

CITY OF HARTFORD

INTERDEPARTMENTAL MEMORANDUM

TO: Director, Office of Management and Budget and
Director, Finance Department

FROM: John Rose, Jr., Corporation Counsel

JR 4/16/09

**SUBJECT: Request for Legal Opinion Regarding Issues Concerning
THE AUTHORITY PER THE CHARTER TO MAKE TRANSFERS
OF APPROPRIATIONS AND ADDITIONAL APPROPRIATIONS
RELATIVE TO THE GENERAL FUND BUDGET**

DATE: April 16, 2009

Attached hereto is an opinion (09-4) I prepared.

cc: Mayor
Members of the Court of Common Council
Chief Operating Officer

CITY OF HARTFORD

INTERDEPARTMENTAL MEMORANDUM

OPINION NO. 09-4

TO: Director, Office of Management and Budget and
Director, Finance Department

FROM: John Rose, Jr., Corporation Counsel



DATE: April 13, 2009

SUBJECT: **Request for Legal Opinion Regarding Issues Concerning
THE AUTHORITY PER THE CHARTER TO MAKE TRANSFERS OF
APPROPRIATIONS AND ADDITIONAL APPROPRIATIONS RELATIVE TO
THE GENERAL FUND BUDGET**

I. THE ISSUE

You have asked me to opine concerning the meaning of the provisions of the Charter of the City of Hartford as they may empower or allow transfers of appropriations or additional appropriations by the Mayor, on certification by the Finance Director, with or without Council approval, as the case may be, to meet financial needs or obligations of the City.

For purposes of addressing the question, I reviewed the so-called "New" Charter for the City of Hartford, effective 2002, and the "old" City Charter, effective 1967 and provisions from the Special Laws, 1947, referenced in the old Charter as well as McQuillen on Municipal Corporations, various other city documents, State law and court decisions related to municipal financing and municipal deficit financing.

II. THE RELEVANT CHARTER AND PROVISIONS AND THE LAW

Chapter X of the "New" Charter, titled "BUDGET" deals with the issues at hand. From the New Charter, the relevant sections are Sec. 7 and possibly Sec. 9.

The opening provisions of Chapter X deal with: (a) Sec. 2., Annual departments budget estimates; (b) Sec. 3., submission of the mayor's proposed budget. Public hearing; (c) Sec. 4. Required contents for budget submission; (d) Sec. 5. Budget deliberations of the council; and (e) Sec. 6. Work program and allotments.

Sec. 7 of the New Charter provides:

- (a) **Transfers of appropriations.** The Mayor may at any time transfer any unencumbered appropriation balance or portion thereof from one (1) classification of expenditure to another within the same department, office or

agency. At the request of the mayor, the council may by resolution transfer any unencumbered appropriation balance or portion thereof from one (1) department, office or agency to another, except that no funds may be transferred from the funds appropriated to the board of education.

(b) **Additional appropriations.** Appropriations in addition to those contained in the budget, except for the purpose of meeting a public emergency as provided in Chapter IV, section 2(n), shall be made only if the director of finance certifies that there is available general fund surplus sufficient to meet such appropriation.

[for purposes of this Opinion, the provisions of Sec. 7 (c) are irrelevant].

Sec. 9 of Chapter X of the New Charter is titled “Capital budget.” As part of each annual budget message, or as a separate report attached, the mayor presents a “program of proposed capital projects” for the ensuing year and for four (4) fiscal years thereafter (a five year Capital Improvement Plan). Estimates of the cost of such projects are presented and the Council “...may levy annually a tax of not more than two (2) mills for the benefit of the Capital Improvement Fund established to pay for the said capital improvements. The city is authorized by the Charter to issue bonds for said improvements. The proceeds of the levy are kept by the City Treasurer in a special bank account.

By the terms of Sec. 9 of the New Charter...

The Council shall have the power to transfer from time to time to the capital improvement fund [sic.] any portion of the general fund cash surplus not otherwise appropriated.

The provisions referenced constitute the only ones relevant to transfers of General Fund Budget appropriations in the New Charter.

