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March 28, 2011

REPORT TO THE COMMITTEE ON BUDGET AND FINANCE

REVISIONS TO THE ADOPTED BUDGET

INTRODUCTION

During the March 2, 2011, meeting of the Budget and Finance Committee (Committee), the Committee requested that the City Attorney's office provide feedback and legal analysis on IBA Report No. 11-10, entitled "City Council's Authority to Initiate a Mid-Year Revision of the Budget and Amendment to the Appropriation Ordinance" (IBA Report). In general, the IBA Report discusses the City Attorney's legal conclusion that, under the San Diego Charter, revisions to the City's budget must be initiated by the Mayor and approved by the City Council. This report is intended to address the concerns raised by the IBA Report and to propose a potential solution to allow for City Council budgetary discretion within the context of the adopted budget.

DISCUSSION

I. CITY CHARTER AND MAYORAL BUDGET AUTHORITY

San Diego is a charter city. The San Diego Charter is the supreme law of the City, subject only to conflicting provisions in the United States and California Constitutions. *Grimm v. City of San Diego*, 94 Cal. App. 3d 33, 37 (1979). "The charter operates not as a grant of power, but as an instrument of limitation and restriction on the exercise of power over all municipal affairs which the city is assumed to possess." *Id.* at 38. In general, the duties and powers designated in the Charter to the Mayor and the Council are considered in the nature of public trusts and cannot be delegated, surrendered or otherwise exercised by other officers. 2A McQuillin Mun. Corp. § 10:46 (3rd ed.)

The Charter requires the Mayor to propose the City budget. San Diego Charter § 265(b)(14). We previously discussed the City budget process in our September 24, 2010, memorandum to the Chief Financial Officer, which is attached hereto. While the Charter does not specify a process to revise the budget, in our November 5, 2010, report to the Committee, also attached, we noted that under the well-established principle that a municipality's power to legislate, by implication, includes the power to amend or repeal legislation, the City could revise the adopted budget. Further, we concluded that, absent any specific provision regarding amending the budget, the City should follow the process set forth in Charter section 290(b). This

entails the Mayor bringing forward proposed changes and the City Council adopting, modifying or rejecting the Mayor's proposal.

The Charter also grants to the Mayor the authority to initiate the transfer of appropriations within the adopted budget. Charter section 73 allows for the transfer of "all or a part of an unencumbered balance of an appropriation" under specified circumstances but only "upon the written recommendation of the [Mayor]." San Diego Charter § 73. Thus the transfer of any unencumbered appropriation, including from the Appropriated Reserve, must be initiated by the Mayor.

The powers of the Mayor under the Charter with respect to the budget process are unambiguous and not subject to interpretation. Rules of statutory construction and interpretation apply equally to the interpretation of charter provisions. *San Francisco Int'l Yachting Ctr. Dev. Group v. City and County of San Francisco*, 9 Cal. App. 4th 672, 681 (1992). Where the words of a charter are clear, a reviewing court may not add to or alter them to accomplish a purpose that does not appear on the face of the charter or from its legislative history. *Domar Electric, Inc. v. City of Los Angeles*, 9 Cal. 4th 161, 171-172 (1994).

Under the Mayor-Council form of governance, the Mayor assumes all powers of the City Manager and is granted further specific powers with respect to the City's budget process. San Diego Charter §§ 265, 290. The IBA requests that the City Attorney "harmonize" these charter provisions with language in the City's Reserve Policy and in the Statement of Budgetary Principles, each of which purports to confer on the City Council the authority to initiate revisions to the City budget in the event the Mayor chooses not to act on a request by the City Council. However, as noted above, the Charter is the supreme law of the City. Any policies or procedures of the City that conflict with the Charter are invalid. Were there ambiguity within the Charter itself, it would be appropriate to harmonize any potentially conflicting provisions. *See Bohbot v. Santa Monica Rent Control Bd.*, 133 Cal. App. 4th 456, 462 (2005) (provisions within a charter provision must be construed together and harmonized). But that is not the case here. "If the language of the provision is free of ambiguity, it must be given its plain meaning." *Castaneda v. Holcomb*, 114 Cal. App. 3d 939, 942 (1981). The Charter controls and it is not appropriate to attempt to harmonize the plain meaning of the Charter with inferior policies or practices.

