecting the duties imposed by KRS 68.210 through 68.360, he may institute legal proceedings in the Circuit Court of that county to compel compliance with the law.*

Finally, we recommend the Fiscal Court review the case of Howard v. Magoffin County, 734 S.W.2d 499 (Ky. App. 1987), a copy of which is attached to this letter. We strongly urge that you adopt a County budget by June 30, 2016. Your compliance with this timeline is crucial to ensure satisfaction of your Constitutional and statutory obligations. Thank you for your time and prompt attention to this matter. If you have any other questions or if there is anything further the Department for Local Government can do to assist, please do not hesitate to give us a call.

Respectfully,



Darren Sammons
Staff Attorney

The Judge read aloud that last paragraph of the letter from the Department of Local Government and then asked if anyone was not familiar with section 157B of the Constitution or with KRS 68.260. The Judge then went on to say that there was a provision in Kentucky Law, KRS 67.078 that afforded the Court one last opportunity to adopt the budget before the deadline. The Judge quoted from KRS 67.078 (2) which was a declaration of an emergency. He went on to say it would take 4 votes to pass this declaration. He then asked if anyone had questions about the June 24th letter from DLG. The Judge then said they would move on to the next item on the agenda, which was a resolution declaring an emergency. He read the resolution out loud. He said he would like to have a motion to adopt this resolution.

- Motion made by Esq. Goodlett, and seconded by Esq. Rogers to adopt this declaration of emergency. Discussion ensued with Esq. Bayers saying the Court was under no obligation to adopt the declaration of emergency. Esq. Bayers said that amendments could be made to the budget, have the budget adopted and there would be no need for a declaration of emergency. He asked that Esq. Goodlett rescind his motion and for Esq. Rogers to rescind his second of the

motion. The Judge said that he wanted to remind everyone that before the Court voted and in order to move forward, the Court must adopt an emergency. "If there is no emergency we will not be taking up the budget under an emergency declaration." The Judge then said that there was a motion and second on the floor, and called for the roll call on the resolution.

SPENCER COUNTY FISCAL COURT
Resolution Declaring Emergency

Whereas Spencer County Fiscal Court has failed to adopt the Fiscal Year 2016/17 Budget Ordinance as required under Section 157b of the Kentucky Constitution and under KRS 68.260; and

Whereas the budget is required to be adopted no later than June 30th; and

Whereas the requirement to end all "non-essential" county services in the event the budget is not adopted by June 30th will clearly create undue harm to the residents of Spencer County who pay for and depend on these services; and

Whereas Kentucky Revised Statutes under KRS 67.078 provides a means for the adoption of a county ordinance to address emergency situations "without regard to the requirements of KRS 67.077; and

Whereas KRS 67.078 allows for a majority of Fiscal Court to declare an emergency to exist by "naming and describing the emergency"; now

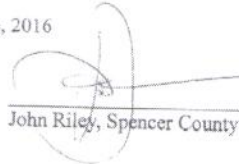
Therefore be it resolved that Spencer County Fiscal Court hereby declares the "2016/17 Budget Emergency" exists which already has and will create undue harm to our county and its residents especially if allow to continue beyond the June 30th statutory deadline.


Motion to adopt this resolution by Goodlett
Seconded by Rogers

AYES
Eg. Goodlett
Judge Riley
Eg. Rogers

NAYS
Eg. Rogers
Eg. Judd
Eg. Williams

So Resolved by vote taken on this 27 day of June, 2016


John Riley, Spencer County Judge Executive

Attest: 
Lynn Hesselbrock, Spencer Fiscal Court Clerk

The Judge said that they were not going to be able to continue. He said his intention was to adopt the budget under an emergency declaration, the Court has not declared that emergency and therefore, he asked for a motion to adjourn. He said it will make it necessary; very, very unfortunate that this has come to this. What this is going to require me to do as the County Judge is to immediately begin to determine what is essential services. We cannot continue County government with no budget and we will have to determine what is essential services and I will issue an Emergency order as to what those

emergency services are. Obviously, it is going to involve things such as EMS and the question of staffing is another issue. I will also issue a directive to DLG to move immediately, the County is not going to continue under this. I am going to ask them to immediately intervene, the County Attorney may intervene, I have no doubt that there's probably others that are going to intervene; the Courts to force us to do what our Constitutional duty and statutory duty. Esq. Williams then said that Robert Brown, from DLG said that the Magistrates could make changes to the budget between the first and second reading, so this was as much Judge Riley's fault, as anyone's. Esq. Bayers said that he had spoken with DLG, and the County Attorney and the Court had time to make changes but that the Judge wouldn't talk about it. Discussion ensued without agreement. The Judge called for a motion to adjourn.

- Motion made by Esq. Goodlett, seconded by Esq. Rogers to adjourn. The 'ayes' were Esq. Goodlett, Esq. Rogers and Judge Riley. The 'nays' were Esq. Judd, Esq. Williams and Esq. Bayers. The motion to adjourn failed.