B. The Old Charter

The “old” Charter dates back to 1967. At Chapter VI Sec. 12 of the 1967 Charter, the following appears:

Sec. 12. Transfers of appropriations. The city manager may at any time transfer any unencumbered appropriation balance or portion thereof from one (1) classification of expenditure to another within the same department, office or agency. At the request of the city manager, but only within the last three (3) months of the fiscal year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof from one (1) department, office or agency to another.

Sec. 13 of Chapter VI of the 1967 (old) Charter provided:

Sec. 13. Appropriations, in addition to those contained in the budget, except for the purpose of meeting a public emergency as provided in subsection (d) of section 1 of Chapter II of this charter, shall be made only on the recommendation of the city manager and only if the director of finance certifies that there is available general fund cash surplus sufficient to meet such appropriation.

C. The 1947 Special Laws

The precursor to the 1967 Charter was the 1947 Special Laws [Sp. Laws 19478, Act No. 30, Ch. VI, sec. 14; Sec. 15 and Sec. 17 respectively]. Each of these is referenced in the Old Charter at Chap. VI, Sec. 13, Sec.14 and Sec. 17.

A review of the 1947 Special Acts reveals the almost identical language contained in the Old Charter and updated to the strong Mayor form of government of 2002 as concerns the transfer of and additional appropriations contained in what is now Chap. X, Sec. 7 (a) and Sec. 7 (b) of the New Charter.

That is to say, the language concerning transfers of appropriations has survived in the City's charters, virtually unchanged, since 1947.

a) In order to make **intra-departmental** transfers of "any unencumbered appropriation balance or portion thereof, the mayor on his own may effect same.

That has been the rule by law or by Charter since 1947.

b) In order to make **interdepartmental** transfers of "any unencumbered appropriation balance or portion thereof", a council resolution is required.

That has been the rule by law or by Charter since 1947.

c) The mayor (formerly the city manager) with the certification of the director of finance that there is available general fund cash surplus sufficient to meet such appropriation, make "appropriations in addition to those contained in the budget."

This has been the rule, by law or by Charter since 1947. [The relevant 1947 Special Law (Act No. 30, Ch. VI) is attached hereto]. It is to be noted that the New Charter allows transfers at any time.

D. STATE LAW ISSUES

The Charter supercedes all municipal laws, ordinances, rules or regulations that are inconsistent with its provisions. McQuillin, Sec. 9:3. The Charter is subject only to conflicting provisions in the state or federal constitutions, or to pre-emptive state or federal law. McQuillin, Sec. 9:3.

Connecticut is a Home Rule state. Chapter 99 of the General Statutes titled "Municipal Charter and Special Acts" provides at Sec. 7-193(b) that

Every municipality shall have municipal officers, departments, boards, commissions and agencies which are required by the general statutes or by charter ... Any municipality

may, by charter... alter the methods of... organization of any or all of such... departments, boards, commissions or agencies, including combining or separating the duties of each, unless specifically prohibited from making such alteration by the constitution or the general statutes. C.G.S. Sec. 7-193(b).

The Connecticut Supreme Court in **Norwich v. Housing Authority**, 216 Conn. 112 (1990) said that Sec. 7-193(b) and the other provisions of the Home Rule Act “indicate the legislature’s intent that issues of local concern are most logically answered locally, pursuant to a home rule charter...” citing **Caulfield v. Noble**, 178 Conn. 81. **Norwich**, supra at 116.

Connecticut’s Home Rule statutes provide for a municipality to have a “chief executive officer,” C.G.S. Sec. 7-193(a)(2). Hartford’s New charter provides at Chapter V:

There shall be a mayor who shall be the chief executive officer of the city. The executive and **administrative** powers of the city are vested in the mayor, except as otherwise provided in this Charter or provided by law.

IV. THE LAW OF MUNICIPAL FINANCES

The City is facing a severe budget deficit in a time when the national — indeed the world economy — is in the midst of a severe recession.

Municipal funds, according to McQuillin on Municipal Corporations, “...are either general or special.” McQuillin, sec. 39:55. Special funds are such as are described by the provisions of Chap. X, Sec. 9 of the New Charter, being those funds set aside for capital improvements.

