

INTEROFFICE MEMORANDUM

Law Department

DATE: August 7, 2014
TO: Honorable President and Members of the City Council
FROM: Bernard J. in den Bosch, Deputy City Attorney
SUBJECT: Amendment to Ballot Language for Biennial Budget

The attached Amendment was requested by the Finance Department. It changes the years of the first biennial budget from 2016-2017 to 2017 and 2018. It is my understanding that this additional time is needed in order to adjust processes, programming, etc.

Respectfully submitted,



Bernard J. in den Bosch
Deputy City Attorney

BJB:de

Attachment

MOTION BY COUNCILMEMBER _____

I hereby move that Council Document No. _____, Current Series, be amended in the whole by deleting the existing Ordinance in its entirety and substituting in lieu thereof the attached Ordinance.

APPROVED AS TO FORM:


Deputy CITY ATTORNEY 8/7/14
DATE

ORDINANCE NO. _____

AN ORDINANCE proposing amendments to Sections 4.07, 4.09, 5.04, 5.05, 5.06, 5.07, and 7.07 of the Home Rule Charter of the City of Omaha, 1956, as amended, to provide for biennial budgeting by the City of Omaha; to provide for the submission of the proposed amendments to the qualified electors of the City of Omaha for their approval or rejection at the General Election to be held on November 4, 2014; to repeal Sections 4.07, 4.09, 5.04, 5.05, 5.06, 5.07, and 7.07 of the Home Rule Charter of the City of Omaha as heretofore existing; and to provide the effective date hereof.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

Section 1. That there be, and hereby is, submitted to the qualified electors of the City of Omaha at the General Election to be held on November 4, 2014, for their approval or rejection, a proposal to amend Sections 4.07, 4.09, 5.04, 5.05, 5.06, 5.07, and 7.07 of the Home Rule Charter, 1956, as amended, to provide that such sections shall be amended to read as follows:

“Section 4.07. Metropolitan Entertainment and Convention Authority.

- (a) There is hereby created a Metropolitan Entertainment and Convention Authority to be managed and controlled by a board consisting of five members who shall be qualified electors of the County of Douglas but shall not be elected officials or employees of any public body. Initially such members shall be the then-serving members of the Interim Metropolitan Entertainment and Convention Authority ("Interim Authority"), who shall serve the remainder of their full initial terms. As each initial term expires, all successive terms shall be for five (5) years, with alternating yearly appointments to be made by the Mayor and City Council. Such successive appointments shall be confirmed by the City Council with the first such appointment being made by the Mayor. If a vacancy occurs in the membership of the Authority during the initial term of any member, such vacancy for the remaining term shall be filled by nomination by the designated body making the initial appointment to the Interim Authority, if such body shall then be in existence otherwise by the Mayor, with confirmation by the Council. After expiration of such initial terms, any vacancy on such board shall be filled by

either the Mayor or Council, who appointed such member, with the confirmation of the Council, and such appointee shall serve the unexpired portion of the term of the member whose office was vacated. The members of the board shall serve without compensation, but shall be entitled to reimbursement of the reasonable expenses paid or incurred in the performance of the duties imposed upon them hereby and by implementing ordinances of the Council. Board members may be removed by the Council for malfeasance of office.

- (b) The powers and duties of the authority shall include the following:
- (i) With respect to the Downtown Convention Center and Arena (the "Project") which is the subject of an approved city Redevelopment Plan, the Authority shall assume complete responsibility for and control over any or all aspects of Project development, implementation, operation, maintenance, repair and replacement, including the power to enter into any contracts, have control and management of property, personnel, equipment, facilities and finances.
 - (ii) With respect to other now or hereafter existing city public events facilities, including but not limited to the Civic Auditorium, Rosenblatt Stadium, the Orpheum Theatre and other convention centers, meeting places, sports arenas, auditoriums, stadiums, entertainment and similar facilities and related events, the Authority is hereby empowered to assume management and control over such facilities and events on such schedule and to such extent as it shall specify to the Council. As to each such facility whose operation and management is to be assumed by the Authority, a detailed plan of transition shall be presented by the Authority to the Mayor and to the Council for its approval by ordinance which plan shall include details on the timing and transition to the Authority of personnel, property, contracts and funding as relate to such facility. The Authority, upon assuming such responsibility for such additional facilities, shall have the same powers as set forth in the preceding paragraph for the Project.
 - (iii) The Council by ordinance from time to time may provide for additional powers and duties of, and administrative and procedural requirements and authorizations for, the Authority as shall be lawful and consistent with this section.
- (c) The Authority shall not have taxing power or the power of eminent domain. The Authority may adopt articles of incorporation and by-laws, and incorporate as a Nebraska not for profit corporation. It may create such committees, subcommittees or subsidiary boards as it may determine.
- (d) The Authority shall have the power to charge fees, rentals and other charges for the use of the facilities within its jurisdiction, and all such fees, rentals, charges and any other revenues of the Authority may, subject to bondholder contracts, be

applied to the payment of the operating, administration and other necessary expenses of the Authority, including the making of capital repairs and improvements to such facilities.

