



County of **GREENE** State of Missouri

GREENE COUNTY COMMISSION

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**BOBCIRTIN**  
Presiding Commissioner  
**HAROLD BENGSCHE**  
Commissioner 1st District  
**ROSEANN BENTLEY**  
Commissioner 2nd District

June 9, 2015

Mayor Robert L. Stephens  
City of Springfield  
840 Boonville Ave.  
P.O. Box 8368  
Springfield, MO 65801

Dear Mayor:

On April 1, 2015 Sheriff Arnott delivered a letter to the City of Springfield and the other municipalities in Greene County that he would no longer accept municipal prisoners at the Greene County Justice Center until the jail population reaches a manageable level. Simultaneously, Greene County Commission began renovations at the Jail to satisfy the City Fire Marshal's report placing substantial occupancy limits on the jail by modifying the ingress and egress in each of the four jail pods. We have instructed our contractor, DeWitt & Associates, to accelerate its work schedule to work seven days a week on extended hours, at an additional cost of \$90,000.00, to bring the jail into compliance with fire codes as soon as possible so that the jail's post-renovation capacity will be the maximum allowable under the City's adopted fire code. This renovation will be completed by July 2, 2015.

In the meantime, you directed two letters to the Sheriff and County Commission requesting a guaranty of 10 jail beds for municipal prisoners during the construction period and then 25 beds upon completion. Under Option A, you proposed the City and County file a Motion in Circuit Court to seek a clarification of the 1997 Law Enforcement Sales Tax Agreement, which under your interpretation would require the Sheriff to accept all of the City's municipal prisoners. Failing an agreement on these issues, you then stated the City would employ Option B which entails the City filing suit to seek an injunction from a Court to enforce the 1997 Agreement and require the Sheriff to accept all municipal prisoners.

Your most recent letter to the County Commission of June 3, 2015 requests a written response to your Option A by Wednesday, June 10, 2015 or the City will proceed with "Option B".

Any response by the Sheriff and the County Commission to the City's demands with respect to the housing of its municipal prisoners will of necessity be bifurcated. Each has its own statutory authority and limitations under the present circumstances. From the perspective of the Greene County Commission, please be advised that the Greene County Commission has lived up to its obligations under the July 16, 1997 Law Enforcement IGA between the City of Springfield and Greene County. Specifically, the County has annually remitted to the City of Springfield and the other incorporated towns and cities in Greene County the Law Enforcement Tax revenues pursuant to the formula set forth in the Agreement. Each year, the County Commission is forced to contribute a substantial sum from its General Revenue Fund to supplement the Sheriff's budget, which includes the cost of equipping, staffing and operating the Justice Facility, because the LEST revenue the County receives under the LEST agreement is grossly inadequate to operate the jail. The financial injustice to the County under the 1997 LEST formula was further exacerbated by the recent unanticipated expenditures incurred by the County Commission to renovate the jail to comply with concerns regarding fire egress issues.

The annual LEST tax remittance by the County to the City of Springfield, not only satisfies any contractual obligations that may still exist for the County Commission under the 1997 LEST IGA, but also the County's statutory duties under Section 49.310, RSMo. This statute provides the County Commission of each county shall erect and maintain at the County seat a good and sufficient courthouse and jail. The County Commission's statutory duty with respect to the jail under Section 49.310, RSMo. extends only to the Commission acquiring the site, constructing, reconstructing, repairing, maintaining or equipping the jail. However, the operation of the County Jail is conferred upon the County Sheriff. See Section 221.020, RSMo. which states: "The Sheriff of each county in this state shall have the custody, rule, keeping and charge of the jail within his county, and of all the prisoners in such jail. . . . This statute shows the day to day operation of a county jail is not vested in the County Commission but in the Sheriff. To the extent the 1997 Agreement conflicts with this statute, it would be void.

Several courts have also held that the County Commission does not have the authority to control how the jail is operated by the Sheriff, including the number of prisoners housed therein. In *Tatum v. Houser*, 642 F.2d 253 (8<sup>th</sup> Cir. 1981), the court stated the responsibility for the care of prisoners held in a county jail falls squarely on the shoulders of the county sheriff. More specifically, the court in *Jones v. Houser*, 489 F. Supp. 795 (E.D. Mo. 1980) held that while the county commission had the authority over the physical operations of the jail, it did not have authority over internal operations, including the prisoners in the jail, which was the responsibility of the sheriff.

In light of the foregoing authorities, the County Commission cannot direct or control the Sheriff's decisions regarding the number of inmates that may be housed in the Greene County Justice Center. Indeed, the Sheriff's letter to the City of Springfield and other

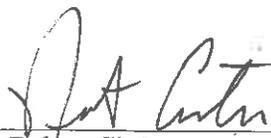
municipalities dated April 1, 2015, stating he would no longer accept municipal prisoners until the jail population reaches a manageable level, was based upon his reliance upon Section 479.180, RSMo., which states:

“If a municipality has no suitable and safe place of confinement, the defendant may be committed to the county jail by the judge, and it shall be the duty of the sheriff, **if space for the prisoner is available in the county jail**, upon receipt of a warrant of commitment from the judge to receive and safely keep such prisoner until discharged by due process of law.” (emphasis added).

Although the Sheriff may not have the statutory authority to decline prisoners booked into the Greene County Jail on state charges, or federal prisoners, Section 479.180, RSMo. appears to provide the Sheriff with some level of discretion with respect to the acceptance of municipal prisoners based upon a determination of whether or not “space for the prisoners is available in the county jail”.

In sum, the decision to limit the number of municipal prisoners in the Greene County Justice Center lies within the exclusive authority of the Greene County Sheriff. The County Commission has no authority to become involved in that decision. We are only required to fund the Sheriff’s budget to operate the jail and make necessary repairs to the building to meet our statutory obligations under Section 49.310, RSMo. Today the Commission is making the necessary renovations to the Justice Facility to satisfy the recent requirements of the City’s Fire Marshall to restore the jail to the maximum occupancy as soon as possible. Going forward, we would hope that the City would be willing to work with the County Commission to develop a long term solution to the inadequate funding the County receives under the LEST IGA for the operation and expansion of the Justice Center which is necessary to address jail capacity, without resorting to litigation to enforce the status quo. We are always willing to meet and discuss the issues and mutually agreeable solutions with the City Council and the Sheriff.

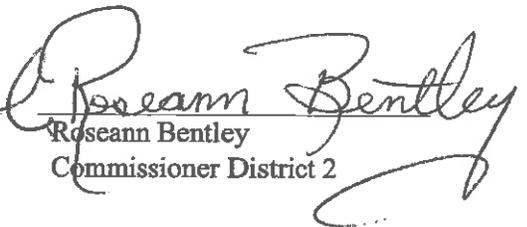
Sincerely,



Robert Curtin  
Presiding Commissioner



Harold Bengson  
Commissioner District 1



Roseann Bentley  
Commissioner District 2