Unless there is a requirement by statute or otherwise, that money coming into the City treasury shall be kept in a special fund and applied to a particular purpose, such money is properly placed in the general fund to be used for general city purposes. And all lawful obligations of a municipality are payable from its general funds, unless the law specifically provides otherwise. McQuillin, Sec. 39:55.

The City’s General Fund includes all of the revenue the City takes in which is not specially designated. From ad valorem taxes, to revenue from the sale or leasing of property; from federal and state grants or payments in lieu of taxes to dollars from borrowing or from judgments or settlements in the City’s behalf; from parking revenues to income from fines or fees — all such revenue goes to make up the City’s General Fund.

Municipal budgeting laws are mandatory. McQuillin, Sec. 39-49. By Charter, the mayor submits a proposed budget annually, including (a) an annual or current expense budget... “which shall be a complete financial plan for the ensuing year...” and (b) a capital budget. See Charter, Chap. X, Sec. 3. The budget is a public record, and it is required to be balanced. Charter, Chap. X, Sec. 4. See McQuillin, Sec. 39:49. The City’s budget is passed as an ordinance. Charter, Chap. X, Sec. 4(b).

The mayor’s proposed budget **shall contain**:

- a. an estimate of all revenue cash receipts anticipated from sources other than the tax levy of the ensuing fiscal year...

- b. an estimate of the general fund cash surplus at the end of the current fiscal year or the deficit to be made up by appropriation
 - c. the estimated expenditures necessary for the operation of the several departments, offices and agencies of the city...
- Charter, Chap. X, Sec. 4(a).

The General Fund cash surplus is also known as the Fund Balance or the “unallocated” or “undesignated” reserve. In a year when the City has a surplus, that portion of the General Fund is available to pay obligations of the City that may not have been forecast or anticipated. It is to be noted that the Charter recognizes specifically that an annual proposed budget may include an estimate to deal with a surplus or a deficit which must be addressed.

By Charter, the budget process begins annually with the “annual departmental budget estimates.” The mayor is authorized to require “the head of every department, office or agency to submit... (a) estimates of revenues and expenditures for the ensuing fiscal year...” Charter, Chap. X, Sec. 2(a). McQuillin, Sec. 39:49. And a budget hearing is mandatory. Charter, Chap. X, Sec. 4.

In determining the annual budget “account must usually be taken of surplus funds on hand at the beginning of the fiscal year... Surpluses may be carried over and used in the succeeding year for any purpose authorized by law whether budgeted or not.” McQuillin, Sec. 39:49.

Municipalities are obligated to pay their bills. A budget is exhausted when obligations to pay from it are incurred in an amount equaling the total budget.” McQuillin, Sec. 39:49.

It is to be noted concerning Hartford’s annual budget that the General Fund also includes a category known as “Sundries” which is a sum of money, not attributable to any department, office or agency, but which sum is available to be applied to department, office or agency overruns or to any legal obligations the City encounters which are not specifically otherwise budgeted.

V. RESOLUTION OF THE TRANSFER OF APPROPRIATIONS ISSUE

The New Charter, at Chap. X, Sec. 7 makes specific provision for three (3) kinds of transfers of appropriations or additional appropriations to deal with municipal obligations concerning **appropriated** sums:

- (a) with respect to **intra-departmental** situations, the mayor on his own may transfer any unencumbered appropriation balance from one classification to another;
- (b) with respect to **inter-departmental** situations, at the request of the mayor, the council, by resolution, may transfer any unencumbered appropriation balance or portion thereof from one department, office or agency to another [**Note:** the exception for Board of Education funds]. This authority has existed by Charter or Special Act since 1947.

Concerning **additional appropriations**... in addition to those contained in the budget, the mayor with the certification of the finance director may allot or make same if there is “available”

general fund surplus sufficient to meet such appropriation. **No requirement of Council involvement appears in this long-standing, existing Charter provision.** Again, this language dates back to 1947.

There have been at least two (2) charter revisions since 1947. The same language to the same effect afforded the city manager authority to make additional appropriations in the “Old” Charter. When the strong mayor form of government came into being in 2002, the Charter was revised. But the language concerning giving the city’s chief executive officer the authority to make additional appropriations — based on a certification of available general fund surplus by the finance director continues in place.