- (e) The Authority shall prepare an annual budget, and shall request that the Mayor include in the recommended city ~~annual~~ biennial budget for a given year an item or items providing for the payment of money to the Authority with respect to the Authority's operating, administration, and other such payments to or for the benefit of the Authority.
- (f) All income, revenue, receipts, donations, retained earnings and money of the Authority from whatever source derived shall be paid to the treasurer of the city, as *ex officio* treasurer of the Authority, who shall hold such moneys in segregated accounts within a separate fund created for the Authority and shall not commingle such money with any other money under the treasurer's control. Such money shall be withdrawn only by check, draft or order signed by the treasurer on requisition of the designated person or persons authorized by the board to make such requisitions. The Authority or the city shall conduct or have conducted an annual audit of the funds and accounts of the Authority independent of the general city audit. A copy of said audit shall be submitted to the City Council.
- (g) General obligation bonds, redevelopment bonds, lease-purchase bonds, revenue bonds and refunding bonds (including in each case, notes), or any combination of such bonds or notes, issued by or on behalf of the city to finance or refinance the acquisition, construction, improving and equipping of such facilities, and public improvements and acquisitions pursuant to a redevelopment plan containing such facilities, may be issued and sold from time to time in such manner, including public or private sale, for such price or prices, bear interest at such rate or rates payable at such time or times, and be payable in such installments and at such time or times not exceeding thirty years, as determined in each instance by ordinance. The city may pledge as security for the payment when due of the principal of, premium, if any, and interest on any such bonds or notes one or more of: the income, proceeds and revenue of such facilities financed with the proceeds of such bonds or notes; the income, proceeds and revenue of any such facilities of the city; the city's revenue and income, including, without limitation, its sales, use or occupation tax revenue, the city's fees or receipts, and the city's state assistance under the Nebraska Convention Center Facility Financing Assistance Act, as determined in each instance by ordinance. The city may further secure the bonds or notes by a mortgage or deed of trust encumbering all or any portion of the facilities and by a bond insurance policy or other credit support or liquidity facility. To the extent that this subsection is inconsistent with any other provision of this Charter, the provisions of this subsection shall be controlling.
- (h) Nothing in this section shall be interpreted as being in contravention of the Constitution and applicable laws of the State of Nebraska, and any provision

hereof determined by a final decree or judgment after exhaustion of all appeals so to be in contravention shall be severed herefrom and the remaining provisions hereof shall remain in full force and effect.

Section 4.09. Relationship of Boards, Commissions, and Authorities to the City Government.

The Housing Authority, Library Board, Omaha Improvement Commission, and other boards, commissions, and authorities created in the future and given responsibility for the control and management of property, personnel, equipment, facilities, or finances shall to the maximum extent practicable utilize administrative services such as accounting, legal, personnel, planning, and purchasing services that are provided by city departments and agencies. Positions in the service of such boards, commissions, and authorities, except for the position of head or director in each case, shall be in the classified service. Requests for appropriations for such boards, commissions, and authorities shall be made a part of the ~~annual~~ biennial budget submitted by the Mayor to the Council.

Section 5.04. Formulation and Submission of Budget.

The procedure and calendar for the formulation and submission of the ~~annual~~ biennial budget shall be as follows:

- (1) Beginning with the budget for the biennial period comprised of the years 2017 and 2018, on or before a date to be specified by the Mayor, each city department and agency head shall transmit to the Finance Director estimates for the ensuing two fiscal years of revenue and operating expenditure for the department or agency concerned, along with such work program information and supporting data as the Mayor may require.
- (2) The Mayor with the assistance of the Finance Director shall review all estimates and the capital improvement program prepared pursuant to section 7.07 and shall formulate the proposed biennial budget, making such revisions of estimates as the Mayor deems desirable.
- (3) Not later than thirty days before the tax levy certification date, the Mayor shall submit to the Council for its consideration the proposed biennial budget. Upon submission the budget shall become a public record and shall be open to inspection.
- (4) For purposes of this section and all other sections with article V, the term "tax levy certification date" shall mean the date established by statute, upon which the county board of equalization must levy taxes for the year.
- (5) On or before a date in the first fiscal year of the biennial budget, to be specified by the Mayor, each city department and agency head shall submit to the Finance Director any changes in estimates for the second fiscal year of the biennial budget of revenues and

operating expenditure for the department or agency concerned, along with such work program information and supporting data as the Mayor may require. The Mayor with the assistance of the Finance Director shall review all such changes in estimates and the capital improvement program prepared pursuant to section 7.07 and may, in accordance with state law, formulate proposed amendments to the biennial budget for the second fiscal year of the biennial budget, making such revisions of estimates as the Mayor deems desirable. Not later than thirty days before the tax levy certification date for the second fiscal year of the biennial budget, the Mayor shall submit to the Council for its consideration any such proposed amendments to the biennial budget for the second fiscal year of the biennial budget. Upon submission such proposed amendments to the biennial budget shall become a public record and shall be open to inspection.

Section 5.05. Scope and Content of the Budget.

The ~~annual~~ biennial budget shall be a complete financial plan for the ensuing two budget years and shall consist of an operating budget and a capital budget. The capital budget shall provide for acquisition of real estate, physical improvements, equipment and furniture required in connection with physical improvement projects, and equipment with a probable useful life of fifteen or more years; and the operating budget shall provide for all other classes of expenditure. The budget submitted by the Mayor to the Council shall contain at least the following:

- (1) A budget message in which the Mayor shall discuss the city's financial condition and prospects, explain both in terms of money and work programs the important features of the operating budget, identify major projects in the capital budget, and outline the financial policies the Mayor proposes for the ensuing two budget years.
- (2) Appropriate statements showing for each fund the estimated transactions and balances for each of the two ensuing budget years and comparative data for the current and immediately past budget years.
- (3) Schedules of all estimated revenues itemized by sources for each of the ensuing two budget years and comparative data for the current and immediately past budget years. Revenue estimates for the general and special revenue funds shall include only those revenues expected to be received in cash during the budget years concerned.
- (4) Operating budget schedules showing by activity or program the proposed operating expenditures for each of the ensuing two budget years, and in a column entitled "Appropriations," the lump sum recommended for appropriation, which lump sums need not be itemized further than by departments, divisions, and major activities and programs. Comparative expenditure data for the current and immediately past budget years and information on work programs and volumes shall also be presented.
- (5) Capital budget schedules showing the total amount proposed for expenditure on each capital project during each of the two ensuing budget years and a complete analysis of the

sources of funds by projects showing balances available and amounts to be appropriated, borrowed, or derived from other sources.

Section 5.06. Consideration and Adoption of Budget by Council.

At the meeting of the Council at which the Mayor submits the biennial budget or proposed amendments to the biennial budget for the second fiscal year of the biennial budget, the Council shall determine the time and place at which it will hold a public hearing on the budget. The date for public hearing shall be scheduled for not later than ten days prior to the tax levy certification date, and the time and place of the hearing shall be published in each of the daily newspapers of general circulation in the city not less than five days before the hearing. After the hearing the Council may revise the expenditure side of the budget by increasing, decreasing, inserting, or deleting appropriation items, except that it shall not reduce appropriations for debt service. The Council may revise revenue estimates if such revision is concurred in by five of its members. Not later than the day prior to the tax levy certification date, the Council shall by majority vote adopt a budget by resolution and thereby authorize appropriations for the ensuing two budget years, or, in the case of proposed amendments to the biennial budget, appropriations for the second fiscal year of the biennial budget. The budget as adopted shall be reproduced, and copies shall be made available to interested citizens and other governmental jurisdictions.

Section 5.07. Tax Levy.

The Council, on the basis of the biennial budget as finally adopted, shall annually certify by adopting an appropriate resolution a single City of Omaha tax levy for the ensuing fiscal year, which single tax levy shall be sufficient so that total anticipated revenues plus receipts from authorized borrowing will at least equal total proposed expenditures. The single City of Omaha tax levy certified in any year shall not exceed \$.6125 per \$100 of actual taxable value plus whatever tax levy is necessary to provide for principal and interest payments on the indebtedness of the city, and for the administrative expenses incurred in issuing and maintaining bonds, and for the satisfaction of judgments and litigation expenses in connection therewith.

