

**RESOLUTION
NUMBER 2024-17**

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEVY COUNTY, FLORIDA, RELATED TO THE TRANSITION OF COUNTY BUDGET OFFICER DUTIES; MAKING FINDINGS OF FACT AND A FINDING OF NEED FOR IMMEDIATE ACTION; AUTHORIZING THE FILING OF LITIGATION TO COMPEL THE LEVY COUNTY CLERK OF THE COURT AND COMPTROLLER TO TRANSITION COUNTY BUDGET OFFICER DUTIES AND PROVIDE ACCESS TO COUNTY BUDGET OFFICER RECORDS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 129, Florida Statutes, requires the Levy County Board of County Commissioners (the “Board”) to annually prepare and adopt a balanced County Budget, that includes all Constitutional Officers except the Property Appraiser. This County Budget process must occur within a strict statutory timeframe (June through September) in order for property taxes to be levied to fund the adopted Budget;

WHEREAS, per Section 129.025, Florida Statutes, the Board is to designate a County Budget Officer to carry out the budget duties set forth in Chapter 129 and, if the Board does not designate a different officer, the Clerk of the Circuit Court (the “Clerk”) must serve as the County Budget Officer. This Statute also clarifies that the duties of County Budget Officer do not fall within the Clerk’s constitutional responsibilities of auditor and custodian of county funds;

WHEREAS, the Board adopted Resolution Number 2017-015 on May 15, 2017, to specifically designate the Clerk to serve as the Board’s County Budget Officer and to adopt a County Budget Policy to guide the work of the County Budget Officer and facilitate compliance with Florida law and sound fiscal stewardship with regard to the County’s Budget;

WHEREAS, at the March 5, 2024 Regular Meeting, the County Coordinator placed an item on the agenda for the Board to consider options for preparation of the County’s FY25 Budget given the recent resignation of the Finance Director from the Office of the Clerk. Board Staff was directed to research and review all options and present them at the April 2nd Meeting, so the Board could determine how best to proceed;

WHEREAS, as requested, Board Staff conducted research and had discussions

with the Clerk, outside counsel for labor and employment law matters and the former Finance Director, regarding options for FY25 Budget preparation and County Budget Officer duties;

WHEREAS, during this time, Board Staff kept the Clerk and his legal counsel informed – providing them with the draft memo regarding options for County Budget Officer, requesting (and making) the Clerk’s suggested edits to that memo, providing a draft list of files and access to “ADG” (the County’s shared Payroll, Budget and Finance Fund Management System) as a starting point for follow-up transition meetings, and informing the Clerk of how Board Staff planned to present the agenda item on April 2nd;

WHEREAS, during this time, certain individual County Commissioners also had conversations with the Clerk regarding the County Budget Officer duties;

WHEREAS, in all those conversations, individual County Commissioners and Board Staff understood from the Clerk that, whichever option the Board chose regarding County Budget Officer duties and preparation of the FY25 Budget, he would do his part. Whether that meant continuing to serve on behalf of the Board as its County Budget Officer pursuant to Resolution Number 2017-015 or whether that meant cooperating to transition those duties to whomever the Board designated;

WHEREAS, at the April 2nd Regular Board Meeting, Board Staff presented the Memorandum regarding the options for FY25 County Budget preparation and adoption. After discussion, the Board: (1) approved Resolution Number 2024-13 to repeal Resolution Number 2017-015, to allow the Board to designate a Board employee as the County Budget Officer and to establish an updated County Budget Policy; (2) approved a Temporary Employment Agreement to employ Jared Blanton, CPA, MBA and designate him to serve as the County Budget Officer until September 30, 2024; and (3) directed County staff to work with the Clerk on necessary areas of cooperation (such as files needed and ADG access) to ensure timely preparation of the FY25 County Budget;

WHEREAS, commencing on April 2nd, Board Staff attempted to communicate and coordinate with the Clerk and his employees to obtain the files and ADG access to County Budget records necessary for a seamless transition of County Budget Officer duties;

WHEREAS, on April 2nd, the County Attorney received a call from the Clerk’s outside legal counsel who stated that no ADG access can be provided to the County Budget Officer for Budget functions and the Board would have to make public records requests for any County Budget files (paper or electronic), then the Clerk will have to process, including review, redaction, and likely a significant charge to the Board;

WHEREAS, from April 3rd to April 9th, Board Staff made multiple attempts to engage with the Clerk and have a meaningful conversation about the transition. Board Staff became increasingly concerned that the Board needs access to its Budget records in ADG to perform current FY24 County Budget functions, that each County Department

had already input its FY25 Budget Request into ADG as required by the adopted FY2025 Budget Calendar and that input could not be accessed except through ADG, that a Public Workshop on the Preliminary Budget is scheduled for Tuesday, May 7th and the necessary work to prepare for that Workshop requires access to the County Budget records in ADG, including the recent input by County Departments. In addition, Board Staff recognized that moving forward, the Board Payroll and Budget functions must continue to integrate/coordinate with the Clerk's Accounting functions, in order to provide proper and efficient oversight of expenditures from the adopted County Budget and to ensure that the lawful expenditures of the County are timely paid;

WHEREAS, on April 9th, the County Attorney received an email from the Clerk's outside legal counsel which stated the position of the Clerk - he is unwilling to communicate, provide access to the Board's Budget records, or assist in any regard with the transition of County Budget Officer duties. The Clerk's legal counsel further advised the Board to "procure its own budgeting software to fulfill its responsibilities", to "transition without his [the Clerk's] participation," to use "budget data from prior years" and that "on-going contact with Clerk's employees or agents for access/information . . . is improper;"

WHEREAS, the Clerk's position is untenable. It precludes the Board from fulfilling its statutory duties to adopt and manage a balanced County Budget and it precludes the Clerk from fulfilling his constitutional duties to review and ensure that expenditures from the County Budget are lawful and to timely pay those expenditures. The Clerk and Board must work in a coordinated system, such as the ADG Fund Management System, to efficiently and effectively carry out their separate, but interrelated, duties. To operate otherwise would require, at a minimum hundreds, but potentially thousands, of hours of manual inputs by Board Staff and Clerk Staff, increasing the opportunity for human error and would significantly slow County Payroll, Budget and Finance activities; and

WHEREAS, given the Clerk's position, pending Budget duties and imminent statutory deadlines for County Budget preparation and adoption, the Board must seek redress by Court action to compel the Clerk to provide immediate access to the County Budget records and to cooperate in the transition of County Budget Officer duties.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Levy County, Florida, that:

1. The Board finds the foregoing Whereas clauses to be true and correct statements of fact concerning this matter.
2. The Board finds this matter requires immediate action, as it jeopardizes the County Payroll, Budget and Finance functions and compromises the ability of the Board and the Clerk to carry out their respective Statutory and Constitutional legal obligations.
3. The Board authorizes its outside legal counsel, the firm of Nabors Giblin &

Nickerson, who serve under a Continuing Legal Services Agreement dated November 16, 2021, to file litigation to compel the Levy County Clerk of the Court and Comptroller to provide immediate access to County Budget records (including, without limitation, documents, data and ADG Fund Management System access) and to cooperate in the transition of County Budget Officer duties.

4. This Resolution shall take effect upon adoption by the Board.

DULY ADOPTED on April 16, 2024.

BOARD OF COUNTY COMMISSIONERS
LEVY COUNTY, FLORIDA

Desiree Mills, Chair

ATTEST: Clerk of the Circuit Court
and Ex Officio to the Board

Danny J. Shipp

Approved as to form and legal sufficiency

Nicolle M. Shalley, County Attorney