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July 3, 2014

Mary Fedeli
Minority Leader
Board of Representatives
Stamford, CT

Re: Request for opinion re: Charter Section C8-30-12, C8-30-13
and § 7-348 of the Connecticut General Statutes

Dear Ms. Fedeli:

You have requested an opinion concerning whether, in light of the Administration's request for additional funding, the City has violated Sections C8-30-12 and C8-30-13 of the Charter of the City of Stamford and § 7-348 of the Connecticut General Statutes. As set forth below, our opinion is that the City has not violated Section C8-30-12 and C8-30-13 of the Charter or § 7-348 of the Connecticut General Statutes in light of the Administration's request for additional funding.

The Administration submitted a Request for Additional Appropriation, Operating Budget FY 2013/2014, to the Board of Finance and the Board of Representatives on June 3, 2014. The request was "to appropriate \$2,728,064.07 from Contingency¹ to fund year end projected

¹ "Contingency" refers to the revenue reserve in the amount of \$6,950,000, designated in the Mayor's Proposed Operating Budget submission as the "Reserve for Contingency" which was factored in by the Board of Finance in the course of setting the mill rate to provide "for the payment of any other items said Board shall deem proper" as authorized under Section C8-30-10. See City of Stamford Mayor's Proposed Operating Budget, FY 2014-2015, Budget Worksheet, p.1.

expenditures.” The request was based on third quarter projections and intended to “ensure year end revised budget meets year end projected spending.”

The Administration submitted the Request for Additional Appropriation to fund year end projected expenditures and to ensure that the year end revised budget would meet the year end projected spending. The request was not made to cover a budgetary deficit. When it submitted the request, the Administration was projecting that the City’s revenues would exceed the FY 2013/2014 revenue projections in the budget by \$5,800,000 and that \$112,567 would remain in the “Contingency” after the requested additional appropriation was approved.

On June 12, 2014, the Board of Finance voted to hold the Administration’s Additional Appropriation Request until the Special Meeting of the Board to be held on June 24, 2014.

On June 19, 2014, the Director of Administration requested the Chair of the Board of Finance to approve an emergency appropriation in the amount of \$2,048,628 pursuant to Section C8-30-13 to cover “the anticipated expenses in excess of previously authorized budgets until your next scheduled Board of Finance meeting on June 24, 2014.” *See* Letter from Director Handler to Chairman Louizos, dated June 19, 2014. The Director’s request explained that “[t]he additional funds are needed in the following departments related to public safety, health and welfare – Police, Fire, Smith House and trash haul away.” The Chair of the Board of Finance approved the request on June 19, 2014.

On June 23, 2014, the Administration submitted an updated Request for Additional Appropriation in the amount of \$2,096,528 based on fourth quarter projections. On June 23, 2014, under suspension of the rules, the Fiscal Committee of the Board of Representatives reviewed each line item of the Administration’s June 23rd Request for Additional Appropriation and voted to hold each line item request.

On June 24, 2014, the Board of Finance reviewed and approved the June 23rd updated Request for Additional Appropriation. The Request for Additional Appropriation is on the agenda for the July 7, 2014 meeting of the Fiscal Committee of the Board of Representatives.

Charter Sections C8-30-12 and C8-30-13 establish the procedures to be followed by the Administration when an additional appropriation is needed to cover projected expenditures. Section C8-30-12 provides in pertinent part that:

No additional appropriations shall be granted to any department, board, commission, authority or agency, unless the Mayor, . . . shall make a special request therefor with a statement from the Controller certifying to its probable effect on the tax rate for the current or succeeding year based on the last published Grand List and also the probable

effect on the tax rate of the total of the additional appropriations made as a result of special requests since the then current budget was adopted.

The Administration's June 3, 2014 Request for Additional Appropriation and the updated June 23, 2014 Request were submitted in conformity with this provision.

Likewise, the Director of Administration's June 19, 2014 request to the Chair of the Board of Finance to approve an emergency appropriation to cover anticipated expenses related to public safety, health and welfare was made in conformity with Section C8-30-13 of the Charter which provides that:

No liability shall be incurred or expenditure made by any officer which is not provided for in the annual appropriation resolution, or in a special appropriation resolution, . . . Notwithstanding the above, an expenditure may be made and a liability may be incurred provided authorization has been obtained from the Chairperson of the Board of Finance by the Director of Administration in written form for the following emergencies:

. . . any situation where the public health and safety are endangered.

When the above procedure is followed, the City's obligation shall be the same as if the normal budget procedure had been followed, however, the appropriation request must still go through the normal appropriation procedure.

Finally, the procedures set forth in § 7-348 of the Connecticut General Statutes for requesting additional appropriations are not applicable in these circumstances. First, Chapter 106 (Town Boards of Finance) of the General Statutes sets forth the authority under which towns may establish boards of finance and the applicable procedures to be followed if a town establishes a board of finance. Unlike other chapters in Title 7 (Municipalities), Chapter 106 does not state that its provisions apply to boards of finance in municipalities generally, rather than only to town boards of finance.² Moreover, where, as is the case here, a municipality has a Charter, the procedures set forth in the Charter which govern matters of purely local concern prevail over any conflicting state procedures that might apply. The Connecticut Supreme Court has held, in addressing another section in Chapter 106 -- *i.e.*, § 7-344 (Appropriations. Laying of tax.) -- that "matters concerning a town's budget are of local rather than statewide concern." *Board of Education of Town and Borough of Naugatuck v. Town of Naugatuck*, 268 Conn. 295, 308

² By contrast, Chapter 98 (Municipal Powers) stipulates that its provisions apply to all municipalities: "Whenever used in this section, 'municipality' means any town, city or borough, consolidated town and city or consolidated town and borough." § 7-148 Connecticut General Statutes.

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(2004), citing *Caulfield v. Noble*, 178 Conn. 81, 90 (1979). The Administration's request for an additional appropriation is subject to the Charter rather than the procedures set forth in § 7-348 of the Connecticut General Statutes.

In sum, the City has not, in light of the Administration's request for additional funding, violated Charter Section C8-30-12 or C8-30-13 because its actions, as described above, are authorized by and consistent with these Charter provisions. Also, the City has not violated § 7-348 of the General Statutes because the procedures set forth in § 7-348 do not apply to the City in these circumstances.

Very truly yours,



Kathryn Emmett
Director of Legal Affairs &
Corporation Counsel

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