II. APPROPRIATED RESERVE

The Appropriated Reserve has become something of a focal point for the discussion of the budget revision authority. The Appropriated Reserve is budgeted and "maintained with the purpose of paying for unanticipated operational needs that arise during the fiscal year but [are] not anticipated during the budget process." City Reserve Policy p. 6. As noted above, the Appropriated Reserve can be accessed, pursuant to Charter section 73, upon the written recommendation of the Mayor and with the approval of the City Council. To that extent, the Appropriated Reserve is no different than any other component of the budget; changes must be initiated by the Mayor. The IBA Report suggests this is a flaw in the Charter. That is not a legal conclusion. Our considered legal opinion is, as we have stated throughout this discussion, that the Charter authorizes the Mayor and not the City Council to initiate the transfer of

appropriations from the Appropriated Reserve. Such transfers must be approved by the City Council.

III. IBA POLICY ISSUES AND RECOMMENDATIONS

While policy considerations are outside the purview of this report, the Committee requested City Attorney feedback on the IBA Report, thus we offer a few comments on the positions stated therein. The IBA Report asks the City Attorney "to provide guidance on a possible remedy . . . to effectively address [the flaws in the City budget process]." IBA Report p. 3. This assumes that the City's budget process is a problem in search of a solution. Without opining on whether this is correct, we offer the following observations. The City's budget process and related policies have gone through extensive revisions since the effective date of the Mayor-Council form of governance. The Charter budget process itself was approved by voters with the approval of Proposition F in November 2004. That structure was subsequently ratified by voters with the approval of Proposition D, which made permanent the Mayor-Council form of governance and with it, the current budget process.

The City Council has adopted a Budget Policy which reads, in pertinent part, that "[r]equests for new operating expenditures made outside the annual budget process shall be discouraged." Council Policy 000-02. While much of the debate has revolved around accessing the Appropriated Reserve, the City's Reserve Policy generally suggests that reserves should not be expended. The policies reflected in the Reserve Policy are drawn generally from the Government Finance Officers Association (GFOA) best practice guidelines and reflect the expectations of the ratings agencies. According to GFOA, "[m]ethods must be established for setting aside unreserved fund balance resources. Otherwise, politicians may advocate depletion of fund balance to satisfy constituents or achieve political goals." *Financial Policies: Design and Implementation*, Shayne Kavanaugh & Wright A. Williams, 77 (GFOA, 2004). The Reserve Policy itself quotes from a Moody's Investment Services circular, which states "[m]ost lending institutions tend to favor reserve policies because they minimize political considerations of adequate reserve levels." City Reserve Policy p. 3. These admonishments apply equally to the Mayor and the City Council. The City has expended considerable effort, including cutting services to its citizens, to build up reserves and impose discipline on City expenditures; to deplete City reserves now would undercut this effort.

The IBA Report misconstrues the City Attorney's advice with respect to the Appropriated Reserve. The City Attorney did not intend to suggest that the Appropriated Reserve must be budgeted for a particular purpose and such advice has not been offered in any written report or memorandum. Clearly, this would defeat the purpose of the Appropriated Reserve. <u>However, funds could be provided for in the budget, not the Appropriated Reserve, for the express purpose of funding community public services to be identified by the City Council during the fiscal year.</u> This would be similar to the way Infrastructure Improvement funds were used in the past. As we stated in our September 24, 2010, memorandum, the fatal flaw with the Infrastructure Improvement funds was that they were never budgeted. We would caution, however, that such City Council-directed funds must not interfere with the Mayor's administrative and budgetary prerogatives under Charter section 28.

The IBA Report proposes two potential solutions short of amending the Charter to rectify the perceived flaws identified in the City's budget process. First, the IBA Report proposes changes to the Statement of Budgetary Principles. As discussed above (and acknowledged in the IBA Report), to the extent the Statement of Budgetary Principles conflicts with the Charter, it is invalid. The City Attorney recommends that the Statement of Budgetary Principles be revised to alleviate any confusion on this point.

Second, the IBA Report proposes that language be added to the Appropriation Ordinance to allow for the Appropriated Reserve to be depleted under certain specified scenarios. This would appear to be inconsistent with a reserve but would be permissible if consistent with the adopted budget. The Appropriation Ordinance must follow the budget, not the other way around. San Diego Charter § 71.

The City Attorney has been asked to offer proposed Charter amendments to allow for the City Council to initiate revisions to the adopted budget. There are any number of ways the Charter could be amended to accommodate this outcome and all of them have important policy implications. While we are ready to assist in crafting language to implement whatever policy is determined to be desirable by the policymakers, we await further policy direction before this office can draft specific charter amendments. The entire budget process could be changed depending upon policy goals.

