

STATE APPEAL BOARD

In Re:	Crawford County) Memorial Hospital) Budget Appeal) FY 2009)	Order May 5, 2008
--------	--	--------------------------

BEFORE THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT, CHARLES J. KROGMEIER; 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 14, 2008. The hearing was before a panel consisting of Stephen Larson, Deputy Treasurer, Office of the State Treasurer and presiding Hearing Officer; James Nervig, County Budget Director, Department of Management; David Voy, Manager, Office of the State Auditor and Luke Donahe, Investment Officer, Office of the State Treasurer.

The spokespersons for the petitioners were Richard Knowles and Dr. David Marc Tan Creti. The spokespersons for Crawford County Memorial Hospital were William Miller, Attorney with Dorsey & Whitney LLP, Mark Rinehardt, Hospital Administrator and Larry Brown, Hospital Chief Financial Officer.

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 Crawford County Memorial Hospital Fiscal Year (FY) 2009 budget as described herein.

PROCEDURAL HISTORY

The FY 2009 Crawford County Memorial Hospital proposed budget summary was published in the Denison Review on February 22, 2008. The budget was adopted at a public meeting held on March 4, 2008.

Two petitions protesting the certified FY 2009 Crawford County Memorial Hospital budget were filed with the Crawford County Auditor on March 25, 2008, and were received by the State Appeal Board on March 27, 2008. Due to the similarities in the two petitions, they were combined into one hearing and one decision as allowed by the Section 543-5.5(10) of the Iowa Administrative Code. The petitioners' objection and their reasons listed on the petition document are as follows:

- The Proposed budget asks that \$2.1 million of the restricted funds be spent to plan and build a replacement hospital.
- The Hospital Board of Trustees have failed to show a need to abandon their duty to care for patients in the present hospital by making necessary repairs, using the funds from

the accumulated depreciation. Instead, they have hoarded them for a replacement which is not needed.

- The petitioners protest the Trustees adoption of a budget which provides for the authority to issue debt instruments in the amount of \$30 million to plan and build a replacement hospital. The Trustees have not applied for a Certificate of Need (CON) which must be obtained before borrowing or expending funds to replace the existing hospital.
- The petitioners protest the Trustee's action in adopting this budget which provides for \$693,000 to be raised from taxation. The Trustees budget projects a net profit in excess of \$2 million for FY 2009. There is no need to collect the profits from operating the Hospital.

DISCUSSION

The petitioners and the representatives of the Crawford County Memorial Hospital 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. Richard Knowles and Dr. David Marc Tan Creti represented the petitioners. In their presentations, they raised certain questions with regard to the Crawford County Memorial Hospital, summarized as follows:

1. The Hospital Board of Trustees has budgeted for \$2,100,000 from restricted funds to plan a replacement hospital. The Trustees have not applied for a CON for the replacement hospital. The law requires the Trustees to apply for and obtain a certificate of need before expending funds for a replacement hospital.
2. The Trustees have budgeted \$30,000,000 to be borrowed to construct a replacement hospital. The Trustees have not revealed any plans or specifications for the proposed replacement hospital. Thus, they ask the citizens to buy a \$30,000,000 to \$35,000,000 project without any firm proposal. They have not shown the need for a replacement hospital. They have not applied for a certificate of need which is a requirement before the Trustees borrow or expend funds to build a replacement hospital. The Trustees are empowered by law to ask for public approval of a general obligation bond to build a replacement hospital. They have chosen not to do this, preferring to make plans behind closed doors and without any public input. The Trustees have not shown how the proposed site for the replacement hospital was chosen and why other proposed sites, including one site that was offered as a gift were rejected. The Trustees have received petitions signed by more than 3,000 residents asking the Trustees to rescind their motion to build a replacement hospital. The Trustees have asked for public support for their actions, but have received only one conditional resolution from the Denison 2020 /Advisory Board, which declared the proposed site (as yet uncertain) must be zoned for the hospital and the Trustees would be required to show what use would be made of the present hospital.

3. The Crawford County Memorial Hospital FY 2009 budget includes \$693,000 to be raised from taxation. The hospital was built by and is owned by the people of Crawford County. The hospital is organized under Iowa Code Section 347, which provides that a board of trustees will be entrusted with the buildings and the funds generated through operating those buildings as a hospital. Last fiscal year, the present hospital generated \$2.5 million in net income, which includes the funds obtained by taxing property in the county. The law requires the trustees to tax only when it is necessary to provide adequate public health services. The levy is not necessary. We ask the appeal board to reduce the tax asking and not allow the trustees to take from property tax payers when the trustees have already accumulated \$8,000,000 in cash.

Additional comments by the petitioner regarding the items noted above are as follows:

The Hospital Board has not shown to the satisfaction of the State of Iowa through the Certificate of Need process that a replacement hospital is permissible. Specifying funds for a replacement hospital, ambulance, therapy and a medical doctor's building is improper at this time. The Hospital Board has crossed the line and is "hoarding" \$8 million in funds to the extent of abandoning it's duties by ignoring known Code and safety violations and failing to maintain the current facilities.

CRAWFORD COUNTY MEMORIAL HOSPITAL RESPONSE

William Miller, Mark Rinehardt and Larry Brown were the primary spokespersons for the Crawford County Memorial Hospital. In their response to the petition, they expanded upon the written remarks and the exhibits that were submitted.

