

ULSTER COUNTY OFFICE OF THE COMPTROLLER

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MEMORANDUM

TO: Charter Review Commission Chair Kathleen Mihm
Charter Review Commission Members

FROM: Comptroller March Gallagher

RE: Ulster County Charter Revision Suggestions

DATE: April 6, 2023

In anticipation of this evening's meeting, the Comptroller's Office has done further review of the additional Charter sections being reviewed and discussed by the Commission, to identify any changes that could improve transparency and controls as they relate to financial operations throughout the County.

Consistent with our previous memo circulated yesterday, we are presenting this section of the Charter in whole, as a redlined draft, identifying those changes that are approved, pending, or newly proposed. For clarity, we have highlighted those sections that have already been approved in blue, those that have been presented but are still pending in yellow, and newly proposed changes in redline with no highlight. We provided notes in grey to elaborate and explain the reason we feel the change is necessary.

As always, we appreciate the Commission's consideration and time in reviewing the recommendations attached to this memo.

ULSTER COUNTY CHARTER PENDING, ACCEPTED & PROPOSED CHANGES

PENDING

ACCEPTED

NEWLY PROPOSED

Article IV Financial Procedures

§ C-31 Fiscal year.

The fiscal year of Ulster County shall begin with the first day of January and end with the last day of December of each year.

§ C-32 Duties of County Executive.

It shall be the duty of the County Executive to prepare and file the County expense and capital budgets and capital program for each fiscal year in accordance with the provisions of this Charter and applicable state law. Pursuant to this duty, the County Executive shall have the power, personally or through his or her representatives, to require all necessary information from all departments, agencies, offices or units of County government for the purpose of ascertaining and/or assessing their budgetary requirements.

§ C-33 Departmental, agency, office or unit estimates.

[Amended 6-16-2020 by L.L. No. 3-2020]

The head of each department, agency, office or unit of County government shall submit to the County Executive, in writing, and through such channels and processes as specified by him or her, an overall estimate for that department, agency, office or unit and estimates by program within that department, agency, office or unit of expected expenses and expected revenues for the next ensuing fiscal year. A copy of said estimates from each department, agency, office or unit shall be **simultaneously** submitted to the Clerk of the Legislature **and the Comptroller upon the proposal of the executive budget**. These estimates shall be called "departmental estimates" and shall be organized with proposed grand totals of expenses and revenues for personnel services and other than personnel services for the department, agency, office or unit and proposed subtotal appropriations for personnel services and other than personnel services for each program within each department, agency, office or unit. A statement of actual expenses and actual revenues for the immediately preceding completed fiscal year, budgeted expenditures and revenues for the current fiscal year, and expenditures and revenues to date for the current fiscal year shall be included in departmental submission, prepared in the same specified format for comparison purposes. Each departmental estimate of expenses and revenue by program shall be supported by such other detail and other supporting information concerning the economy, efficiency and effectiveness of departmental performance as the County Executive shall require. Departmental estimates shall be public records and shall at all reasonable times be open to public inspection.

Make it clear departmental estimates must be shared to the Legislature. Give Legislature and Comptroller view only access to the budget requests made by the departments. In the current financial system (New World/Logos/Tyler ERP) these are called "Level 1 Budget Worksheets". Make Department heads send a hard copy to the Legislature.

§ C-34 Submission of County budget.

A. On or before the first Friday of October in each year, the County Executive shall submit to the Clerk of the Legislature, for consideration by the County Legislature, a proposed operating and capital budget for

the next ensuing fiscal year and a proposed capital program for the next ensuing six fiscal years or other period as may be authorized by law, together with a budget message as provided in § C-35. Upon their submission, the proposed expense and capital budgets, hereinafter called the "County budget," together with the budget message, shall be posted on the County website and become public records in the office of the Clerk for distribution.

B. The proposed County budget shall be balanced, with projected revenues equaling or exceeding estimated expenses for the next ensuing fiscal year, and shall be presented in three sections, one of which shall set forth the estimated revenues and receipts, one of which shall set forth the estimated expenses, and one of which shall set forth the proposed capital authorizations and expenditures. A statement of actual expenses and actual revenues for the immediately preceding completed fiscal year, budgeted expenditures and revenues for the current fiscal year, and expenditures and revenues to date for the current fiscal year shall be included in the proposed County budget, prepared in a format that facilitates year-to-year comparison. The proposed County budget shall present the complete financial plan for the County and its agencies for the next ensuing fiscal year, including setting forth proposed borrowing, if any. An estimate of unencumbered balances at the end of each completed fiscal year, except when otherwise provided by law or appropriated for a capital improvement or other authorized continuing project, shall be treated as revenue for the County budget for the next ensuing fiscal year.