The Judge said that the only legal option he was aware of was to declare an emergency declaration, and the Court didn't do that, and get the budget adopted. Then over the course of the year, amendments or transfers could be made. Discussion continued with Esq. Williams and Bayers saying the Judge was unwilling to listen to any suggestions for amendments from the Magistrates. Esq. Bayers said that he had four amendments he would like to present, and if the Judge was willing for them to be heard, he thought the budget could be passed.

- Motion made by Esq. Williams seconded by Esq. Judd to allow Esq. Bayers' budget amendments be heard. No vote was taken.

The Judge said that this was not on the agenda. He said that this was a special meeting and the Court would not be taking up anything that was not on the agenda. The purpose of the meeting was to go on and pass the budget. The Judge said the meeting had nothing to do with whether everyone agreed what was in the budget, it was about meeting their Constitutional and statutory obligation to pass a budget by June 30th. He also said the meeting had nothing to do with salary caps at which point Esq. Bayers stated his budget amendments had nothing to do with salary caps. Discussion ensued. The Judge said that he was willing to go back and revisit this resolution. He said 'we can adopt the resolution which will allow us then to take up the budget under an emergency resolution, we can adopt that budget and we can move forward.' Esq. Bayers said that the emergency declaration was not necessary. He said the Judge should confer with the Assistant County Attorney. The Assistant County Attorney said that 'after speaking with DLG today, they agreed that after the first reading, amendments could be made at the second reading as long as they were in the same category. Nothing could be changed after that.' The Judge said that this could have been done at earlier meetings. Discussion continued with Esq. Bayers contending that a resolution for an emergency declaration was not necessary. Esq. Williams asked the Assistant County Attorney to investigate the County Judge not allowing the magistrates to make changes to the budget between the first and second reading. Esq. Bayers said he asked DLG if his

amendments needed to be in writing and they said no, but he had prepared them in writing and had them available for the Court to look at. The Judge said he really appreciated Esq. Bayers offering the amendments right before they walked into the meeting: then he said, obviously not, I am being sarcastic. The Judge said he would be happy to look at the amendments. Esq. Bayers then handed out the amendments he would like to be looked at by the Court.

Proposed Budget Amendments to Ord. #5
Fiscal year 2016 series

General Fund

Transfer \$89500 from 0151453220 (Dispatching contract) to 0151454460 (signs/supplies)

Transfer \$8000 from 0150011030(Dep.Co.Judge/Exec. salary) to 0150014450 (Co.Judge/Exec Office Supplies) -

Transfer \$9000 from 0152051020(K-9 officer salary) to 0152054030 (farm carcass removal contract) -

Road Fund

Transfer \$15000 from 0261051430 (Road Labor salaries) to 026105409F (Rock Fabric)

- Motion made by Esq. Judd, seconded by Esq. Williams to approve the changes to Ordinance #5, 2016/2017 budget. 'ayes' were Esq. Judd, Esq. Williams and Esq. Bayers. 'nays' were Esq. Goodlett, Esq. Rogers and Judge Riley. Motion fails.

The Judge then said Esq. Bayers amendment failed. Esq. Bayers said he would like to present his second set of amendments. The Judge asked if the Court would like to again take up the declaration of emergency. Esq. Bayers began to hand out his proposals and the Judge said he was going to call Esq. Bayers out of order. Esq. Bayers continued. The Judge then said "we will let Esq. Bayers go forward with this."

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Proposed Budget Amendments to Ord. #5
Fiscal year 2016 series

General Fund

Transfer \$81000 from 0150011010 (County Judge/Exec Salary) to 0150014450 (Co.Judge/Exec. Office Supplies)

Transfer \$39000 from 0150251010 (Magistrates Salaries) to 0150253320 (Outside Legal Council Fees)

- Motion made by Esq. Bayers, seconded by Esq. Williams to adopt the contingency budget amendments put forth by Esq. Bayers. 'ayes' were Esq. Bayers, Esq. Judd, Esq. Williams. 'nays' were Judge Riley Esq. Goodlett, Esq. Rogers. Motion fails.

The Judge then said he would offer one more opportunity to move this along by adopting the emergency declaration, and he said he would entertain such a motion.

- Motion to adopt the emergency declaration resolution made by Esq. Goodlett and seconded by Esq. Rogers. 'ayes' were Judge Riley, Esq. Goodlett, Esq. Rogers. 'nays' were Esq. Judd, Esq. Williams and Esq. Bayers. Motion fails.
- Motion made by Esq. Rogers to adjourn. Motion seconded by Esq. Goodlett. Voice vote was inconclusive.
- Motion by Esq. Williams, seconded by Esq. Bayers, with all members of the Court present voting "aye", it is hereby ordered to recess this Court until 5:00 PM this evening.