1. The hospital is a county public hospital established under Iowa Code chapter 347 and governed by a seven member board of Trustees, which adopted the budget. The Trustees have many duties and powers, set forth in the Iowa Code, including borrowing moneys to be secured solely by hospital revenues for the purposes of improvement, maintenance, or replacement of the hospital or for hospital equipment.
2. The Iowa legislature has invested boards of hospital trustees such as the Trustees in this action with wide ranging powers and duties related to the governance of their respective institutions. In the present situation, the Trustees made an underlying determination that a replacement hospital would provide significant benefit to residents in and around Crawford County. Accordingly, the Trustees decided to take certain actions in line with this determination and commensurate with their duties and powers, including approving the issuance of revenue bonds or notes to borrow money for the purpose of paying the cost of constructing, equipping, and furnishing a replacement hospital.
3. Petitioners claim that the budget includes the expenditure of \$2.1 million to plan and build a replacement hospital. The budget does not include an expenditure of \$2.1 million from the Restricted Fund. Instead, these funds are transferred from the Board Designated Fund while remaining in the Restricted Fund. The purpose of this transfer is to set up a Debt Service Reserve approximating a one year payment on the anticipated debt related to the replacement hospital. This reserve will be required by the eventual financing documents to be used in the case of a default on the debt. Nevertheless, the funds will remain with the Hospital.
4. The current budget reserves of \$7.2 million are not being hoarded. The Trustees were previously advised by their independent auditors to maintain the equivalent of three months

of expenses in reserve for occasions when unanticipated events arise, such as unbudgeted repairs due to the overall decline of its physical plant. The Trustee's independent financial advisor has informed them that maintaining a four month reserve should permit the Hospital to obtain better interest rates when pursuing financing for the planned replacement hospital. To maintain the recommended four month reserve presently requires holding \$5.2 million. Notwithstanding this target, the budgeted uses of funds in the budget will leave the Board Designated Fund (the reserve) at \$6.15 million at the end of 2008. This management of the Hospital's funds represents reasoned and intelligent financial decision making by the Trustees to the benefit of the community, not hoarding funds.

5. The Iowa Code permits the Hospital to levy property taxes each year in various amounts for various purposes, including taxes to provide for the maintenance and repair of the Hospital facilities and other services. In no respect is the Hospital's ability to levy taxes circumscribed by a consideration of whether the Hospital is profitable, or to what degree. The Hospital is not required to be running a deficit before it can levy taxes. Instead, it is for the Trustees to determine the appropriate amount and timing of any levy so long as that levy is within the Hospital's maximum tax levy.
6. To the extent the Trustees' applying for a CON in any way impacts this protest, the petitioners' argument fails because it is expected that, by the time the budget year at issue starts, a CON will have been applied for and presumably approved. Regardless, the CON application is immaterial to this protest point, which must be rejected.

Additional comments by the Hospital regarding the items noted above are as follows:

1. The Hospital has no Code violations on file from the State Fire Marshall or the Iowa Department of Public Health. The Hospital is not up to date with 2001 or 2006 standards, but, as with all older hospital buildings, the current facilities have been "grandfathered in".

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 and 24.29, a hearing was scheduled and conducted.
2. The hospital is a county public hospital established under Iowa Code Chapter 347 and is governed by a seven member board of trustees. The trustees have many duties and powers set forth in the Iowa Code, including:
 - The Hospital is required to submit a budget as required by Iowa Code Chapter 24. In addition, the Hospital can levy taxes for various purposes as authorized by Iowa Code Chapter 347.
 - Iowa Code Section 347.14(16) allows the Hospital to borrow moneys to be secured solely by hospital revenues for the purposes of improvement, maintenance, or replacement of the hospital or for hospital equipment.
 - To "Do all things necessary for the management, control and government of such hospital and exercise all the rights and duties pertaining to hospital trustees generally..." as required by Iowa Code Section 347.14(11).

3. The Hospital budget includes a transfer from the Board Designated Fund to the Restricted Fund of \$2,100,000. The purpose of this transfer is to establish a Debt Service Reserve approximating a one year payment on the anticipated debt related to the replacement hospital. The Restricted Fund does not include any budgeted expenditures in fiscal year 2009.
4. The Hospital's financial advisors have recommended that the Hospital maintain a three to four month reserve for occasions when unanticipated events arise.
5. An application for a CON was submitted on April 14, 2008 to the Health Facilities Council within the Iowa Department of Public Health which has the statutory authority to approve or deny the Hospital's request to construct a replacement facility.

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 347.13(9).

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 petitioners did not adequately satisfy this requirement to justify a change in the FY 2009 budget.

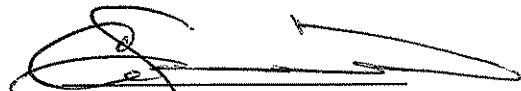
ORDER

Based on the information provided by the parties involved and the Iowa Code, the State Appeal Board sustains the FY 2009 Crawford County Memorial Hospital Budget as adopted.

STATE APPEAL BOARD



David A. Vaudt
Chairperson



Charles J. Krogmeier
Vice Chairperson



Michael L. Fitzgerald
Member

5-5-2008
Date