

**CONTINUATION OF SPECIAL FISCAL COURT MEETING
OF JUNE 27, 2016 5:00PM
SPENCER COUNTY FISCAL COURT MEETING ROOM
28 EAST MAIN STREET**

The meeting was called to order at 5:05pm by County Judge, John Riley. The Judge stated that he was going to turn the meeting over to the Assistant County Attorney to have her explain what she had discovered from her research from earlier today. The Assistant County Attorney began the discussion saying that one of the questions at hand was the need to declare an emergency declaration. She said that there was an Attorney General's opinion out of Bath County that basically upheld their designation that an emergency declaration was needed or they could not pass the budget; it was June 29, 2006. But in order to do that, the language would require that the County face the immediate possibility of shut down of vital services placing the citizen's welfare in a dangerous state. She said that if it is not designated as such, and the Court decides to move forward with a special meeting, since there is still time left in the month, that could be set for Wednesday or Thursday under the special meeting provisions, and any new items that need to be placed on the agenda could be placed on the agenda for discussion at a special meeting set for Wednesday or Thursday and still meet the appropriate time frame.

The Judge then said that with guidance from legal counsel here, what 'I would like to is entertain a motion to reconsider our previous action on the emergency declaration.' No motion was forthcoming. The Judge said that he saw no reason to continue the meeting.

The Judge said "folks we have an opportunity to do right here on behalf of our County"

Esq. Bayers again said that an emergency declaration was not needed. The Assistant County Attorney said that the County could declare an emergency, but did not need to as there was still time to discuss the budget issues. The Judge then said that "the Court acted on a second reading of the budget last Wednesday, and that failed; the meeting was adjourned. The issue then becomes how do you, particularly with the essence of time here, how do you go through the process of a first reading, advertising, second reading, obviously that takes us beyond the point of a second reading and adoption before we have to shut County government down." Discussion ensued as to why a declaration of emergency was needed. The Judge said that they had to start the process over again because the Court was deadlocked on the last meeting of a second reading. He said a declaration of emergency was needed to bypass the process of a first and second reading. Esq. Bayers disagreed and said he had spoken with DLG specifically about this and as long as there were no major changes made to the budget, the Court could make amendments at the meeting of the second reading, pass the budget then advertise. He said there was no need to start the process over. The Assistant County Attorney stated that she did not disagree with what Esq. Bayers said and she said that she thought that a second reading could be done, if that in fact where the Court was at with this. She went on to say 'if this is a second reading, I think those issues can be discussed, but it has to be limited to those sub categories. Changes can only be made within those second categories. So the agreement needs to be that this is a second reading and that we are not coming back and starting at the very beginning of the new drawing board.' The Judge responded "I think we have already opened ourselves up to a challenge whatever we do at this point. Is it Counselor's opinion that we can simply do a second reading of the budget- I guess I need to hear from legal counsel as to can we resolve this at this meeting and simply go to the budget?" The

Assistant County Attorney replied that it could be resolved at the second reading is only the amendments that are being made are the ones that are line items within the subcategories. The Judge responded that they had already taken up those items. The Assistant County Attorney said that if there was anything else of a different substance then that is correct, it cannot be.... The Judge interjected "OK, so we don't need a declaration of emergency, we can simply go to a second reading of the budget although that failed at a prior meeting. The Judge said that he thought the County had opened itself up to a challenge on this: "clearly when I read the statute, 67.078, it gives us the means to not worry about that, to simply declare the emergency, it's pretty clear we can pass that ordinance today if we do that, and I think we could avoid a challenge." "But if counsel advises this Court that we can go ahead and go straight to the question of whether we are going to adopt the budget or not, I'll be happy to do that because this needs to be resolved." "We can do that today, or I can call if need be, another special meeting to do that." The Assistant County Attorney stated again that as long as the Court was sticking under the guidelines of a second reading, they did not need a declaration of emergency. The Judge then said that he would like to amend item 'E' of the agenda to have it remove "emergency" adoption of Spencer County Ordinance 5, 2016/2017 budget to have it read "adoption of the second reading of Spencer County Ordinance 5 2016/2107 budget, is that proper?" Esq. Bayers said that he was told that adoption also included review and amendment. Esq. Bayers said that he didn't want a challenge and he knew that last set of amendments he proposed failed so he wanted to make adjustments to the proposal and ask that these proposals be voted on. Esq. Bayers said he wanted to remove from his previous amendment proposal the transfer of \$9,000.00 from the canine officer's salary to farm carcass removal. He wanted to remove that portion and re ask for a ...the Judge interjected "we have to get to bringing up the budget first, OK? I made a huge concession to allow...Esq. Bayers interjected "so we can bring up the concessions once we open discussion?" The Judge said that he would allow that. The Judge then said he would like to move to item "e" on the agenda, the adoption of the second reading of Spencer County Ordinance 5, 2016/2017 budget, and he sought a motion to that effect.