C. The proposed County budget shall include economic and revenue forecasting to provide guidance on the current conditions in, and probable outlook for the performance of, the economy of the state and county, as well as the effect of such conditions and such performance on county receipts. The forecasting shall speak to expected tax receipts on an all-funds basis and anticipated miscellaneous receipts to be received in the general fund.

Forecasts help to observe future costs and revenue trends that can impact County finances in the short and long term. Currently no language exists explaining to the public what factors were used in creating the budget for future years. Providing a narrative that explains how certain financial categories have been determined offers greater transparency and instruction to taxpayers and the general public. This language is modeled on State Finance Law §23 which requires similar disclosures for the NYS budget.

§ C-35 Budget message.

The County Executive shall submit with the County budget a budget message summarizing and explaining the main features of the County budget, including information identifying and analyzing new or changed programs, with such supporting schedules and explanatory materials as he or she may deem desirable, or the Legislature may by resolution require. The County Executive's proposed budget shall include a clear summary demonstration that there is a balanced relationship between the total estimated expenditures and the total estimated revenues for the next ensuing fiscal year and shall compare these figures with the actual receipts and expenditures for the last completed fiscal year and the year-to-date actual and year-to-date projected total expenditures and revenues for the current fiscal year. The County Executive's budget message shall also outline the existing and any proposed financial policies of the County relating to the capital program, including a description of each capital improvement proposed to be undertaken in the preceding fiscal year and not yet completed. The budget message shall specify the manner in which the County Executive is overseeing management of departmental operations to assure economic, efficient,

effective delivery of public services, and contain such additional information as the County Executive may deem appropriate, and shall be posted on the County's website.

§ C-36 Review of County budget and message.

The Legislature or a committee designated by it will review the County Executive's proposed County budget and budget message and may require attendance of the heads of departments, agencies, offices or units or their representatives and/or their production of records and information in explanation of their departmental estimates as the Legislature shall deem appropriate. The Legislature or a committee designated by it shall prepare a written analysis and review of the County Executive's proposed budget and make it publicly available, including posting it on the County government website, no later than the second Friday of November of each year.

§ C-37 Public hearings on County budget.

Beginning no later than the third Friday of November of each year, the Legislature shall hold, in at least three geographically dispersed locations in the County, public hearings on the County Executive's proposed County budget, the budget message submitted by the County Executive, the report resulting from the review and analysis of that budget and message by the Legislature or its designated committee. The Clerk of the Legislature shall cause to be posted on the County website published in the official newspaper of the County and such other newspapers as may be designated by the Legislature notices of the places, locations and times when these hearings shall be held, their purposes, a concise summary of the proposed County budget, budget information, together with copies of the proposed budget, the budget message and the report submitted by the Legislature or its committee may be inspected or obtained by any interested person. At least 10 days shall elapse between the publication of a notice and the date specified for any budget hearing. At a budget hearing any person may be heard. Insofar as necessary and practicable within the deadline for the timely final adoption of the County budget, a budget hearing may be adjourned to a date certain or from day to day.

§ C-38 Adoption of County budget.

A. After the conclusion of the public hearings, the Legislature may strike items of appropriation or anticipated revenue from the proposed County budget or reduce items therein, excepting appropriations required by law for debt service. The Legislature may add items to or increase items in the County budget, provided that such additions or increases are stated separately and distinctly, and so long as projected expenditures and projected revenues in the County budget remain in balance.

B. The balanced County budget as changed, altered or revised shall be adopted by resolution of the Legislature not later than the second Thursday of December.

C. If the Legislature takes no action by the second Thursday of December, the budget submitted by the County Executive shall be deemed to be the adopted budget.

D. If the County budget, as submitted by the County Executive, is adopted by resolution of the Legislature with no changes, it shall be adopted.

E. If, however, the County budget as adopted by the Legislature contains any increases, additions, decreases or deletions, it shall be immediately presented by the Clerk of the Legislature to the County Executive for examination and reconsideration.

F. If the County Executive approves all the increases, additions, decreases or deletions, he or she shall affix his or her signature to a statement thereof and return the County budget together with such statement to the Clerk of the Legislature, and the County budget, including the increases, additions, decreases or deletions as part thereof, shall be adopted.