Section 7.07. Capital Improvement Programming.

Each department or agency ~~annually~~ biennially, on or before a date which the Mayor shall establish, shall submit to the Planning Director a schedule of all capital improvements which it recommends be undertaken in any of the six succeeding years. The Planning Director shall examine each project for conformity with the master plan and shall prepare and submit for Planning Board approval a consolidated schedule of the projects proposed by the departments showing the character and degree of conformity or non-conformity of each project as it relates to the master plan. Not later than ninety days prior to the date of certifying the tax levy for the first fiscal year of any biennial budget, the Planning Department shall submit the consolidated schedule of projects to a Capital Improvement Priority Committee composed of the Mayor as chair, the City Attorney, the Finance Director, the Planning Director, and the Public Works Director. The Capital Improvement Priority Committee shall formulate and recommend a six-year capital improvement program showing exactly which projects should receive appropriations

in each of the six succeeding years. As a part of the ~~annual~~ biennial budget, the Mayor shall, after consideration of the capital improvement program, submit to the Council recommendations with respect to the capital budget for the ensuing two years.

Not later than fourteen (14) days from the date that the Mayor submits to the council the proposed ~~annual~~ biennial budget for the ensuing two budget years, the Mayor shall also ~~annually~~ biennially submit to the Council the six-year capital improvement program for review. After such review the Council may, by resolution, concur or recommend revisions or amendment thereto to the Mayor. The capital improvement priority committee shall consider such concurrence or recommendations, if any, in finalizing the six-year capital improvement program.

The Council shall not appropriate in any budget or during any budget year any money for any capital improvement project which has not been referred to and reported on by the Planning Department as to conformity to the master plan. If the department fails to render any such report within thirty days, or within such longer period as may be granted by the Council, the approval of the department may be presumed by the Council.”

Section 2. The ballot for said proposed amendment shall be submitted to the qualified electors of the City of Omaha in substantially the following form:

"OFFICIAL BALLOT

GENERAL ELECTION

HELD NOVEMBER 4, 2014

CHARTER AMENDMENT

SHALL SECTIONS 4.07, 4.09, 5.04, 5.05, 5.06, 5.07, and 7.07 OF THE HOME RULE CHARTER OF THE CITY OF OMAHA BE AMENDED TO PROVIDE FOR BIENNIAL BUDGETING BY THE CITY OF OMAHA, ALL AS PROVIDED IN THE NOTICE OF ELECTION?

_____ YES

_____ NO”

Section 3. Under said question and proposition on the ballot shall be printed the word "Yes" and the word "No". All ballots of qualified electors cast at the aforesaid election with an

"X" or other clear or intelligible mark placed before the word "Yes" shall be understood to be, and shall be counted, in favor of the proposition set forth in said question, and all ballots of qualified electors cast at the aforesaid election with an "X" or other clear or intelligible mark placed before the word "No" shall be understood to be, and shall be counted, against the proposition set forth in said question.

Section 4. That said ballots shall be white in color and printed in black ink or other color designated in conformance with Section 32-806 of the Revised Statutes of Nebraska, 1943, as amended.

Section 5. The officer having charge of General and Special Elections of the City of Omaha shall conduct the election in all respects the same as other City elections and in the manner provided by law.

Section 6. The City Clerk is hereby directed to transmit a certified copy of this Ordinance to the Election Commissioner of Douglas County, Nebraska, and to give public notice to the electors, as provided by law.

Section 7. If said proposition is approved by the electors, then Sections 4.07, 4.09, 5.04, 5.05, 5.06, 5.07, and 7.07 of the Home Rule Charter of the City of Omaha, as heretofore existing, shall be repealed.

Section 8. This Ordinance is declared to be administrative and not legislative in character and, therefore, under the provisions of Section 2.12 of the Home Rule Charter of the City of Omaha, 1956, as amended, and Rule 7 of the Rules adopted by the City Council of the City of Omaha, it shall become effective from and after its adoption.

INTRODUCED BY COUNCILMEMBER

ORDINANCE NO. _____

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APPROVED BY:

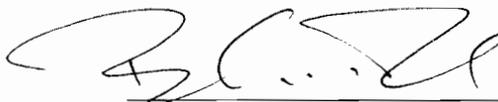
PASSED _____

MAYOR OF THE CITY OF OMAHA DATE

ATTEST:

CITY CLERK OF THE CITY OF OMAHA DATE

APPROVED AS TO FORM:



DEPUTY CITY ATTORNEY

8/7/14

DATE