If the General Fund, and all its constituencies, including the Fund Balance and the Sundries account, contains sufficient surplus to meet City obligations, the mayor is specifically authorized by Charter to make such additional appropriation without Council approval. This has been the state of the law and rule in Hartford by Charter since 1947.

As McQuillin states,

Charters have been called bills of rights. Also, municipal charters are sometimes mentioned as constitutions, that is, fundamental or organic laws of municipal corporations... the city charter represents the supreme law of the city...[it] supercedes all municipal laws, ordinances, rules or regulations that are inconsistent with its provisions. McQuillin, Sec. 9:3.

made available at the same time for the use of the council and the public.

(Sp. Laws 1947, Act No. 30, Ch. VI, § 7; Ord. No. 28-67, 11-7-67)

Sec. 8. Changes by the council.

(a) After the conclusion of such public hearing, but not later than the twenty-first day of February, the council may insert new items of expenditures or may increase, decrease or strike out items of expenditure, except that no item of appropriation for debt service shall be reduced. The council shall not alter the city manager's estimates of receipts. It may, however, decrease the amount of the tax levy for the ensuing fiscal year as proposed by the city manager in proportion to such decrease in the total of expenditures proposed by the city manager as it may have determined. If it shall increase the total proposed expenditures such increase shall be reflected in full in the tax rate.

(b) On or before the twenty-first day of February, the council shall submit the budget or the budget as amended to the mayor for certification in accordance with the provisions of Chapter III hereof.

(Sp. Laws 1947, Act No. 30, Ch. VI, § 9; Ord. No. 28-67, 11-7-67)

Sec. 9. Adoption of the budget.

Upon approval, reduction and/or disapproval, of budgetary provisions by the mayor, but not later than the last day of February, the council shall adopt the budget, the appropriation ordinance and tax levy ordinance. If it fails to adopt the budget by that date the budget as certified by the mayor shall be deemed to be the budget of the city for the ensuing fiscal year and expenditures shall be made in accordance therewith. The council shall thereupon adopt the appropriation ordinance and the ordinance making a tax levy in accordance with the budget adopted.

(Sp. Laws 1947, Act No. 30, Ch. VI, § 10; Ord. No. 28-67, 11-7-67)

Sec. 10. Effective date of budget, certification, printing.

Following the last day of February the budget shall be in effect for the ensuing fiscal year and a

copy thereof, together with the appropriation ordinance certified by the mayor and the city clerk, shall be filed with the director of finance. Sufficient printed copies of the budget and appropriation ordinance so certified shall be made available for the use of all departments, office and agencies of the city government and the public.

(Sp. Laws 1947, Act No. 30, Ch. VI, § 11; Ord. No. 28-67, 11-7-67)

Sec. 11. Work program and allotments.

After the annual appropriation ordinance has been adopted and before the beginning of the fiscal year the head of each department, office or agency, except the department of education, shall submit to the city manager in such form as he shall prescribe a work program which shall show the requested allotments of the appropriations for such department, office or agency for the entire fiscal year by monthly or quarterly periods as the city manager may direct. Before the beginning of the fiscal year the city manager shall approve, with such amendments as he shall determine, the allotments for each such department, office or agency, and shall file the same with the director of finance, who shall not authorize any expenditure to be made from any appropriation except on the basis of approved allotments. The aggregate of such allotments shall not exceed the total appropriation available to said department, office or agency for the fiscal year. An approved allotment may be revised during the fiscal year in the same manner as the original allotment was made. If at any time during the fiscal year the city manager shall ascertain that the revenue cash receipts for the year, plus general fund cash surplus from the preceding year, will be less than the total appropriations, he shall reconsider the work programs and allotments of the several departments, offices and agencies, and revise the allotments so as to forestall the incurring of a deficit.

(Sp. Laws 1947, Act No. 30, Ch. VI, § 12; Ord. No. 28-67, 11-7-67)

Sec. 12. Transfers of appropriations.

The city manager may at any time transfer any unencumbered appropriation balance or portion thereof from one (1) classification of expenditure to another within the same department, office or

agency. At the request of the city manager, but only within the last three (3) months of the fiscal year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof from one (1) department, office or agency to another.