G. If the County budget, with any increases, additions, decreases or deletions, is not returned by the County Executive to the Clerk of the Legislature with his or her objections within five working days after presentation by the Clerk to the County Executive, it shall be deemed adopted, as changed, altered or revised by the Legislature.

H. If the County Executive objects to any one or more of the increases, additions, decreases or deletions, the County Executive shall append to the County budget a statement of the increases, additions, decreases or deletions to which the County Executive objects, taking care that his or her proposed changes leave the County budget in balance and setting forth the reasons therefor, and shall, no later than five working days after receipt of the adopted budget from the Clerk of the Legislature, return the County budget with the objections to the Clerk of the Legislature, who shall immediately present them to the Legislature. The Legislature shall thereupon enter the objections upon its records and, not later than the 20th day of December, proceed to reconsider the increases, additions, decreases or deletions to which objection is made by the County Executive. If upon such reconsideration the Legislature, by affirmative vote of at least 2/3 of its elected members, votes to approve any such increases, additions, decreases or deletions, the County budget, with the changes so approved, together with any changes not so objected to by the County Executive, shall be deemed adopted as resubmitted by the County Executive so long as balance remains between proposed expenditures and proposed revenues in that budget.

I. If any limitation date mentioned in this article falls on a holiday, Saturday or Sunday, then any time limitations required herein shall be extended to the next business day of the County.

J. Copies of the County budget as adopted shall be certified by the County Executive and by the Clerk of the Legislature and shall be filed in the offices of the County Executive and the Clerk of the Legislature. The budget so certified shall be posted on the County website and, at the discretion of the Legislature, printed or otherwise reproduced and copies made available to the public at such cost as the Legislature shall deem appropriate no later than December 31st of the adopted budget year. Materials posted to the County website annually during the course of preparation of the County budget may not be removed from public access until the certified County budget for the year is posted in accord with the requirements of this section.

§ C-39 Levy of taxes; inclusion of reserve for uncollected taxes.

A. The net County tax requirement determined by subtracting the total estimated revenues from the total proposed expenditures as set forth in the adopted budget shall be levied in advance by the County Legislature on the taxable real property of the several tax districts of the County. The taxes so levied shall include an amount to be known as "reserve for uncollected taxes," which shall be a County charge. The County Legislature shall fix the amount of such a sum as it may deem sufficient to produce in cash from the collection of taxes and other revenues during the year monies required to meet the estimated expenditures of such year; provided, however, that such reserve for uncollected taxes shall not be less than the face amount of unpaid taxes for the preceding completed fiscal year.

B. The amount of all taxes, special ad valorem levies and special assessments levied upon any parcel of real property by the County Legislature shall, except as otherwise expressly provided by law, be and become a lien thereon as of the first day of January of the fiscal year for which levied and shall remain a lien until paid.

§ C-40 Budget modification after adoption.

A. The County Executive shall manage the County's resources to achieve maximum economy, efficiency and effectiveness in County government. Pursuant to this responsibility he or she may, during any fiscal year, transfer part or all of any revenue or expenditure within a program or purpose of any department, agency, office or unit to another program or purpose within that department, agency, office or unit, except that the effect of such a transfer, unless used for payroll-related expenses, may not be to reduce the rate of pay or annual salary of any County employment position, regardless of whether said employment position is vacant or filled in a given year. Written notice of such a transfer shall be given to the Legislature.

[Amended 9-15-2020 by L.L. No. 9-2021[1]]

[1] Editor's Note: This local law was approved at referendum by a majority of the duly qualified voters 11-2-2021.

B. Upon written request of the County Executive, the Legislature may, during any fiscal year, transfer part or all of any revenue or expenditure from one department, agency, office or unit to another, or transfer part or all of any revenue or expenditure for the purpose of establishing or adding to a new program or programs within or between departments, agencies, offices or units, or transfer funds from a contingency account to a department, agency, office or unit, or change the terms and conditions under which expenditures may be made by a department, agency, office or unit. Any action taken by the Legislature pursuant to this section shall be by resolution subject to the provisions of §§ C-12 and C-14 of this Charter.

C. If, during any fiscal year, there are available for appropriation revenues received from sources not anticipated in the budget for that year or revenues received from anticipated source but in excess of the budget estimated for it, before such funds may be expended the County Legislature must make supplemental appropriations for the year, not in excess, however, of such additional revenues, whatever their source.

