



MEMORANDUM

DATE: November 12, 2018
TO: Jack Newman, Chair
Charter Review Commission Members
FROM: Tanisha Briley, City Manager
RE: Proposed Revisions to Cleveland Heights Charter – Article IX

Per your request, Finance Director Sabin and I have reviewed the Cleveland Heights Charter Article IX – Finances for potential revisions for the Commission’s consideration. It is of great import to note that the financial procedures of municipal corporations in the State of Ohio are strictly governed by the laws of the State of Ohio, regardless of our status as a charter city. In many cases the finance provisions included in the current City Charter are identical to the mandatory provisions outlined in the ORC, therefore resulting in redundancy. In other cases, the language is antiquated and either conflicts with the ORC or does not provide for adequate flexibility to conform to subsequent changes in the financial rules and regulations required of cities. As such, many charter cities throughout the State simply refer to the applicability of the laws of Ohio regarding finance and only include language that provides for additional restrictions beyond those contained in State law.

The enclosed documents represent two potential options for the Commission’s review. The first document, “CHARTER SECTION IX – revised”, contains minimal revisions. It seeks to ensure the Charter is compliant with current rules and regulations and creates adaptability for future compliance should the regulatory environment change (Section IX-1; IX-2). The revisions contained in the first document also add language to create flexibility to update and improve financial practices (Section IX-6; IX-8; IX-12). The remaining sections include language that should remain in the Charter.

Notes about proposed changes:

1. Section IX-1 removes antiquated language and inserts general law references related to the tax budget process. The tax budget is governed by the ORC and the Cuyahoga County Budget Commission and the rules and regulations are subject to change. In fact, the requirement of a tax budget can be waived altogether by the Budget Commission (some counties do so).
2. Section IX-2 updates the language to reflect the applicability of general law provisions and removes the reference to Council’s preparation of the appropriations ordinance.
3. Section IX-6 adds language to reflect the requirement that contracts are authorized by the City Manager in addition to Council actions and creates the ability of a designee to certify funds. This change is also proposed in the second document.
4. Section IX-8 removes language that restricts the City to serial bonds only which limits the City’s borrowing options. For example, term bonds are used frequently by cities and are

attractive to investors. This change was suggested by the City's outside bond counsel and it is also included in the second document.

5. Section IX-12 adds best-practice language that the City will conduct an annual audit and clarifies that Council can, at any time, commission an audit of the City's finances outside of the annual audit process. This change is also proposed in the second document.

The second document, "CHARTER SECTION IX-9 – rewrite", adds a new section to reference the laws of Ohio and redrafts sections to include language that creates additional requirements beyond the ORC. This document also eliminates all redundant sections (Sections IX through IX-7). The remaining sections include language that should remain in the Charter.

Notes on the proposed changes:

1. New Section IX-1 creates the foundation of Ohio law for the finance section.
2. New Section IX-2 creates the general parameters by which the City Manager will prepare the budget and adds a new requirement of a one (1) year and five (5) year capital budget. The general parameters allow for innovation and customization in the budget process as best practices evolve while creating a standard for which the Council can hold the City Manager accountable.
3. New Section IX-3 creates the ability of the City to approve temporary appropriations which is not permissible in the current Charter. Many cities adopt temporary appropriations as a regular course of their budget process while others use the process as needed. The temporary appropriations process is a tool provided for in Ohio law and should be available to the City Manager and Council to use as they deem appropriate.

Finally, please note that the proposed language has not yet been reviewed by the City's Law Department and the specificity of the language is subject to their feedback.

I would happy to address any questions or comments the Commission may have.