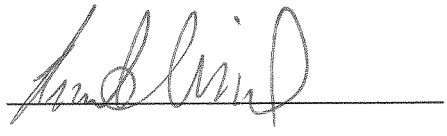
Issues have also arisen regarding legally permissible budgeting of City Council discretionary funds. As noted above, under existing Charter provisions, we believe such City Council discretionary funds could be added to the City budget. The City Attorney looks forward to working with the IBA and City financial staff to craft any necessary implementing legislation and policy documents to guide the appropriate use of such funds.

CONCLUSION

The Charter is the supreme law of the City of San Diego and all authority to initiate revisions to the adopted budget or transfer appropriations is vested by the Charter in the Mayor. Neither the City Council nor the Mayor may adopt policies or procedures that would conflict with the Charter. To the extent that the City Council wishes to exercise discrete authority to direct expenditures within their adopted budgets, funds would need to be budgeted for such purpose and a policy adopted on the appropriate use of such funds.

Respectfully submitted,

JAN I. GOLDSMITH, City Attorney

By 

BCW:jdf
Attachments
RC-2011-15

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MEMORANDUM OF LAW

DATE: September 24, 2010

TO: Mary Lewis, Chief Financial Officer

FROM: Paul F. Prather, Deputy City Attorney

SUBJECT: Budgeting, Appropriation and Expenditure of Infrastructure Funds

INTRODUCTION

On June 22, 2010, an ordinance making year-end amendments to the Fiscal Year 2010 Budget transferred unexpended balances from the City Council District budgets to the Infrastructure Improvement Fund (IIF). One month later, the Fiscal Year 2011 Appropriations Ordinance attempted to appropriate any carryover monies from previous fiscal years in the IIF for the purpose of financing capital improvements and major maintenance of streetlights, sidewalks, traffic signals, libraries, parks and recreation facilities, roadways, or any other general fund purposes or activities as identified by the Mayor or individual City Council Districts. The Fiscal Year 2011 Budget adopted by the City Council did not contain any allocation to or mention of the IIF. You have requested a memorandum of law addressing whether the budgeting, appropriation and expenditure of the IIF is consistent with the San Diego Charter's budget process.

QUESTION PRESENTED

Does the City Charter allow the savings from a City department, for example the City Council, to be transferred to a special fund, such as the Infrastructure Improvement Fund, and appropriated in a future fiscal year, without going through the Charter required budget process?

SHORT ANSWER

No. San Diego Charter section 84 requires that at the end of the fiscal year all unencumbered balances revert to the fund from which appropriated. Balances remaining in any department appropriation for a particular fiscal year cannot be saved for use in an ensuing fiscal year by the device of creating a special fund and transferring such balance to it. Such a method circumvents the fiscal requirements of the Charter. Since the IIFs do not appear in the Fiscal

Year 2011 Budget and would not qualify as a continuing appropriation, they could not be appropriated in the Fiscal Year 2011 Appropriation Ordinance unless set forth in the 2011 Budget. All funds contained in the Infrastructure Improvement Account should be considered a part of the unassigned general fund balance and be subject to reappropriation in accordance with the budget process set forth by the Charter.

ANALYSIS

A. BUDGET PROCESS

The Charter specifies the process for approving the budget and appropriations for each fiscal year. Initially, the Mayor will propose a budget to the City Council no later than April 15 of each year. San Diego Charter § 265(b)(14). The budget must include a summary outline of the fiscal policy of the City for the budget year, describe the important features of the budget plan, and set forth a general budget summary showing a balance between expenditures and anticipated income contrasted with the corresponding figures for the current year. San Diego Charter § 69. As this Office opined over seventy years ago, "Each year's budget must show a complete picture of the moneys to be appropriated to each department and office of the City for use during that particular fiscal year." 1940 City Att'y MOL 162 (May 15, 1940).

Once proposed, the City Council must hold public hearings to consider the budget. The City Council may approve the budget or make modifications to the budget in whole or in part. Modifications may call for adding new items or for increasing or decreasing any item. San Diego Charter § 290(b)

If modified by the City Council, the budget is returned to the Mayor and he must approve, veto or modify any line item approved by the Council. The City Council will then have an opportunity to override any veto or modification made by the Mayor. San Diego Charter § 290(b)(2). Once the budget is approved, it becomes the controlling document for the preparation of the Annual Appropriation Ordinance. San Diego Charter § 290(b)(1)(C). The Mayor has no veto over the Annual Appropriation Ordinance. San Diego Charter § 290(d).