D. If, at any time during the fiscal year, it appears that the revenues available will be insufficient to meet amounts appropriated, the County Executive shall report to the County Legislature without delay the estimated amount of the deficit, remedial action already taken by him or her, and his or her recommendations as to further action. The County Legislature shall take the action or actions that it deems necessary and as authorized by this Charter or state law to prevent or minimize any deficit. For purposes of eliminating or minimizing a potential deficit, the Legislature may, by resolution, reduce one or more appropriations, but no appropriation may be reduced by more than the unencumbered balance remaining for that purpose for the year, nor may any appropriation for debt service be reduced.

ULSTER COUNTY CHARTER PENDING, ACCEPTED & PROPOSED CHANGES

PENDING

ACCEPTED

NEWLY PROPOSED

Article VIII Department of Finance

C-53 Commissioner of Finance

A. There shall be a Department of Finance under the direction of a Commissioner of Finance. The Commissioner of Finance shall be appointed by and serve at the pleasure of the County Executive, subject to confirmation by the County Legislature. He or she shall be appointed on the basis of his or her experience and qualifications in financial administration and other specified duties of this office and shall be directly responsible to the County Executive. **The Commissioner of Finance shall hold no other elected public office or compensated employment and shall devote full time to the duties of the office (Matrix Item # 14). The Commissioner of Finance must be free from any conflicts of interest, must be capable of providing objective and impartial judgment, and must maintain both independence of mind and independence in appearance in the performance of their duties.**

This position comes with significant compensation and has many opportunities for conflicts. This amendment would make it similar to other positions that prohibit other outside employment.

Clarify that the appointed Commissioner of Finance should meet independence standards.

B. Powers and duties. The Commissioner of Finance shall:

- (1) Have charge of the administration of all the financial affairs of the County;
- (2) Collect, receive, have custody of, deposit and disburse all revenues, fees and other funds of the County or for which the County is responsible;
- (3) Act as the enforcing officer of the County for the purpose of the collection of tax liens on real property pursuant to Article 11 of the Real Property Tax Law of the State of New York;

*Add responsibility for timelines to enforce real property tax. Foreclosures should be processed as expeditiously as possible, with an annual review of all hazardous properties, a committee structure to review properties being withheld from the foreclosure action. **WITHDRAWN (Matrix Item #15)***

(4) Have all the powers and duties conferred upon a public administrator pursuant to the Surrogate's Court Procedure Act of the State of New York, except that any and all fees received in the performance of such duties shall be the property of the County of Ulster;

(5) Perform all duties specified in law for County treasurers or other County officers relating to the collection of taxes;

(6) Submit a complete statement of County finance to the County Executive and the County Legislature on or before the first day of **March May** and at such other times as either may require; **(Matrix Item # 17)**

Change the required submission date of the AUD to the Legislature to mirror the due date in state law (May 1st). In practice, the AUD is never submitted to the Legislature prior to May 1.

[1]Editor's Note: This local law was approved at referendum by a majority of the duly qualified voters 11-6-2012.

(7) Have all the powers and perform all the duties conferred or imposed by law upon a County Commissioner of Finance and perform such other duties required by the County Executive or County Legislature;

[Amended 8-14-2012 by L.L. No. 9-2012[2]]

[2] Editor's Note: This local law was approved at referendum by a majority of the duly qualified voters 11-6-2012.

(8) Be the chief accounting officer of the County; and

[Added 8-14-2012 by L.L. No. 9-2012[3]]

[3] Editor's Note: This local law was approved at referendum by a majority of the duly qualified voters 11-6-2012.

(9) Maintain the financial books and records and perform bank reconciliations for all units of County government unless otherwise required by law. (Matrix Item # 18)

[Added 8-14-2012 by L.L. No. 9-2012[4]]

[4] Editor's Note: This local law was approved at referendum by a majority of the duly qualified voters 11-6-2012.

Place responsibility for reconciling the county's bank accounts. And create a deadline for notifying the County Comptroller of any new account within 30 days of opening.

(10) Act as the enforcing officer of the County for the purpose of the collection of Occupancy tax . (Matrix Item # 16)

Add enforcement power/duties related to Ulster County's Occupancy Tax so that it's clear the Finance Commissioner has enforcement responsibility.

(11) Ensure proper segregation of duties within financial procedures.

The Charter should codify internal controls, specifically separation of duties within financial procedures. Separation of duties is a key internal control intended to minimize the occurrence of errors or fraud by ensuring that no employee has the ability to both perpetrate and conceal errors or fraud in the normal course of their duties.