(Sp. Laws 1947, Act No. 30, Ch. VI, § 13; Ord. No. 28-67, 11-7-67)

Sec. 13. Additional appropriations.

Appropriations in addition to those contained in the budget, except for the purpose of meeting a public emergency as provided in subsection (d) of section 1 of Chapter II of this charter, shall be made only on the recommendation of the city manager and only if the director of finance certifies that there is available general fund cash surplus sufficient to meet such appropriation.

(Sp. Laws 1947, Act No. 30, Ch. VI, § 14; Ord. No. 28-67, 11-7-67)

Sec. 14. Appropriations to lapse at close of year.

Any portion of an annual appropriation remaining unexpended and unencumbered at the close to the budget year shall lapse.

(Sp. Laws 1947, Act No. 30, Ch. VI, § 15; Ord. No. 28-67, 11-7-67)

Sec. 15. Certification of funds, penalties for violation.

No payment shall be made and no obligation incurred against any allotment or appropriation unless the director of finance shall first certify that there is a sufficient unexpended and unencumbered balance in such allotment or appropriation to meet the same. Every expenditure or obligation authorized or incurred in violation of the provisions of this charter shall be void. Every payment made in violation of the provisions of this charter shall be deemed illegal and all officials who shall knowingly authorize or make such payment or take part therein and all persons who shall knowingly receive such payment or any part thereof shall be jointly and severally liable to the city for the full amount so paid or received. If any officer or employee of the city shall knowingly incur any obligation or shall authorize or make

any expenditure in violation of the provisions of this charter or take part therein such action shall be cause for his removal.

(Sp. Laws 1947, Act No. 30, Ch. VI, § 16; Ord. No. 28-67, 11-7-67)

Sec. 16. Capital budget.

As a part of the budget message or as a separate report attached thereto the city manager shall present a program, previously considered by the city planning commission as provided in Chapter XIX (formerly XVIII) of this charter, of proposed capital projects for the ensuing fiscal year and for the four (4) fiscal years thereafter. Estimates of the cost of such projects shall be submitted by each department, office or agency annually in the same manner as estimates of other budgetary requirements are prepared for the city manager. The city manager shall recommend to the council those projects to be undertaken during the ensuing fiscal year and the method of financing the same. The council may levy annually a tax of not more than two (2) mills to be assessed upon the ratable estate within the city at the same time as the regular annual taxes for city expenses, for the benefit of a fund to be known as "The Capital Improvement Fund" established for the purpose of paying the cost of capital improvements for which the city is authorized by this charter to issue bonds and for no other purpose. The proceeds of such levy shall be kept by the city treasurer in a special bank account until invested as provided in Chapter IX of this charter. The council shall have power to transfer from time to time to the capital improvement fund any portion of the general fund cash surplus not otherwise appropriated. Appropriations for construction or other permanent improvements, from whatever source made, shall not lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned, provided any project shall be deemed to have been abandoned if three (3) fiscal years elapse without any expenditure from or encumbrance of the appropriation therefor, provided, at the request of the city manager, the council may, at any time by resolution, transfer any unencumbered balance or portion thereof from one project to another.

(Sp. Laws 1947, Act No. 30, Ch. VI, § 17; Sp. Laws 1961, Act No. 226; Ord. No. 28-67, 11-7-67)

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SPECIAL ACTS
 OF THE
GENERAL ASSEMBLY
 OF THE
STATE OF CONNECTICUT

SPECIAL SESSION
 MAY, 1946
 AND
 JANUARY SESSION, 1947

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OF CONNECTICUT

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vided by ordinance and in consultation with such engineer may adopt rules and regulations for the control of traffic and parking not inconsistent with the general statutes and ordinances of the city. The traffic engineer shall make studies of traffic accidents and congestion and other conditions affecting the safe and convenient use of the streets.

Chapter VI

BUDGET

SECTION 1. FISCAL YEAR. The fiscal year of the city government shall begin on the first day of April in each year and end on the last day of the succeeding March.

SEC. 2. SUBMISSION OF THE BUDGET. On or before the fourth Monday in January of each year the city manager shall submit to the council: (a) An annual or current expense budget, hereafter referred to as the budget, which shall be a complete financial plan for the ensuing fiscal year, consisting of the budget proper and the budget message; and (b) a capital budget.