The Annual Appropriation Ordinance is the authorization for the Mayor to expend funds. No money may be drawn from the treasury nor any obligation for the expenditure of funds be incurred except in accordance with the Annual Appropriations Ordinance or the annual appropriation changed as authorized by Charter section 73. San Diego Charter § 84.

If an expenditure is required which differs from the budget and is not authorized by Charter section 73, then an amended appropriation is required. Since the budget is the controlling document for the Annual Appropriation Ordinance, the budget must be amended in order to amend the Annual Appropriation Ordinance. San Diego Charter § 290(b)(1)(C).

With limited exceptions, at the close of each fiscal year, any unencumbered balance of an appropriation will revert to the fund from which appropriated and is subject to reappropriation in the next fiscal year. San Diego Charter § 84. For example, if $200,000 was budgeted and appropriated from the General Fund for a particular item and only $150,000 was expended at the

close of the fiscal year, the remaining $50,000 would revert back to the General Fund for budgeting and appropriation in the next fiscal year.

Charter section 84 provides an exception to the end of year reversion requirement for "retirement funds, and such trust funds as may be established by this Charter . . . " and also for appropriations made "in furtherance of improvements or other objects or works which will not be completed within the year . . . ." In the case of a project which would not be completed within the year, the appropriation continues in force until the purpose for which it was made shall have been accomplished or abandoned. San Diego Charter § 84.

B. INFRASTRUCTURE IMPROVEMENT FUNDS

The IIF was created in the Fiscal Year 2002 Budget. As stated in City Mgr. Report No. 01-150 (July 19, 2001):

> The Infrastructure Improvement Fund is created for capital improvements and major maintenance of streets, sidewalks, park facilities, libraries and other projects identified by the Mayor and City Council. Funding is allocated for each Council District and for the Mayor for Citywide use. Monies can be used as directed by either the Mayor or each Councilmember throughout the year. The total appropriation for this fund is $1,833,500.

This language was repeated in the section regarding important features of the Fiscal Year 2002 Budget and a line item called "Infrastructure Improvement" showed an amount of $1,833,500. The Fiscal Year 2002 Budget was approved by the City Council and the Appropriations Ordinance appropriated the full $1,833,500 for the purposes set forth in the Fiscal Year 2002 Budget.

At the end of the Fiscal Year 2002, approximately $1,588,254.63 was left in the IIF. These funds had not been encumbered for any capital improvement, maintenance or other project during Fiscal Year 2002. At the end of the year, these unused IIF funds were not returned to the General Fund. Instead, they remained in the IIF account.

Charter section 84 requires at the close of each fiscal year for any unencumbered balance of an appropriation to revert to the fund from which appropriated. The amount remaining in the IIF was unencumbered at the end of Fiscal Year 2002. It was not subject to the continuing appropriation provision of Charter section 84 because the funds had not been designated for a particular project which would not be completed within the fiscal year. Therefore, by operation of Charter section 84, the $1,588,254.63 reverted at the close of Fiscal Year 2002 to the General Fund.

In the Fiscal Year Budget for 2003, zero dollars were budgeted for the IIF. In spite of the fact that zero dollars were budgeted for the IIF, the 2003 Appropriations Ordinance contained language which attempted to authorize the appropriation of the IIF:

> *The Infrastructure Improvement Fund, allocated to the Mayor and eight Council Districts, is hereby appropriated for the purpose of financing capital improvements and major maintenance of streetlights, sidewalks, traffic signals, libraries, parks and recreation facilities, and roadways or other purposes as identified by the Mayor or individual Council District.*

and implied, in contravention of Charter section 84, that there were carryover funds remaining in the IIF from the Fiscal Year 2002:

> *Any carryover monies from the previous fiscal year are hereby appropriated for the purpose for which said fund was created.*

San Diego Ordinance O-19083 (July 30, 2002).

Since the $1,588,254.63 should have reverted at the close of Fiscal Year 2002 to the General Fund, pursuant to Charter section 84, there were no carryover monies from the previous fiscal year. Therefore, zero dollars were appropriated for expenditure from the IIF in Fiscal Year 2003.