SECTION IX -1. BUDGET

The finances of the City shall always be conducted upon the budget system. The City Manager, with the assistance of the Director of Finance, shall furnish a tax budget for the succeeding calendar year to the Council at such time required by general law. ~~at such time prior to the first Monday in June of each year (or such other date as may from time to time be fixed by general law~~ for the certifying of the budget of the Municipality, to the Budget Commissioners of the County or other similar officials having charge of taxation matters. Such budget shall set forth specifically such items as may be required by general law or by ordinance of the Council and the Council shall thereupon and within such time as may be prescribed by general law approve or revise such budget and submit the same to the County Budget Commissioners or similar officials.), ~~as may be required by Council, an annual budget setting forth in itemized form an estimate stating the amount of money needed for the various departments in the Municipality for the succeeding calendar year, which shall be the fiscal year of the Municipality, and for each month thereof. Such annual budget shall set forth specifically such items as may be required by general law or by ordinance of the Council and the Council shall thereupon and within such time as may be prescribed by general law approve or revise such budget and submit the same to the County Budget Commissioners or similar officials.~~ On or before the fifteenth day of November of each year, the City Manager shall submit to the Council an estimate of the expenditures and revenues of the City departments for the ensuing year. This estimate shall be compiled from the detailed information obtained from the several departments, ~~on uniform blanks to be furnished by the City Manager and approved by the Council~~; and the Director of Finance shall assist the City Manager in the preparation of such information. Such information shall be furnished in detail for each department, and in such form as the City Council may from time to time require; and shall contain the recommendations of the City Manager as to the amounts to be appropriated, with the reasons therefor, in such detail as the Council may require.

SECTION IX-2. APPROPRIATION ORDINANCE.

Upon receipt of such estimate and no later than the time provided by general law, the Council shall ~~at once prepare and adopt~~ an appropriation ordinance, ~~in such manner as may be provided by general ordinance or resolution~~, using the City Manager's estimate as a basis, and such appropriations shall not exceed the estimated revenues of the Municipality.

SECTION IX-3. TRANSFER OF FUNDS.

Upon request of the City Manager, the Council may transfer any part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year as proved insufficient, or may authorize a transfer of money to be made between items appropriated to the same office or department.

SECTION IX-4. UNENCUMBERED BALANCES.

At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated, and shall be subject to future appropriation. Any accumulated revenue not appropriated as hereinbefore provided, and any balances at any time remaining after the purposes of the appropriation shall have been satisfied or abandoned, may from time to time be appropriated by the Council to such uses as will not conflict with any uses for which such revenues specifically accrue. No money shall be drawn from the treasury of the City nor shall any obligation for the expenditure of money be incurred, except pursuant to appropriations made by the Council.

SECTION IX-5. PAYMENT OF CLAIMS.

No warrant for the payment of any claim shall be issued by the Director of Finance until such claim shall have been approved by the director for the department for which the indebtedness was incurred, and by the City Manager. Such officers and their sureties shall be liable to the Municipality for any loss or damage sustained by the Municipality by reason of the corrupt approval of any such claim against the Municipality. Whenever any claim shall be presented to the Director of Finance, he shall have power to require evidence that the amount of the claim is justly due and is in conformity to law and ordinance; and for that purpose he may summon before him any officer, agent or employee of any department of the Municipality, or any other person, and examine him upon oath or affirmation relative thereto.

SECTION IX-6. CERTIFICATION OF FUNDS.

No contract, agreement, or other obligation involving the expenditure of money, shall be entered into [or authorized by the City Manager](#), nor shall any ordinance, resolution or order for the expenditure of money be issued by the Council or be authorized by any officer of the City unless the Director of Finance [or designee](#) shall have first certified in writing to the Council, or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation, or expenditure, is in the treasury to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose, which certificate shall be filed and immediately recorded. The sum so certified shall not thereafter be considered unappropriated until the City is discharged from the contract, agreement, or obligation; but the provisions of this section shall not be construed as prohibiting the making of contracts for the furnishing of services or public utilities for a period extending beyond a single fiscal year when such contracts are otherwise authorized by this Charter or by general law.

SECTION IX-7. MONEY IN THE FUNDS.

All moneys actually in the treasury to the credit of the fund from which they are to be drawn, and all moneys applicable to the payment of the obligation or appropriation involved, that are anticipated to come into the treasury before the maturity of such contract, agreement, or obligation, from taxes, assessments, or license fees, or from sales of services, products, or by-products of any City undertaking, and moneys to be derived from lawfully authorized bonds, sold and in process of delivery, shall, for the purpose of such certificate, be deemed to be in the treasury to the credit of the appropriate fund, and shall be subject to such certification.

SECTION IX-8. BOND ISSUES.