SEC. 3. SCOPE OF ANNUAL BUDGET. The budget shall contain: (a) An estimate of all revenue cash receipts anticipated from sources other than the tax levy of the ensuing fiscal year; (b) an estimate of the general fund cash surplus at the end of the current fiscal year or of the deficit to be made up by appropriation; (c) the estimated expenditures necessary for the operation of the several departments, offices and agencies of the city; (d) debt service requirements for the ensuing fiscal year; (e) an estimate of the sum required to be raised by the tax levy for the ensuing fiscal year, assuming a rate of collection not greater than the average rate of collection in the year of levy for the last three completed fiscal years; and (f) a balanced relation between the total estimated expenditures and total anticipated revenue cash receipts, taking into account the estimated general fund cash surplus or deficit at the end of the current fiscal year. All estimates shall be in detail showing revenues by sources and expenditures by organization units, activities, character and object. The budget shall be so arranged as to show comparative figures for receipts and expenditures for prior years and for the current year and the city manager's recommendations for the ensuing year.

SEC. 4. THE BUDGET MESSAGE. The budget message shall contain the recommendations of the city manager concerning the fiscal policy of the city, a description of the important features of the budget plan, an explanation of all major increases or decreases in budget recommendations as compared with prior years, and a summary of the proposed budget showing comparisons similar to those required in the budget proper, itemized by principal sources of revenue and the main heads of expenditure.

SEC. 5. DEPARTMENTAL ESTIMATES. The head of every department, office or agency shall submit to the city manager, at such date as the city manager shall determine, estimates of revenue

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SPECIAL ACTS

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and expenditure for that department, office or agency. Such estimates shall be submitted upon forms furnished by the city manager and shall contain all information which he may require. The city manager shall review the estimates and in preparing the budget may revise them as he may deem advisable, except that in the case of the department of education he shall have power to revise only the total estimated expenditure.

SEC. 6. APPROPRIATION AND TAX LEVY ORDINANCES. At the same time that he submits the budget the city manager shall also introduce an appropriation ordinance and an ordinance making a levy in mills upon all the ratable estate within the city for the ensuing fiscal year. The appropriation ordinance shall be based on the budget but need not be itemized further than by departments and the major divisions thereof and by each independent office and agency and by the principal objects of expenditure. Neither of the above ordinances shall be acted upon until after the adoption of the budget. The hearing upon the budget shall be taken to be the hearings upon the appropriation and tax levy ordinances.

SEC. 7. BUDGET A PUBLIC RECORD. Both parts of the budget shall be a public record in the office of the city clerk and shall be open to public inspection. The budget message shall be printed by the city manager for general distribution at the time of its submission to the council, and sufficient copies of the budget proper shall be made available at the same time for the use of the council and the public.

SEC. 8. PUBLIC HEARING. A public hearing on the budget shall be held by the council one week after its submission. Notice of the time and place of said hearing shall be published within three days after the submission of the budget in the manner provided in this charter for the publication of ordinances.

SEC. 9. CHANGES BY THE COUNCIL. After the conclusion of such public hearing the council may insert new items of expenditure or may increase, decrease or strike out items of expenditure, except that no item of appropriation for debt service shall be reduced. The council shall not alter the city manager's estimates of receipts. It may, however, decrease the amount of the tax levy for the ensuing fiscal year as proposed by the city manager in proportion to such decrease in the total of expenditures proposed by the city manager as it may have determined. If it shall increase the total proposed expenditures such increase shall be reflected in full in the tax rate.

SEC. 10. ADOPTION OF THE BUDGET. Upon the completion of the public hearing, but not later than the fourth Monday in February, the council shall adopt the budget, the appropriation ordinance and tax levy ordinance. If it fails to adopt the budget by that date the budget as submitted by the city manager shall be deemed to be the budget of the city for the ensuing fiscal year and expenditures shall be made in accordance therewith. The council

shall thereupon adopt making a tax levy as

SEC. 11. EFFICIENCY, PRINTING. The budget shall be printed, together with the city manager and the department of finance. Sufficient copies of the ordinance so certified to the departments, offices and

SEC. 12. WORKING. At the beginning of the fiscal year the city manager in such a manner shall show the request for department, office or quarterly periods beginning of the fiscal year amendments as he may deem necessary department, office or agency of finance, who shall be responsible for any appropriation exceeding the aggregate of such allotments available to said department. An approved allotment shall be made in the same manner as the city manager during the fiscal year (including cash receipts for the preceding year, will be reconsidered the work of departments, offices and agencies in the incurring of a deficit.