Like Fiscal Year 2003, the Fiscal Year 2004 Budget showed an allocation of zero to the IIF. Therefore, the IIF remained without any funds for the City Council to appropriate. In the Fiscal Year 2005 Budget, there was not even a reference to the IIF. It was completely omitted from the Budget. However, language still appeared in the Appropriations Ordinance attempting to appropriate carryover funds. Since there were no funds budgeted to the IIF, the Appropriations Ordinance, which must be based upon the budget, could not appropriate any funds for the IIF.

On June 2, 2005, City Manager Lamont Ewell provided a Manager's Report titled "Fiscal Year 2005 Year-End Budget Adjustments." The Report showed that for Fiscal Year 2005 the City Council Districts combined spent nearly $700,000 less than the amounts budgeted for the Council Districts. The Report requested the City Council authorize the City Manager to transfer these savings to the IIF. This request was approved by the City Council on June 13, 2005. San Diego Ordinance No. O-19388 (June 13, 2005).

The 2005 Fiscal Year ended on June 30, 2005. Pursuant to O-19388, the nearly $700,000 in savings from the budgets of the City Council Districts would have been transferred to the IIF. But, since none of the IIF funds were encumbered, the savings from the City Council budgets should have, pursuant to Charter section 84, reverted back to the General Fund.

Instead of transferring the funds back to the General Fund as mandated by Charter section 84, the funds continued to be maintained in the IIF account. This same pattern, no budget proposal for IIF, a year-end request to put City Council District savings into the IIF, and a subsequent Appropriation Ordinance attempting to appropriate carryover funds, occurred each

fiscal year from 2006 through 2011. Today, the IIF account contains over $2,000,000. Funds which, pursuant to Charter section 84, should have reverted to the General Fund for reappropriation.

As early as the 1930's, this Office opined that the Charter required all balances remaining in an appropriation be transferred back into the General Fund at the close of the fiscal year for reappropriation in the next fiscal year. 1930 City Att'y MOL 388 (July 3, 1934). Six years later, in a matter concerning a request to appropriate and transfer funds from the Fiscal Year 1940 budget for use in installing cathodic protection in pipe lines, our Office stated that:

> *[B]alances remaining in any department appropriation for a particular fiscal year cannot be saved to it for use in an ensuing fiscal year by the device of creating a special fund and transferring such balance to it.* Obviously, if this could legally be accomplished, the result would be to circumvent and therefore nullify important requirements of the fiscal system provided by the Charter. Each year's budget estimates and each year's annual appropriation ordinance must show a complete picture of the moneys appropriated to each department and office of the City for use during that particular fiscal year, subject, of course, to transfers during the year from one department to another or from the Unappropriated Balance Fund. (emphasis added).

1940 City Att'y MOL 162 (May 15, 1940)

The IIF was initially created as a special fund. Since 2005, the Annual Appropriation Ordinance has contained language attempting to transfer the unexpended balances from the Mayor, City Council or both departments' budget to the IIF in an attempt to save these funds for use by the Mayor and City Council in the next fiscal year without budgeting the funds as required by the Charter. Such an attempt is in conflict with the Charter and is void. Since the 2011 Budget does not contain a line item for the IIF, there is no authority to appropriate or expend monies contained in the IIF. Such funds, until budgeted and appropriated, are considered a part of the unassigned general fund balance.

CONCLUSION

Charter section 84 requires that at the end of the fiscal year all unencumbered balances revert to the fund from which appropriated. Transferring a department's unexpended budget balance at the end of the fiscal year into a special fund, such as the IIF, and attempting to appropriate those funds in the next fiscal year violates Charter section 84 and the Charter

established budget process. All funds contained in the IIF accounts should be transferred to the General Fund, considered a part of the unassigned general fund balance, and be subject to reappropriation in accordance with the budget process set forth by the City Charter.

JAN I. GOLDSMITH, City Attorney

By _____
Paul F. Prather
Deputy City Attorney

PFP:jab
ML-2010-19
cc: Mayor and City Councilmembers
Andrea Tevlin, Independent Budget Analyst
Jay Goldstone, Chief Operating Officer

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November 5, 2010

REPORT TO THE COMMITTEE ON BUDGET AND FINANCE

MID-YEAR AMENDMENT OF THE BUDGET, APPROPRIATION ORDINANCE, SALARY ORDINANCE, AND TRANSFERS UNDER CHARTER SECTION 73

This report answers questions about the process to make mid-year changes to the City of San Diego budget, annual appropriation ordinance, and salary ordinance and how to accomplish transfers of appropriations pursuant to San Diego Charter section 73.