Except as may be authorized specifically by the laws of the State of Ohio, no bonds or notes of the City shall at any time be issued for current operating expenses or for acquisition of any property, asset or improvement of the estimated life or usefulness of less than five years, but this prohibition shall not be construed as applying to money borrowed in anticipation of the collection of special assessments, or for defraying the expenses of an extraordinary epidemic of disease, or emergency expenses made necessary by sudden casualty which could not reasonably have been foreseen, or for paying final judgments upon non-contractual obligations.

(Amended 11-7-72.)

SECTION IX-9. MATURITIES OF BONDS.

~~All bonds shall be serial bonds; and t~~he maturities of all bonds thereof shall not extend beyond the estimated life of the property, asset, or improvement, as certified to the Council by the Director of Finance, which certificate shall be on file with the Council prior to the passage of any bond ordinance.

SECTION IX-10. TEMPORARY LOANS.

In anticipation of the collections of current revenues in any fiscal year, the City may borrow money and issue certificates of indebtedness therefor, signed as municipal bonds are signed, but no such loans shall be made to exceed the amount estimated to be actually received from taxes or other current revenues, for such fiscal year, after deducting all advances. The sum so anticipated shall be deemed appropriated for the payment of such certificates at maturity. The certificates shall not run for a longer period than six months nor bear a greater rate of interest than is permitted under the laws of the State of Ohio, and shall not be sold for less than the par value thereof with accrued interest. (Amended 11-7-72.)

SECTION IX-11. LIMITATION ON RATE OF TAXATION FOR CURRENT OPERATING EXPENSES.

The power of the Council without a vote of the people to levy taxes on property assessed and listed for taxation according to value for the purpose of paying the current operating expenses including the

purpose of police and fire pensions, which is required to be, or may lawfully be, included in the general levy for the general fund of the City, shall not exceed 8 mills per one dollar (\$1.00) of assessed valuation. (Amended 11-7-72.)

SECTION IX-11(A). LIMITATION ON RATE OF TAXATION FOR IMPROVEMENT AND MAINTENANCE OF CITY OWNED PARKS, RECREATION AND CULTURAL FACILITIES.

Notwithstanding the 8 mill limitation on current operating expenses contained in Section 11 of this article, and in addition thereto, Council may levy annually, commencing with a levy on the 2004 tax duplicate for collection in calendar year 2005, a tax not to exceed seven-tenths (.7) of one mill per dollar of all property in the City assessed and listed for taxation for the acquisition, construction, reconstruction, rehabilitation, renovation, improvement, equipping and maintenance of land, facilities, buildings and structures belonging to or operated by the City and used for parks, playgrounds, play fields, rights of way, swimming pools, indoor recreation and community centers, municipal amphitheaters and cultural facilities, and the equipment therefor, and for the debt charges on general obligation bonds and bond anticipation notes issued to pay the cost of the improvements and/or maintenance specified herein. (Added 11-2-04.)

SECTION IX-12. AUDITING FINANCES.

There shall be a financial audit of all of the affairs and accounts of the City each calendar year. This audit shall be made by the State of Ohio or by an independent certified public accountant or accounting firm authorized by the State of Ohio to conduct required audits of cities. Council may, in addition, at any other time engage the services of a private independent public accounting firm for the purpose of auditing the City's finances. Said contractual arrangements shall be for a period deemed proper by Council. This section shall become effective January 1, 1983.

(Adopted 11-2-82.)

SECTION IX-1. GENERAL.

The laws of Ohio relating to budgets, appropriations, taxation, debt, bonds and notes, assessments and other fiscal matters of the City shall be applicable to the City, except as otherwise provided by this Charter or by Council.

SECTION IX -2. BUDGET

The financial affairs of the City shall be controlled by a budget system. The City Manager shall prepare an annual budget in such form and detail as Council may request. For the purpose of the budget, each office, department or agency of the municipality shall furnish to the City Manager, at such times and in such forms as he or she may require, estimates of revenue and expenditures of that office, department or agency and such other supporting data as the City Manager may request; together with an estimate of all capital projects pending or which the head of each office, department or agency believes should be undertaken (a) within the succeeding fiscal year, and (b) within the 5 next succeeding years. The City Manager may review such estimates and make such revisions as he or she may deem advisable. Said budget shall be submitted to the Council at such time as will permit its adoption by Council and transmittal as required by general law.