- Motion made by Esq. Goodlett, seconded by Esq. Rogers to adopt the second reading of the Spencer County Ordinance 5, 2016/2017 budget. Discussion followed. Esq. Bayers said he would like to introduce budget amendments. He was reminded that there was a motion and second on the floor for the adoption of the second reading of Ordinance 5. Esq. Bayers asked that the motion and second be rescinded so that discussion on his budget amendments could be heard. Esq. Goodlett rescinded his motion and Esq. Rogers rescinded his second on the motion. Esq. Bayers said that he would like to propose an amendment to transfer \$89,500.00 from account # 0151453220 (dispatch) to account # 0151454460 (signs and supplies) The Judge asked Esq. Bayers if that was his motion and Esq. Bayers replied in the affirmative.
- Motion made by Esq. Bayers to transfer \$89,500.00 from account 3 0151453220 (dispatch) to account # 0151454460 (signs and supplies). Motion seconded by Esq. Judge. 'ayes were Esq. Bayers, Esq. Judd and Esq. Williams. 'nays' were Judge Riley, Esq. Goodlett and Esq. Rogers. Motion fails.
- Motion made by Esq. Bayers to transfer \$8,000.00 from account # 0150011030 (deputy county judge salary) to account # 0150014450 (county judge executive office supplies) Motion was seconded by Esq. Judd. 'ayes' were Esq. Judd, Esq. Williams and Esq. Bayers. 'nays' were Judge Riley, Esq. Goodlett and Esq. Rogers. Motion fails.

The Judge asked if there were any more proposals and Esq. Bayers said it was pointless because there seemed to be no compromise.

- Motion made by Esq. Goodlett to adopt the second reading of Spencer County Ordinance 5, 2016/2017 budget. The motion was seconded by Esq. Rogers. The 'ayes' were Judge Riley, Esq. Goodlett and Esq. Rogers. The 'nays' were Esq. Judd, Esq. Williams and Esq. Bayers. Motion fails. Discussion ensued concerning the budget, the need to move forward on the budget. The Judge said he did not want to find out what was involved with shutting down County government. He encouraged the Court to pass the budget. The Judge also said that the Court did not want to be in violation of that statute or the Court's Constitutional duty. He said "there's been an incredible effort under some political atmosphere that this is under to get this done." He said that this was the Court's last opportunity to pass the budget, and encouraged them to do so. Esq. Judd said to the Judge "you as the Judge Executive should be a leader in working together to get some compromise between these five Magistrates here and you have done nothing" The Judge responded "I just did that, I've done that, and I will continue to do that". Esq. Bayers asked the Judge what compromise the Judge had brought forth and the Judge responded that he had brought forth the budget. Discussion ensued about various budget issues. Esq. Bayers asked the Assistant County Attorney if there was still time to have budget discussions and still get the budget passed and she replied "yes." On the motion to adopt the second reading of the budget, the 'ayes' were Judge Riley, Esq. Goodlett, Esq. Rogers. The 'nays' were Esq. Judd, Esq. Williams and Esq. Bayers. Motion fails.
- Motion was made by Esq. Bayers to recess until 8:00 pm. Judge Riley said he couldn't be there. The motion was seconded by Esq. Judd. The 'ayes' were Esq. Judd, Esq. Williams and Esq. Bayers. The 'nays' were Judge Riley, Esq. Goodlett and Esq. Rogers. The motion fails.
- Motion made to adjourn this meeting made by Esq. Goodlett. Motion was seconded by Esq. Rogers. The 'ayes' were Esq. Goodlett, Judge Riley, Esq. Rogers and Esq. Judd. The 'nays' were Esq. Williams and Esq. Bayers. Meeting adjourned at 5:45 pm.



Spencer County Judge Executive, John Riley

7-7-16

Date



Attest: Spencer County Clerk, Lynn Hesselbrock

7-7-16

Date