1. WHAT IS THE CITY CHARTER PROCESS FOR REVISING THE BUDGET AFTER THE ANNUAL BUDGET HAS BEEN ADOPTED?

Although the City Charter has an elaborate process for creating the annual budget, it is silent on whether the budget may be revised mid-year. This silence may be interpreted to find that the Charter does not allow any revision to the budget. Section 265(b)(14) requires the Mayor "to propose a budget to Council and make it available for public review, no later than April 15." Section 290 (b) requires the Council to "pass a resolution that either approves the budget as submitted by the Mayor or modifies the budget in whole or in part" by June 15 of each year. A budget revision after these dates arguably violates these provisions.

Notwithstanding this flaw in our charter, we can nonetheless rely on a well established principle that a municipality's "power to legislate generally includes, by necessary implication, the power to amend or repeal legislation," whether or not such power is expressly granted by that City's charter. *Blotter v. Farrell*, 42 Cal. 2d 804, 811 (1954); also see generally 6 McQuillin Mun. Corp. § 21:2 (3rd ed. 2010). In fact, the City's past practice conforms to this principle. As such, the budget revision process would be similar to the process used to adopt the annual budget as set forth in Charter section 290(b) and would begin with the presentation of a revised budget to the Council by the Mayor. See also Charter § 275 for general process to enact ordinances.

2. WHAT IS THE CITY CHARTER PROCESS FOR AMENDING THE ANNUAL APPROPRIATION ORDINANCE AFTER THE ANNUAL BUDGET HAS BEEN ADOPTED?

The City Charter does not specify a process for amending the annual appropriation ordinance. As discussed above, the Council could amend the annual appropriation ordinance mid-year if necessary. *Blotter v. Farrell*, 42 Cal. 2d at 811. The budget is a controlling document

for preparation of the annual appropriation ordinance. Charter § 290(b). Therefore, if the budget is revised, the appropriation ordinance should be amended to conform to the revised budget. Also discussed above, the process set forth in Charter section 290(b) would be applicable to amendments to the annual appropriation ordinance.

3. WHAT IS THE CITY CHARTER PROCESS FOR AMENDING THE SALARY ORDINANCE AFTER IT HAS BEEN ADOPTED?

The Charter does have very specific requirements for amendment to the salary ordinance. Charter section 70 provides:

> All increases and decreases of salary or wages of officers and employees shall be determined at the time of the preparation and adoption of the budget . . . provided, however, that if during any fiscal year, the Council should find and determine that because of a significant change in living costs, the salaries and wages fixed for such fiscal year are not comparable to the level of other salaries and wages of other public or private employments for comparable services and as a result, the best interests of the City are not being protected or are in jeopardy, said Legislative Body, upon recommendation of the Manager or other department head, and if funds are available, may revise such salary and wage schedules to the extent necessary to protect the City's interests.

The above section clearly provides for mid-year amendments upon the recommendation of the Mayor and subsequent Council findings relating to costs of living, wages for comparable services and the interests of the City. Charter section 73 also addresses mid-year changes to salaries providing:

> [T]he Council shall have no authority to transfer all or any part of the salary account during the fiscal year to any other purpose, save and except in the event of a public emergency, and then only for the purpose of insuring the safety and lives and property of the inhabitants of The City of San Diego.

Accordingly, an amendment of the Salary Ordinance mid-year to reduce salaries to provide for savings to address a projected budget deficit in a future year would violate the Charter.

4. WHAT IS THE CITY CHARTER PROCESS FOR TRANSFERRING APPROPRIATED FUNDS?

Charter section 73 recognizes that there may be a situation where funds appropriated for a particular purpose are greater than needed, while other appropriations may be insufficient to meet actual needs. Charter section 73 states:

> Upon the written recommendation of the Manager, the Council may at any time transfer all or part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated for the same Department or office . . .

A transfer of funds under Charter section 73 is only available where there are excess funds available for redistribution without affecting the purpose of the original appropriation and would therefore not require amending the budget or the appropriation ordinance. To initiate a transfer, the Mayor makes a written recommendation to the Council to transfer the funds. The Council is limited to approving or denying the Mayor's recommended transfer.

Respectfully submitted,

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By _____
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PFP:pfp
RC-2010-35