SECTION IX-3. APPROPRIATION ORDINANCE.

Prior to the beginning of the ensuing fiscal year, Council shall adopt an appropriation ordinance, using the City Manager's estimate as a basis, in which appropriations shall not exceed the estimated revenues of the Municipality. Such ordinance may provide for an interim appropriation, but in such event an annual appropriation ordinance shall be adopted not later than the time provided by general law. Such appropriation may be amended as necessary from time to time by ordinance.

SECTION IX-~~84~~. BOND ISSUES.

Except as may be authorized specifically by the laws of the State of Ohio, no bonds or notes of the City shall at any time be issued for current operating expenses or for acquisition of any property, asset or improvement of the estimated life or usefulness of less than five years, but this prohibition shall not be construed as applying to money borrowed in anticipation of the collection of special assessments, or for defraying the expenses of an extraordinary epidemic of disease, or emergency expenses made necessary by sudden casualty which could not reasonably have been foreseen, or for paying final judgments upon non-contractual obligations.

(Amended 11-7-72.)

SECTION IX-~~95~~. MATURITIES OF BONDS.

~~All bonds shall be serial bonds; and~~ the maturities of all bonds thereof shall not extend beyond the estimated life of the property, asset, or improvement, as certified to the Council by the Director of Finance, which certificate shall be on file with the Council prior to the passage of any bond ordinance.

SECTION IX-~~106~~. TEMPORARY LOANS.

In anticipation of the collections of current revenues in any fiscal year, the City may borrow money and issue certificates of indebtedness therefor, signed as municipal bonds are signed, but no such loans shall be made to exceed the amount estimated to be actually received from taxes or other current revenues, for such fiscal year, after deducting all advances. The sum so anticipated shall be deemed appropriated for the payment of such debt. certificates at maturity. The certificates shall not run for a longer period than six months nor bear a greater rate of interest than is permitted under the laws of the State of Ohio, and shall not be sold for less than the par value thereof with accrued interest. (Amended 11-7-72.)

SECTION IX-~~117~~. LIMITATION ON RATE OF TAXATION FOR CURRENT OPERATING EXPENSES.

The power of the Council without a vote of the people to levy taxes on property assessed and listed for taxation according to value for the purpose of paying the current operating expenses including the purpose of police and fire pensions, which is required to be, or may lawfully be, included in the general levy for the general fund of the City, shall not exceed 8 mills per one dollar (\$1.00) of assessed valuation. (Amended 11-7-72.)

SECTION IX-~~117~~(A). LIMITATION ON RATE OF TAXATION FOR IMPROVEMENT AND MAINTENANCE OF CITY OWNED PARKS, RECREATION AND CULTURAL FACILITIES.

Notwithstanding the 8 mill limitation on current operating expenses contained in Section 11 of this article, and in addition thereto, Council may levy annually, commencing with a levy on the 2004 tax duplicate for collection in calendar year 2005, a tax not to exceed seven-tenths (.7) of one mill per dollar of all property in the City assessed and listed for taxation for the acquisition, construction, reconstruction, rehabilitation, renovation, improvement, equipping and maintenance of land, facilities, buildings and structures belonging to or operated by the City and used for parks, playgrounds, play fields, rights of way, swimming pools, indoor recreation and community centers, municipal amphitheatres and cultural facilities, and the equipment therefor, and for the debt charges on general obligation bonds and bond anticipation notes issued to pay the cost of the improvements and/or maintenance specified herein. (Added 11-2-04.)

SECTION IX-~~128~~. AUDITING FINANCES.

There shall be a financial audit of all of the affairs and accounts of the City each calendar year. This audit shall be made by the State of Ohio or by an independent certified public accountant or accounting firm authorized by the State of Ohio to conduct required audits of cities. Council may, in

addition, at any other time engage the services of a private independent public accounting firm for the purpose of auditing the City's finances. Said contractual arrangements shall be for a period deemed proper by Council. ~~This section shall become effective January 1, 1983.~~

~~(Adopted 11-2-82.)~~