SEC. 13. TRANSFERS. The city manager may at any time transfer any balance or portion thereof to another within the same fiscal year, the council may, at the request of the city manager, transfer any appropriation balance of any department, office or agency to another.

SEC. 14. ADDITIONAL. In addition to those provided in chapter II of this charter the city manager may, if there is available, make such appropriations.

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SPECIAL ACTS

(Jan.,

1947)

SEC. 15. APPROPRIATIONS TO LAPSE AT CLOSE OF YEAR. Any portion of an annual appropriation remaining unexpended and unencumbered at the close of the budget year shall lapse.

SEC. 16. CERTIFICATION OF FUNDS, PENALTIES FOR VIOLATION. No payment shall be made and no obligation incurred against any allotment or appropriation unless the director of finance shall first certify that there is a sufficient unexpended and unencumbered balance in such allotment or appropriation to meet the same. Every expenditure or obligation authorized or incurred in violation of the provisions of this charter shall be void. Every payment made in violation of the provisions of this charter shall be deemed illegal and all officials who shall knowingly authorize or make such payment or take part therein and all persons who shall knowingly receive such payment or any part thereof shall be jointly and severally liable to the city for the full amount so paid or received. If any officer or employee of the city shall knowingly incur any obligation or shall authorize or make any expenditure in violation of the provisions of this charter or take part therein such action shall be cause for his removal.

SEC. 17. CAPITAL BUDGET. As a part of the budget message or as a separate report attached thereto the city manager shall present a program, previously considered by the city planning commission as provided in chapter XVIII of this charter, of proposed capital projects for the ensuing fiscal year and for the four fiscal years thereafter. Estimates of the cost of such projects shall be submitted by each department, office or agency annually in the same manner as estimates of other budgetary requirements are prepared for the city manager. The city manager shall recommend to the council those projects to be undertaken during the ensuing fiscal year and the method of financing the same. The council may levy annually a tax of not more than two mills to be assessed upon the ratable estate within the city at the same time as the regular annual taxes for city expenses, for the benefit of a fund to be known as "The Capital Improvement Fund" established for the purpose of paying the cost of capital improvements for which the city is authorized by this charter to issue bonds and for no other purpose. The proceeds of such levy shall be kept by the city treasurer in a special bank account until invested as provided in chapter IX of this charter. The council shall have power to transfer from time to time to the capital improvement fund any portion of the general fund cash surplus not otherwise appropriated. Appropriations for construction of other permanent improvements, from whatever source made, shall not lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned, provided any project shall be deemed to have been abandoned if three fiscal years elapse without any expenditure from or encumbrance of the appropriation therefor.

SECTION 1. BOR. power to incur indebtedness as provided in this charter for permanent public improvement in anticipation of bonds shall include the opening, widening of streets and other public works, conduits and other works in carrying out the power and the acquisition and construction of city for such purposes: collection of taxes of the city of such taxes, and if no amount equal to the unexpended budget for the ensuing fiscal year for emergency expenditure of chapter II of this charter in whole or in part, improvement duly authorized and not defrayed from benefits collected, provided nothing shall prevent the city from preventing the city from incurring bonded debt, but only with interest to maturity during fiscal year.

SEC. 2. LIMITATION. or notes in anticipation of bonds shall bring the total of all such bonds and the deductions from such bonds to conform with the general statutes, as amended, on the taxable grand list.

SEC. 3. TERM AND INTEREST. No bonds shall be issued for the improvement for a term longer than twenty years and shall mature not later than ten years after the date of issue. Anticipation notes shall be issued which interest shall be paid at the first day of June of the year in which issued. Notes issued shall be in the form of serial form payable as coupons and interest shall be paid in amounts each year beginning on the first day of June of the year in which issued. If dividing the amount of the issue is authorized does