Generally, the primary incompatible duties that need to be segregated are:

- *Authorization or approval*
- *Custody of assets*
- *Recording transactions*
- *Reconciliation/Control Activities*

The Commissioner of Finance should not have both custody of cash and the ability to record transactions in the County's ledgers. Based on the Comptroller's review of 2022 transactions, the Commissioner was able to enter and approve more than 500 journal entries without any secondary approval or involvement from other staff.

C. There shall be, within the Department of Finance, an independent Division of Real Property Tax Service under the direction of a Deputy Commissioner of Finance/Director of Real Property Tax Service, who shall be appointed by the County Executive and serve at the pleasure of the County Executive. At the time of his or her appointment, and throughout his or her term of office, he or she shall possess such qualifications that conform to those prescribed by the State of New York for county directors of real property tax service agencies pursuant to Article 15-A, Section 1530 of the New York State Real Property Tax Law. He or she shall be appointed on the basis of his or her administrative experience and other qualifications for the responsibilities of this office, except that if the Deputy Commissioner of Finance/Director of Real Property Tax Service is appointed for a fixed term of years pursuant to a provision of state law, he or she may only be removed for cause, after written notice of charges and an opportunity to be heard.

[Added 8-14-2012 by L.L. No. 7-2012]

D. The independent Division of Real Property Tax Service shall:

[Added 8-14-2012 by L.L. No. 7-2012]

(1) Have all of the powers and perform all of the duties conferred or imposed by Article 15-A of the Real Property Tax Law, including but not limited to the extension of real estate taxes, the issuance of tax bills, the maintenance of County assessment records, the submission to the County Executive of tax equalization rates and the rendering of assistance to assessors throughout the County in the performance of their respective responsibilities;

(2) Prepare tax maps for the use of the assessor of all the assessing units in the County; on such maps shall be shown each separately assessed parcel of real property with its boundaries properly marked, pursuant to the Real Property Tax Law;

(3) Shall perform such other and related duties as required by the County Executive; and

(4) On or before March 1 of each year, make an annual report to the County Executive and County Legislature for the immediately preceding calendar year, covering generally the work of the division. The Deputy Commissioner of Finance/Director of Real Property Tax Service shall make such other reports at such times as may be required by the County Executive, County Legislature or any applicable law. Copies of all reports shall be filed with the County Executive and the Clerk of the County Legislature.

§ C-54 Transition.

The person serving as County Treasurer immediately prior to the time this Charter takes effect shall serve as Commissioner of Finance until the end of December 31, 2009, at which time the elected office of County Treasurer shall be abolished, and after which the Commissioner of Finance shall be appointed as provided herein.

§ C-55 Deputy Commissioners and staff.

The Commissioner of Finance, subject to approval by the County Executive, shall designate in writing, and in order of succession, the deputies and/or assistants who shall be Acting Commissioner of Finance in the event of his or her absence from the County or inability to perform and exercise the powers and duties of his or her office. That designation shall be filed with the County Clerk and the Clerk of the County Legislature and may be revoked at any time by the Commissioner filing an approved new written

designation and order of succession. The Acting Commissioner of Finance shall have all the powers and perform all the duties of the Commissioner.

ULSTER COUNTY CHARTER PENDING, ACCEPTED & PROPOSED CHANGES

PENDING

ACCEPTED

NEWLY PROPOSED

Article XVI Department of Purchasing

§ C-74 Director of Purchasing.

- A. There shall be a Department of Purchasing headed by a Director of Purchasing who shall be appointed by the County Executive on the basis of his or her experience and qualifications for the office to serve at his or her pleasure, subject to confirmation by the County Legislature. The Director of Purchasing must be free from any conflicts of interest, must be capable of providing objective and impartial judgment, and must maintain both independence of mind and independence in appearance in the performance of their duties.

Clarify that the appointed Director of Purchasing should meet independence standards.

B. Powers and duties. The Director of Purchasing shall:

- (1) In accordance with the requirements for advertising and competitive bidding, authorize all purchases and sales of materials, supplies and equipment and contracts for the rental or servicing of equipment for the County;
- (2) Approve and execute certain contracts as shall be prescribed by the Administrative Code;
- (3) Establish and enforce suitable specifications and standards for all supplies, materials and equipment to be purchased for the County; and
- (4) Perform such other and related duties as shall be required and delegated by the County Executive or County Legislature.